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§ 643.73 Term.

The term of a license will be limited to a period reasonably necessary to accomplish the purpose for which the license is being granted, but in no event will the term exceed five years, without the approval of COE.

§ 643.74 Consideration.

When a license is granted under the authority of an easement or leasing statute, the same rules will apply in regard to consideration as is applicable to the granting of an easement or lease under the statute. Since the administrative power may be relied upon for the grant of a license only when such grant is of direct benefit to the Government, such grants may be made without consideration.

Subpart E—Easements

§ 643.81 Additional items concerning easements.

In addition to the general and policy matters covered in subparts A and B, the following also apply with respect to the granting of easements.

§ 643.82 Term.

The term for which an easement is granted will be guided by the type of easement, the period for which the land can be made available and the limitations of the authorizing statute.

§ 643.83 Consideration.

Although the statutes authorizing grants of rights of way or easements do not make it mandatory that compensation be paid to the United States, such grants will reserve consideration in an amount equal to the fair market value as established by recognized appraisal practices. As an exception to this rule, grants to States, counties, municipalities, or political subdivisions thereof, will not require fair market value when the purpose of the easement is to serve the public interest or is to benefit the Federal Government.

§ 643.84 Easement—Grantees relocate or replace needed facilities.

In easement grants, grantees usually will be required to repair and restore damage done to Government land and improvements and to relocate or replace buildings and other needed facilities rendered useless or less useful by the exercise of the easement rights granted. DOD policy requires that in keeping the Army whole, the relocation or replacement of facilities will be limited to those for which there is a continuing requirement. By specific exclusion, establishment of a different category of facility is not authorized. (DODI 4165.12 III C)

§ 643.85 Easement grantees—Payment for removal or destruction of unneeded improvements.

Where a proposed right-of-way will require removal or destruction of improvements which are not required to be relocated or replaced to meet military needs, such improvements will be disposed of as excess property in accordance with AR 405–90, and a condition of the easement grant will be payment for such improvements as follows:

(a) Where the easement grant is to be made at fair market value to entities not entitled to grants of rights of way without charge, the charge for the grant will include the in-place fair market value of the improvements.

(b) Where the proposed grantee is a State or local Government agency normally granted a right of way without charge under Army policy and the grantee's project is subsidized wholly by an agency of the Federal Government, no charge will be made for the improvements thus lost, since any charge made would not reflect a net return to the Government.

(c) Where the proposed grantee is a State or local Government agency normally granted a right of way without charge under Army policy, and the grantee's project is not subsidized, or is subsidized only in part, the charge for such improvements removed or destroyed and not replaced will be the salvage value thereof.

§ 643.86 Easements for various purposes with relinquishment of legislative jurisdiction.

Title 40 U.S.C. 319, and delegation of authority thereunder from the Secretary of Defense authorizes the SA to grant easements and concurrently to