

DEPARTMENT OF THE ARMY
SACRAMENTO DISTRICT, CORPS OF ENGINEERS
650 CAPITOL MALL
SACRAMENTO, CALIFORNIA 95814

SPKVR

8 August 1968

DISTRICT MEMORANDUM
NO. 405-2-3

REAL ESTATE

Adequacy of Assurances and Rights-of-Way
Documents Furnished by Local Interests

1. Purpose and Scope. The purpose of this memorandum is to implement the procedures and policies of the Corps of Engineers relating to the acquisition of real estate by local interests for conveyance to the United States for flood control and river and harbor projects. It applies to all personnel having Civil Works real estate responsibilities.
2. Reference. ER 405-2-680
3. Responsibilities. It is the responsibility of the District Engineer to accept assurances of cooperation for flood control and river and harbor projects in accordance with the procedures and policies referred to in paragraph 2 above, provided that:
 - a. The assurance furnished is in strict compliance with the pertinent Act of Congress.
 - b. The local interest furnishing the assurance has legal authority to do so and is financially responsible to fulfill all measures of local cooperation.
 - c. The instrument is legally sufficient.
4. Procedures. To assist the District Engineer in making his determination, the following procedures are established:
 - a. Engineering Division - For all projects except those performed under emergency authorities:

This DM rescinds District Memorandum No. 405-2-3 dated 8 August 1962.

(1) Notify the local interest concerned by letter of the required conditions, and request formal assurances that the required conditions will be met. The letter of notification will be staffed through Real Estate Division.

(2) Furnish assurances received to the Real Estate Division. If assurances are not adequate, they will be returned to the local sponsor by the Real Estate Division through the Engineering Division.

(3) Postpone issuance of Invitation for Bids until notified of acceptance of assurances by District Engineer.

b. Construction-Operations Division - For projects performed under emergency authorities:

(1) Notify the local interest concerned by letter, of the required conditions and request formal assurances that such conditions will be met. Copies of correspondence will be furnished to Real Estate Division.

(2) Furnish assurances received to the Real Estate Division. If assurances are not adequate, they will be returned to the local sponsor by the Real Estate Division through the Construction-Operations Division.

(3) Start construction only after notification of acceptance of assurances by District Engineer.

c. Real Estate Division.

(1) Review assurances and prepare a memorandum for record indicating the adequacy of the assurances, to include the methods used in determining and evaluating the financial and legal ability to perform the required obligations.

(2) Secure the determination of the District Engineer.

(3) If required, process assurances through SPD and OCE.

(4) Notify local interest when assurances have been accepted. Engineering Division, Construction-Operations Division, and Supply Division will be furnished copies of the letter of acceptance.

5. Procedure for Obtaining and Determining the Adequacy of Rights-of-Way Documents Furnished by Local Interests are as Follows:

a. Engineering Division - For all projects except those performed under emergency authorities:

(1) Request local interest to obtain necessary rights-of-way and furnish evidence of having done so.

(2) Obtain project map indicating rights-of-way requirements, tract ownership, and property lines.

(3) Furnish Real Estate Division copies of rights-of-way documents and project map for review as to legal sufficiency, pursuant to paragraph 5c(1).

(4) Utilize findings of Real Estate Division on legal sufficiency to determine that satisfactory rights-of-way for the entire project, or a complete unit thereof, have been provided.

(5) Notify Supply Division and Construction-Operations Division that necessary rights-of-way have been obtained and Invitation for Bids may be issued.

b. Construction-Operations Division - For emergency projects:

(1) Request local interest to obtain necessary rights-of-way and furnish evidence of having done so. Copies of such requests will be furnished Real Estate Division.

(2) Obtain project map indicating rights-of-way requirements, tract ownership, and property lines.

(3) Furnish Real Estate Division copies of rights-of-way documents and project map, for review as to legal sufficiency, pursuant to paragraph 5c(1) below.

(4) Utilize findings of Real Estate Division on legal sufficiency to determine that satisfactory rights-of-way for the entire project, or at least a complete unit thereof, have been provided.

(5) For work to be performed by hired labor, notify the appropriate Field Engineer that necessary rights-of-way have been obtained and field operations may proceed. For work to be performed by contract, notify the Supply Division that Invitation for Bids may be issued.

c. Real Estate Division.

(1) Utilize comments from Engineering Division or Construction-Operations Division to analyze rights-of-way documents for legal sufficiency. This analysis will not include adequacy of legal description or estate required.

(2) Notify Engineering Division for authorized projects and the Construction-Operations Division for emergency projects when the rights-of-way documents are accepted as being legally sufficient.

DISTRIBUTION
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CRAWFORD YOUNG
Colonel, CE
District Engineer