

## SECTION IV

### ASSURANCES, RIGHTS-OF-WAY AND ACCEPTANCE OF CONTRIBUTED FUNDS

4-01. Procedure for acquisition of assurances. Responsible local interests are required by law to provide the assurances of local cooperation. As soon as definite plans have been formulated and the first request for construction money is submitted to the Congress, definite assurances of local cooperation should be sought from local interests and a determination made of the legal and financial responsibility of the local interests to meet the terms of local cooperation. The Levees and Channels Section is responsible for obtaining these assurances from local interests. If the general design memorandum has been approved, formal request for assurances of local cooperation will be made when construction funds are first included in the budget (submission to Congress). If construction funds for a project are included in the budget prior to approval of the general design memorandum or are added by the Appropriations Committee, formal assurances will be requested as soon as planning has advanced to the point that local interests can be informed of specific details of the responsibilities which they must assume. The formal request will inform local interests of the legislative authority for the required conditions of local cooperation and will present sufficient information to clearly define what local interests must do to meet those conditions. On flood control projects the request will quote the legislative provision for expiration of the project authorization if assurances are not received within five years from the date of notice and will state that the 5-year period begins with the date of the formal request. Acknowledgement of receipt of the letter will be requested. If no acknowledgement is received or if the reply indicates any misunderstanding regarding local cooperation requirements or the 5-year limitation, the Levee Section will follow up with appropriate supplementary or explanatory letters. Formal requests will be sent by registered mail and receipts therefor maintained as a part of the record. Copies of correspondence to and from local interests on the subject will be furnished the Division Engineer and the Chief of Engineers. After receipt of the assurances, they are formally turned over to the Real Estate Division for a determination of legal sufficiency. The procedures for processing the assurances are outlined in District Circular 62-20 (see Exhibit K). On projects accomplished under special continuing authorizations (Emergency Jobs), the Construction-Operations Division obtains the assurances of cooperation from local interests.

4-02. Procedure for acquisition of rights-of-way. No construction will be undertaken until satisfactory assurances of local cooperation have been received and until all lands, easements, and rights-of-way required for at least a complete unit of the project have been provided by the responsible local interests. A District policy has been established requiring all necessary rights-of-way to be acquired before advertising for bids (Exhibit B). On projects which consist of a single unit which will require several years for construction, consideration will be given to

breaking the project into reaches. Such reaches may be considered as units if a full showing of financial and legal ability of local interests indicates such action to be warranted. A full discussion of this subject will be submitted to the Chief of Engineers in the general design memorandum or in separate correspondence prior to making any commitment to local interests on the schedule of rights-of-way requirements. On projects for which the State Reclamation Board furnishes rights-of-way for construction, the Sacramento District and the Board have mutually agreed to a schedule of timing and a sequence of actions. There are two schedules, one for projects in the Central Valley of California and one for the Sacramento River Bank Protection Project. They are attached as Exhibit L. It is the responsibility of the Levees Section to make sure that these schedules are met.

Real Estate requirements for local cooperation projects are established in ER 405-2-680 and ER 1150-2-301. When requests are made to local interests for rights-of-way for flood control projects, a map will be furnished showing the areas over which fee title or permanent easement must be acquired (land occupied by levees, channels and appurtenant structures) and areas over which permits or temporary easements must be acquired (borrow, spoil, work and temporary access areas). The procedure for furnishing the foregoing information is as follows:

a. Mark up preliminary drawings, outlining the minimum limits of the permanent easement lands and the temporary easement lands required. The required permanent easement for proposed levees will be shown as extending either five or ten feet beyond the levee toe on the landside to a point either five or ten feet beyond the levee toe on the waterside through the entire length of the contract work. The distance from the levee toe to the easement line shall be established by the local sponsor. Where projections or irregularities in the levee toe alignment are encountered, such as those due to irregularities in the ground surface, or where berm fills are to be constructed across old sloughs, channels or other depressions, the easement line should be adjusted as necessary in order that the work area will fall well within the easement or right-of-way line. The permanent easement for channel work where no levees are required will generally include the entire width of channel plus a 20-foot wide strip for dry weather maintenance on both sides of the channel. If levees are included, the right-of-way will extend either five or ten feet landward of one levee to either five or ten feet landward of the opposite levee. Temporary easements are required for spoil and borrow areas used during initial construction. They are also required where right of access will be needed, such as: (1) Between public roads and the job site; (2) Between the job site and borrow and spoil areas; (3) On the job itself. These access rights are especially important on jobs where a 12-foot crown width levee is involved. As the job nears completion, there may be insufficient room for construction equipment to pass unless additional right-of-way adjacent to the levee is secured. The right-of-way problems

on each job will be discussed with a representative of the Resident Office involved. The recommended routes for access to the work sites, borrow areas, and the job itself will be worked out jointly by the Levee Section in collaboration with the Resident Office and the local sponsor who acquires the right-of-way.

b. Furnish local interests copies of the marked-up drawings showing the limits of the rights-of-way to be furnished by a certain date. Local interests shall prepare property acquisition maps and documents and when they have obtained the required real estate, they will furnish in writing a statement that all rights-of-way have been secured together with copies of all right-of-way documents and maps. Clearance is then given to proceed with the work. If requested by local interests, it may be necessary to furnish offsets or descriptions of access roads for the temporary easement lands.

c. A project map will be furnished to the Real Estate Division to aid in review of the rights-of-way documents. As the individual rights-of-way are received, a copy will be sent to the Real Estate Division for a determination of its legal sufficiency. The Levee Section shall determine that rights-of-way are satisfactory from an engineering and construction standpoint.

d. When all rights-of-way have been acquired and clearance for construction has been obtained, the contract plans will be completed in accordance with the rights-of-way requirements. The completed plans will then be furnished the Specifications Section for final preparation of the specifications and advertising for construction.

e. On emergency flood control projects and maintenance dredging of navigation projects, the Construction-Operations Division obtains the rights-of-way and furnishes the rights-of-way documents to the Real Estate Division for determination of legal sufficiency.

4-03. Procedure for acceptance of contributed funds. Frequently the non-Federal work items can most economically be accomplished in conjunction with the Federal contract work. If the local sponsors determine that it is to their advantage to include such items in the Federal contract they should formally request this office to include the work. The work items must be listed and a cost estimate included. Authority for this office to accept the funds and do the work shall then be obtained from OCE. Paragraph 9 of ER 1140-2-301, subject: "Acceptance and Return of Contributed or Advance Funds" sets forth the requirements for this action.