

# REAL ESTATE

# A GUIDE FOR PROJECT PARTNERS

## LIFE CYCLE OF A CIVIL WORKS PROJECT

### Steps Leading to a Civil Works Project

#### INTRODUCTION

During its lifetime, a Civil Works project passes through six basic phases: reconnaissance, feasibility, pre-construction engineering and design, real estate acquisition, construction and operations and maintenance.

The following six steps will initiate the process that results in a reconnaissance investigation:

1. A local community, or some particular element of a community, perceives or experiences a water resources problem that is beyond their ability to solve. Examples of problems are major flooding, and hazardous or inadequate navigation conditions in a harbor or waterway; and/or degraded environmental conditions.
2. Community representatives, whom often may be or include members of the possible sponsoring agency, meet with their local Corps District staff to discuss available forms of help, including Federal programs. Before we can get involved in providing assistance, we need two types of authority from the Congress: study authority and budget authority. A study authority authorizes the conduct of an investigation into the identified problems. Once a study authority is available, a budget authority to spend Federal funds for the study can be provided in an annual Appropriations Act. In certain cases, we can provide technical assistance or relief through some smaller studies or projects without further Congressional authorization.
3. If there is no available authority for us to investigate the problem, the community representatives may contact their Congressional delegation to request a study authority.
4. A member of Congress may then ask the Senate Committee on Environment and Public

Works, Subcommittee on Transportation and Infrastructure, or the House of Representatives Committee on Transportation and Infrastructure, Subcommittee on Water Resources and Environment, for an authority for the Corps to study the problem. The subcommittees then send a Docket letter to the Corps requesting information about the study area, problems, and potential solutions. If we have previously investigated and reported on water resource problems in the area, the committee may adopt a study resolution to provide the necessary authority to take another look at the area and review the earlier study. If we have not previously investigated problems in the area, legislation containing a study authority is usually required. Your local Corps District staff can show you examples of previous study authorities, and may, upon request, help you draft language that will provide the desired authority.

5. Once a Congressional study authority is available, the study will be assigned to the local Corps District. The District may then, through the normal Federal budget process, ask for money to conduct the first phase of the study, called the reconnaissance.

6. When Federal funds to conduct the reconnaissance study are included in an annual Energy and Water Development Appropriations Act, the local District may begin the Corps study of the community's water resource problems.

#### RECONNAISSANCE PHASE

The reconnaissance phase of the project normally requires less than twelve months to complete, but in no case can it take longer than eighteen months. The work and level of detail during this phase, which is limited by the amount of time available to complete the study, is funded entirely by the

Federal government. The purposes of the study are:

✧ To define the water resource problems and opportunities, such as flooding or navigational needs; and to identify potential solutions, such as channels or levees.

✧ To assess the potential sponsor's level of interest and support for the identified potential solutions.

✧ To decide whether to proceed into the feasibility phase based on a preliminary evaluation of Federal interest, economic costs and benefits, and environmental impacts of potential solutions.

✧ To develop a cost sharing agreement between the government and the Non-Federal Sponsor for the feasibility phase, were it to proceed.

If, for any number of reasons, further study is not recommended, we will prepare a final report and no further Corps work will be conducted.

Key events during the reconnaissance phase are:

\*Begin reconnaissance when the District obligates funds.

\*District Engineer signs reconnaissance report.

\*Reconnaissance Review Conference (RRC). This mandatory conference is to ensure that the report is consistent with current policies and budgetary priorities, prior to release of the report to the public and prior to approval of the reconnaissance report and feasibility cost sharing agreement.

\*The appropriate Non-Federal Sponsor's representative and the District Engineer sign the feasibility cost sharing agreement (if the report is certified to continue into the feasibility phase).

## **FEASIBILITY PHASE**

The feasibility phase commences upon funding by the Non-Federal Sponsor and the Federal government following a

signed Feasibility Cost Sharing Agreement. The study process may require up to three years for production and an additional year to secure all necessary approvals for authorization. Costs of this work are normally cost shared equally between the Federal government and the Non-Federal Sponsor. Major planning steps are:

✧ Specify the problems and opportunities that are relevant to the planned setting, and are associated with the Federal objective and specific state and local concerns.

✧ Inventory, forecast and analyze conditions in the area that are relevant to the identified problems and opportunities.

✧ Formulate alternative plans that would resolve the identified problems and realize identified opportunities.

✧ Evaluate the economic, environmental and other effects, both beneficial and adverse, of alternative plans.

✧ Compare alternative plans and their effects.

✧ Select a recommended plan based on the comparison of alternative plans. The alternative plan with the greatest net economic benefit, consistent with protecting the nation's environment (referred to as the *National Economic Development*, or *NED* plan) must be selected as the recommended plan. The feasibility report forms the basis for authorization of project construction and the Project Cooperation Agreement. A draft report is coordinated with Federal,

state and local agencies prior to final release.

Key events during the feasibility phase are:

\*Begin feasibility when the District receives funds.

\*Feasibility Review Conference (FRC). This mandatory conference is designed to seek Washington level commitment to the project before the final feasibility report is submitted to Washington for review. The purpose is to minimize the potential for significant modification of the remaining studies and the final feasibility report recommendations after the report is submitted for review.

\*Public review of the draft feasibility report and environmental document (usually an environmental impact statement, EIS).

\*Project management plan approved.

\*District Engineer signs final feasibility report.

\*Division Engineer's public notice issued (pre-construction engineering and design may begin; see below).

\*Final environmental impact statement filed.

\*Chief of Engineers report signed.

\*Feasibility phase ends with the Assistant Secretary of the Army for Civil Works, ASA(CW) transmittal to Office of Management and Budget (OMB).

\*OMB clearance provided.

\*Assistant Secretary sends report to Congress.

\*Congress authorizes construction of a project.

A Real Estate Plan (REP) will be prepared in conjunction with the Feasibility Study. The Real Estate Plan will include a description of the minimum real property interests (estates and acreage) needed for the project; a determination regarding any facilities which must be relocated; an estimate of the number of displaced persons; a Baseline Cost Estimate for lands and damages, relocation assistance payments, required substitute facilities, mapping/surveying, title evidence, administrative costs, and contingencies; and a detailed schedule.

## **PRE-CONSTRUCTION ENGINEERING AND DESIGN PHASE**

The pre-construction engineering and design phase (PED) commences upon authorization of project construction by Congress, which at times will overlap

with completion of the feasibility phase. Generally, the acquisition phase commences during this phase as well and frequently runs concurrently with construction phases as well. This phase will vary in length depending on project scope. The focus is to complete all of the detailed technical studies and design needed to begin construction of the project. Costs are shared in the same proportions as construction costs.

The major documents prepared during this phase are the design memorandum (DM), which includes the results of technical engineering studies and design; the plans and specifications, which are the detailed drawings and instructions for building the project; and the project cooperation agreement (PCA), which describes sponsor and Corps responsibilities for project construction, operation and maintenance.

Key events during the phase are:

\*Begin pre-construction engineering and design (PED) phase when the District receives funds.

\*Update Real Estate Plan (REP).

\*Design memorandum approved (DM).

\*Plans and specifications approved (P&S).

\*Project cooperation agreement (PCA) prepared.

## **REAL ESTATE ACQUISITION PHASE**

Real estate acquisition is usually the most critical phase for the Non-Federal Sponsor since it is largely your responsibility. The succeeding sections address the issues and timing for this activity. The phase commences formally upon delivery by the Real Estate Division of the final project real estate drawings (*see Section 3, paragraph 1*) and ends after certification of the acquisition by the local sponsor and the crediting process is completed (*See Section 3, paragraph 9*). Real estate costs are solely the responsibility of the Non-Federal Sponsor but are creditable against the Non-Federal Sponsor's share of project costs.

Ordinarily, sponsors acquire any necessary real property interests, however you may request the Corps to acquire them on your behalf. If we elect to perform this service, you will be solely responsible for all costs of the requested services and must provide sufficient funds in advance of our incurring any financial obligation associated with this work. You are ultimately responsible for acquiring the necessary real estate, seeking assistance when needed, and seeing to it that all legal requirements are met. In either case, title to real property interests is normally retained by the sponsor. The time required for real estate acquisition varies from project to project depending upon the acreage, number of tracts and ownerships, and experience and capability of sponsors. Advertisement of the construction contract may proceed when we certify that you have obtained adequate real property interests. You typically need only provide the Corps with authorization for entry and proof that you have sufficient interest in the necessary lands. In addition you will be responsible for:

- \*Preparing surveys, maps and legal descriptions.
- \*Performing individual tract appraisals.
- \*Obtaining title evidence and performing curative work.
- \*Conducting negotiations and eminent domain proceedings.
- \*Providing relocation assistance services and processing relocation assistance claims and appeals by displaced persons.
- \*Performing or ensuring the performance of relocations of utilities and public facilities.
- \*Submitting lands, easements, rights-of-way, relocations, and disposal areas (LERRD)s credit requests for approval and documenting same.

## **CONSTRUCTION PHASE**

The construction phase begins after Congress appropriates funds specifically for the initiation of the project and contracts are awarded. Real estate acquisition *must* be completed before construction contracts are advertised. The duration of the construction is dependent upon the complexity and extent of the project. This phase is completed when the project is accepted from the contractor and turned over to the Non-Federal Sponsor for operation.

Costs are shared between the Federal government and the Non-Federal Sponsor according to the Congressional project authorization.

Key construction events are:

- \*Construction funds are appropriated.
- \*PCA approved and executed.
- \*Construction contract advertised.
- \*Construction contract awarded.
- \*Various project-specific construction events, such as: land clearing, rock placement, fill placement on embankment, and test of water release gates.
- \*Operation and maintenance manual approved.
- \*Construction completed.
- \*Project accepted and transferred to you.

## **OPERATION AND MAINTENANCE PHASE**

Operation and maintenance begins when the project is turned over to the Non-Federal Sponsor and generally continues indefinitely. The ongoing costs associated with these activities are the responsibility of the Non-Federal Sponsor, except for certain fish and wildlife enhancement projects. An Operation and Maintenance Manual is prepared for each project and delivered to the Non-Federal Sponsor prior to final project turnover. Periodic inspections will be made by the Corps of Engineers to ensure that the project is functioning correctly and is being properly maintained. If it is determined that design or construction deficiencies should be corrected, the Corps of Engineers may undertake further action.