



REPLY TO

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
441 G STREET, NW
WASHINGTON, DC 20314-1000

CEMP-CR

SEP 28 2016

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Real Estate Policy Guidance Letter No. 33--Interim Guidance on Disposition Studies

1. References.

- a. 40 USC Chapter 5, Subchapter III, Property Management.
- b. ER 405-1-12, Chapter 12.
- c. ER 405-1-04.
- d. CECW-P Memorandum 22 Aug 2016, Subject: Interim Guidance on the Conduct of Disposition Studies.

2. Purpose. This memorandum provides interim real estate guidance for formulation and execution of Disposition Studies for real estate members of Project Delivery Teams (PDTs). Real Estate's participation is a major prerequisite to the decision making process as focused investigations assess the potential for alternative uses of real property, identify potential viable users and potential pathways toward re-use and divestiture of projects or project segments.

3. Background. Real Estate investigations and assessments during the pre-decisional process help determine whether project real property has economic and/or public benefit value, and, where possible, identify potential end users, together with an estimate of costs to complete the transaction(s). Risk analyses should be at levels commensurate with the other elements of a study, but generally focused on the desired end state which for these disposition studies is to complete a successful divestiture of project assets no longer required by USACE, through conveyance to another end-user.

4. Definitions.

- a. Real Estate Appendix: An integral supplement to a main disposition study which focuses on the most probable re-use(s) of project real property based on maximum economic productivity and/or value to the public. The Appendix will contain two separate but interrelated parts: a market analysis and a re-use scenario.
- b. Market analysis: An analysis scaled to the project characteristics but primarily based on potential re-use(s) of lands, including improvements and appurtenances thereto,

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based on maximum economic productivity in light of what is physically possible, legally permissible and supported by the real estate market. The analysis will, however, consider the needs of existing public and private users and the continued viability of the current uses, and may conclude with a mixed use recommendation(s).

c. Re-Use Scenario: After the project real estate information is compiled and the market analysis is completed, alternative re-use(s) should be considered and a recommendation provided with supporting rationale. The re-use scenario may potentially incorporate a mix of private and public uses, and should be presented as a map with narrative exhibit to the Appendix. Any alternative re-use considered must include an analysis of the authorities under which the transfer or disposal could be carried out, as well as the potential for special legislation. The administrative costs should be provided for the implementation of the recommended plan.

d. Divestiture: The process of identifying property which no longer supports the missions of the Corps of Engineers and either eliminating these identified properties from the Corps inventory permanently through disposal, removal or transfer or repurposing; or developing an interim land use through outgranting or by contribution of funds.

e. Rough Order of Magnitude Cost Estimate: A real estate cost estimate based on historical data of comparable land sales. The cost estimate may be a range of potential values based on the level of study--not an appraisal product developed in full compliance with USPAP.

5. Policy. Disposition studies utilize risk-informed planning throughout the investigation period in order to scale the effort of work concurrently with other PDT disciplines to support each decision milestone. The focus of each subsequent iteration should reduce uncertainty and increase the level of detail for those factors most critical to overall decision-making. The Real Estate focus of each iteration follows, but the detail necessary or number of iterations may vary based on the site-specific context of each study. After the receipt of funding and initial planning meeting, there are three PDT milestones: a Decision Meeting (90 days from inception); a Tentatively Selected Plan Milestone (TSP) (typically 4 - 6 months from inception); and a Disposition Study Report.

a. Decision Meeting. The first iteration leading to the decision meeting will provide an indication of federal interest, or lack thereof, in continuing to retain the project for its currently authorized purposes and to indicate marketability and/or interested end-user(s). The purpose of the Decision Meeting is to either establish federal interest in continuing with a disposition study, to terminate the Study or to transition to a Feasibility Study. The meeting intent is to document and gain vertical concurrence on the scope before proceeding to the Tentatively Selected Plan Milestone.

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The focus for Real Estate for this first iteration will be on identification of the physical characteristics of the project real property to determine the overall potential utility of the land. To the extent possible, the real estate team will utilize existing information, records searches and readily available public information—such as Google Earth.

Potential re-use scenarios should help begin to identify potential users, focusing on local stakeholder interest. However, full engagement should be deferred until the second iteration. This initial fact finding will produce results that are speculative and tentative, with a significant degree of uncertainty. At the end of this iteration, Real Estate shall be able to address the following questions:

- (1) Do the real property and improvements have economic or commercial value?
- (2) What is the potential for re-use by others, by potential use classification? Is there potential for re-use of lands to other Federal agencies? In particular, Is there potential for re-use of land by HUD? Is there potential for re-use by the State or other local political subdivisions? By Indian Tribes? By non-profit entities such as land conservatories or water districts? Is there potential for mixed used development scenario by private sector developers?

b. TSP Milestone. This second iteration focus, leading to the TSP milestone, will be on decreasing uncertainty by refining information and analyses to better inform decision-making. Team members will refine alternatives, and develop risk-informed recommendations regarding feasibility of probable paths forward.

(1) Real Estate will identify specific potential uses of the real property, taking in consideration the uses that are physically possible based on the attributes of the property, permissible based on zoning ordinances, market attributes, and existing outgrants. Meetings with stakeholders, local zoning officials, regional and State level economic development officials and the local brokerage community are recommended as warranted. Discussions with stakeholders must include the disclosure that all transactions, subject to specific legislation or continuing authorities, must conform to the provisions of 40 USC Chapter 5 – Property Management. Major obstacles to divesting of project real property should be highlighted and the potential impacts discussed, including risks and mitigation opportunities.

(2) These efforts will result in a recommended re-use scenario for the potential uses for the project or project segments. This approach often generates the maximum economic productivity for the asset. The re-use scenario may also provide for a variety of complementary uses. The scenarios will then be prioritized and, as appropriate, merged. Each potentially viable scenario should consider existing real estate disposal

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authorities, including the authorities of GSA or others, or if necessary, develop recommendations outside existing legislation. Outcomes could include private development, renewable energy development, recreational uses, water supply, hydro-electric or any other supportable use indicated by the disposition study. If any public notices are distributed or fact-finding with the local or regional development community is undertaken, the real estate team must be clear that this is a preliminary effort and no actions will be taken without Congressional approval prior to implementation of the formal disposal process.

(3) Based on the estates held by the Government and the indicated land uses from the recommended re-use scenario, the real estate appraiser should develop a macro-level valuation based on comparable land sales. This level of effort shall be similar to a cost estimate.

(4) Real Estate will prepare an estimate of the administrative costs including caretaking of the real property interests, as well as the costs of disposing of the realty interests in accordance with the recommended courses of action. The extent of any significant health and safety risks should be addressed by the PDT. The administrative costs and the land value will be provided to the PDT for the disposition economic analysis, together with any necessary risk mitigation costs as developed by the PDT. The analysis will also include an evaluation of whether there are ways to divest the real property within existing authorities after de-authorization.

c. Disposition Study Report. The third iteration will support the TSP. Real Estate will prepare the Real Estate Appendix. This Appendix will summarize the market analysis and attach the Re-Use Plan, with the following elements highlighted: description of the project lands and improvements; project location; the real estate interests held by the Government; a description of outgrants that have been issued and their expiration dates; a summary of the market analysis that was conducted and the determination of the potential alternate use; a statement regarding the extent of environmental investigations conducted as appropriate and whether any lands contain known contaminants; the five year average annual holding costs for the project as determined by the District's Operations Division and reviewed by the MSC; the value of the real estate interests (based on a level of effort similar to a cost estimate); an estimate of the administrative costs to dispose of all project real property; a projection of the amount of time required to sell all project lands; any anticipated local support or opposition; and the level of confidence that a transaction can be consummated if approved. To the extent possible, the anticipated levels of Congressional support for any re-use possibilities or any anticipated opposition as determined by the PDT should be stated within the study. Similarly if there has been expressed interest in acquiring the real

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property by government entities, stakeholders or private developers, whether verbally or in writing, this must be included and the viability and capability of the interested party (parties) should be discussed.

6. Duration. This guidance will remain in effect until amended or rescinded by Policy Memorandums, Policy Guidance Letters, Engineers Circulars or Engineer Regulations.

7. The HQUSACE point of contact for this guidance is John Warren Cline II at 202-761-8635.

FOR THE COMMANDER:



BRENDA M. JOHNSON-TURNER
Director of Real Estate

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