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TANGGAPAN NG KALIHIM

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DEPARTMENT ORDER

NO. 5
Series of 2003 *Am*
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SUBJECT: CREATION OF THE
INFRASTRUCTURE RIGHT OF
WAY AND RESETTLEMENT
PROJECT MANAGEMENT
OFFICE (PMO) AND THE
IMPLEMENTATION OF THE
IMPROVED IROW PROCESS

In line with the Department's objective to implement a streamlined Infrastructure Right of Way (IROW) process designed to enable the Department to identify, acquire, and manage right-of-way (ROW) efficiently and in a timely manner for the implementation of infrastructure projects, the improved IROW process is hereby adopted for strict compliance in accordance with the IROW Procedural Manual and the schedule herein provided. The IROW and Resettlement Project Management Office (PMO) is also hereby created to manage the ROW process within the Department.

I. Infrastructure Right Of Way Policies

The application of the improved process shall be in accordance with, but not limited to the following policies:

1. It shall be applicable to all foreign-assisted and locally funded projects.
2. The Implementing Office (IO) shall ensure that IROW costs are always included in project budgets.
3. The IO shall formulate a ROW Action Plan during the project identification stage. The Action Plan shall contain the estimated budget for all ROW costs including inflation and contingencies, schedule of implementation, and the areas to be acquired.
4. The IO shall provide an estimated cost breakdown of each project to the IROW and Resettlement PMO and the CFMS prior to any disbursement of funds. The first priority of the budget for a project shall be all costs prior to construction.
5. If ROW costs differ from the approved ROW budget after detailed design has been finalized, a budget adjustment shall be approved.
6. Feasibility Studies shall be conducted for all projects. The level of detail for these studies will vary, depending on the type, size, and complexity of the project.
7. The Environmental Compliance Certificate (ECC) shall be secured before the detailed design for all projects. However, for projects costing over P300 million, the ECC shall be secured before National Economic and Development Authority (NEDA) / Infrastructure (ICC) approval.
8. Parcellary Surveys shall be conducted for all projects in accordance with DO 187 series 2002.

9. A Land Acquisition Plan and Resettlement Action Plan (LAPRAP) shall be prepared for all projects using a standardized compensation package as defined in the IROW Procedural Manual.
10. The determination of Project Affected Persons (PAPs) and improvements shall be based on the cutoff date, which is the start of the census of PAPs and tagging for improvements.
11. The first mode of acquisition shall be to request donation from the property owner.
12. If the property owner does not donate the property, then negotiations for purchase of land and improvements, shall follow based on the provisions of Republic Act 8974 and its IRR. Hence, the first offer shall be the current BIR zonal value for land, and replacement cost for improvements (there shall be no salvage value). If the first offer is not accepted, the value of the second offer shall be based on the Resolution of the appropriate Appraisal Committee subject to the approval of the Implementing Office (IO). If the IO does not agree with the Appraisal Committee's Resolution, then the IO shall engage the services of an Independent Land Appraiser to determine the value. The value of the second offer shall be the lower of the two values. In case the property owner refuses the second offer, the IO initiates expropriation proceedings.
13. It is the responsibility of the IO to obtain and validate all necessary documents for ROW claims.
14. ROW claims shall be screened, fully verified and validated, and the supporting documents authenticated in accordance with the checklist in the IROW Procedural Manual prior to payment.
15. Legal Staff in the respective Regional Office shall review Deeds of Absolute Sale up to PhP 5 Million. Legal Service in the Central Office shall review Deeds of Absolute Sale over PhP 5 Million.
16. Approvals of the appropriate activities in the IROW process are specified in the IROW Procedural Manual. Approval of the Deed of Absolute Sale is hereby established as follows:
 - District Engineer up to PhP 3 Million
 - Regional Director up to PhP 5 Million
 - Project Director up to PhP 5 Million
 - Assistant Secretary up to PhP 10 Million
 - Undersecretary up to PhP 15 Million
 - Secretary - any amount
17. Valid claims for all lands, structures and other improvements will be paid in full in accordance with government rules and regulations. The IO shall pay all taxes and encumbrances of the property up to the amount in the Deed of Absolute Sale, and shall then deduct the amount of the capital gains tax and encumbrances from the payment due to the property owner.
18. The IROW and Resettlement PMO shall monitor the releases and disbursement of ROW funds made by the IOs.
19. All IOs shall properly liquidate all ROW disbursements and submit quarterly reports of payments made for all claims to the IROW and Resettlement PMO.
20. All ROW must be fully acquired and cleared before the issuance of the Notice of Award for the project.
21. IO shall properly file all documents pertaining to the acquisition of ROW and shall effect the transfer of titles or other tenurial instruments in the name of the

- Republic of the Philippines within three months from the perfection of the Deed of Absolute Sale, or in the case of expropriation, from the date of full payment.
22. District Offices shall be responsible and accountable for the proper management of all ROW and ensure that encroachments, structures, and informal settlers are not allowed within the ROW limits. All District Engineers through the respective Regional Director, shall submit monthly reports of the status of ROW to the IROW and Resettlement PMO.
 23. In the event that a utility company does not comply with the IO notification to relocate the utility within the specified time period, the IO shall issue a final notice to the utility company with a time period specified. If the utility company still does not comply with the final notice, the IO shall clear the utility and bill the utility company accordingly.
 24. All utilities must be fully cleared from the ROW before the issuance of the Notice of Award for the project.
 25. The use of ROW for facilities and utilities shall be in accordance with DPWH guidelines and will be strictly enforced by the respective District Office.
 26. The IO shall prepare the final as-built ROW Plan upon completion of the project, for submission to the IROW and Resettlement PMO.

II. Infrastructure Right Of Way Process and Procedures

The improved IROW process covers the project cycle from planning through management after acquisition stage. The IROW Procedural Manual provides the workflows that specify the activities in the process, and the detailed procedures that shall be followed by all IO. The IROW Procedural Manual can be obtained from the IROW and Resettlement PMO.

III. Creation of the IROW and Resettlement PMO

A Project Management Office (PMO) for Infrastructure Right of Way (IROW) and Resettlement is hereby created under the USEC for Maintenance, Equipment, and Design to supervise the full implementation of the improved process. The Project Director for the IROW and Resettlement PMO shall be the Project Director of PMO – Action Office for Resettlement of Squatter Families (AORSF). The IROW and Resettlement PMO shall be created by merging the PMO – Action Office for Resettlement of Squatter Families (AORSF) and the PMO – Manggahan Floodway. Further, the non-legal staff of Site Acquisition and Law Enforcement Division (SALED) involved in site-acquisition shall be detailed to the IROW and Resettlement PMO. In addition, other appropriate staff needed from other offices within the Department, as determined by the IROW and Resettlement PMO Project Director, shall hereby be detailed to the IROW and Resettlement PMO.

The role of the SALED, Legal Service, in the Right of Way process shall only be to provide advice on legal matters as requested by the IROW and Resettlement PMO and/or Implementing Offices and to review Deeds of Absolute Sale over PhP 5 Million. The Legal Service shall also be responsible for representing the Department in expropriation cases, or legal staff from the concerned Regional Office.

The Environmental Impact Assessment Project Office shall provide environmental and social assessment support to the IROW and Resettlement PMO

and the IO. It shall also continue to act as the Internal Monitoring Agent (IMA) who will monitor the implementation of LAPRAPs. The function of preparation and implementation of LAPRAPs shall be the responsibility of the IO.

The IROW PMO shall have the following roles and responsibilities:

1. Prepare the Action Plan for the full implementation of the new process within two months after the signing of this Order and monitor the progress of implementation.
2. Organize the PMO in accordance with its tasks within three months after the signing of this order
3. Continue with the existing functions of AORSF and Manggahan Floodway.
4. Organize regional and district office counterparts for the implementation of the improved process within three months after the signing of this Order in those offices. The appropriate Department Orders shall be prepared for the Secretary's approval.
5. Prepare and implement, a training program to provide the skills and strengthen the capabilities of all staff in IO involved with the IROW with the assistance of the Administrative and Manpower Management Service (AMMS), within three months after the signing of this Order
6. Assist all IO in the implementation of the improved ROW policies, process, and procedures.
7. Supervise the improved ROW process in all IO.
8. Coordinate with the BIR, Appraisal Committees, and other appropriate agencies for updating of valuations.
9. Coordinate with the appropriate government agencies and the private sector, particularly the utility companies, among others, to ensure the successful implementation of the improved ROW process.
10. Consolidate and validate the monthly ROW monitoring reports for submission to the Secretary through the USEC for Maintenance, Equipment, and Design.
11. Consolidate and validate the summaries of payments made by the IO and submit a report to the Secretary through the USEC for Maintenance, Equipment, and Design.
12. Prepare other guidelines needed to clarify issues that may arise from the implementation of the improved process.
13. Implement the computerized ROW Management System once it has been developed or purchased.
14. Ensure the proper recordkeeping of all relevant documents and the archiving of titles with the National Archives. The IROW and Resettlement PMO shall also keep copies of all relevant documents and titles.
15. Prepare quarterly accomplishment reports for submission to the Secretary through the USEC for Maintenance, Equipment, and Design.
16. Perform other duties as may be assigned by the Secretary and / or the USEC for Maintenance, Equipment, and Design.

The IROW and Resettlement PMO and the counterpart offices in the regions and districts shall have the appropriate funds for their day-to-day operations which can be sourced from operating budgets, project funds, and other available subject to the usual government accounting and auditing rules and regulations. The IROW and

Resettlement PMO is hereby authorized to utilize all necessary and appropriate offices within the Department in carrying out the improve IROW process.

IV. Implementation Strategy

1. The improved IROW process will be initially implemented in the Regional and District Offices, including Sub-Districts, in both Region III and the National Capital Region effective January 1, 2003. Then it will be implemented in the Central Office and all the other Regions and Districts starting January 1, 2004.
2. The application of the improved process to current projects shall be subject to the criteria as contained in Annex A.
3. All new projects, and any existing projects that meet the criteria in Annex A, shall follow the provisions of this Department Order.

V. Penalty Clause

Any violation of these policies and procedures shall subject the erring employee or official to immediate sanctions that shall include suspension and/or dismissal in accordance with the Civil Service rules and regulations and other pertinent laws and regulations.

This Order shall take effect immediately and supersede all previous Department Orders and other issuances or any provision thereof that are inconsistent herewith.


SIMEON A. DATUMANONG
Secretary

ANNEX A

CRITERIA FOR APPLICATION OF THE IMPROVED INFRASTRUCTURE RIGHT OF WAY PROCESS FOR EXISTING PROJECTS

Existing Projects

Existing Projects are defined as all infrastructure projects that have been included in the:

1. General Appropriation Act of 2002, or prior years, for Region III and National Capital Region including the Regional Offices, District Offices, and Sub-District Offices.
2. General Appropriation Act of 2003, or prior years, for the Central Office including Project Management Offices, all other Regions including the Regional Offices, District Offices, and Sub-District Offices

New Projects

New Projects are defined as all infrastructure projects that have been included for the first time in the:

1. General Appropriation Act of 2003, or later years, for Region III and National Capital Region including the Regional Offices, District Offices, and Sub-District Offices.
2. General Appropriation Act of 2004, or later years, for the Central Office including Project Management Offices, all other Regions including the Regional Offices, District Offices, and Sub-District Offices

Criteria for Application of the Improved IROW Process for Existing Projects

All existing infrastructure projects shall follow all new policies and procedures of the improved Right of Way process in this Department Order except:

1. Projects where bidding of civil works has commenced prior to January 1, 2003 for projects in Region III and National Capital Region, and prior to January 1, 2004 for projects in the Central Office including PMOs and all other Regions.
2. Foreign Assisted Projects only to the extent that the improved IROW process differs from the requirements in the existing Loan Agreement. This shall only apply where the Loan Agreement specifically states a different procedure must be followed. Only this different procedure will be applied to the specific aspect of the right of way that it pertains to, all other aspects of the improved IROW process must be strictly followed.