

right of possession by normal acquisition procedures.

(c) Upon execution of an ENG Form 2803, a copy thereof shall be forwarded to HQDA (DAEN-REA-L) WASH DC 20314 on Army Military and Air Force acquisitions, and in all other cases to HQDA (DAEN-REA-P) WASH DC 20314, together with a proposed schedule of final acquisition of the necessary interests in real estate. If final acquisition is not contemplated within six months from the date of the right-of-entry, an explanation should also be furnished as to the reason for the delay.

(d) Division and District Engineers may modify ENG Forms 1258 and 2803, where necessary, to meet requirements of landowners, provided such modifications do not increase the scope of the liability or responsibility of the Government over that contained in the standard forms.

(e) It is necessary to recognize not only the effects of entry upon a particular parcel of land, but also the effects of the passage of any vehicle (land, air, or water) on the area traversed. All possibilities of disturbing effects on the countryside shall be considered and routes selected to eliminate or minimize such disturbances.

(f) Any cash settlements in lieu of restoration for damages, incurred under ENG Forms 1258 and 2803, will be consummated by supplemental agreement in accordance with subpart I.

PROCUREMENT OF OPTIONS PRIOR TO
REAL ESTATE DIRECTIVES (MILITARY)

SOURCE: Sections 644.165 through 644.168 appear at 44 FR 31125, May 30, 1979, unless otherwise noted.

§ 644.165 Purpose and scope.

Sections 644.165 through 644.168 describe the procedures relating to the procurement of options to purchase real estate interests for Army or Air Force military requirements prior to the issuance of a real estate directive. These procedures are applicable to all Division and District Engineers having military real estate responsibility.

§ 644.166 Authority and applicability.

(a) *Authority.* Subsections (a) and (b) of section 2677 of title 10, United States

Code, as amended by section 707 of the Act of Congress approved October 27, 1971 (85 Stat. 412), provide that:

(1) The Secretary of a military department may acquire an option on a parcel of real property before or after its acquisition is authorized by law, if he considers it suitable and likely to be needed for a military project of his department.

(2) As consideration for an option so acquired, the Secretary may pay from funds available to his department for real property activities, an amount that is not more than five percent of the appraised fair market value of the property.

(3) For each six-month period ending on June 30 or December 31, during which he acquires options under paragraph (a) of this section, the Secretary of each military department shall report those options to the Committees on Armed Services of the Senate and House of Representatives.

(b) *Applicability.* (1) Where land is needed for proposed construction and the siting of said construction is firm.

(2) When there is a definite indication of material enhancement in value due to change, or proposed change, in use by the land owner, price increase due to publicity given to contemplated Government acquisition, or abnormal increases in market value.

(3) Where there is a definite possibility of private construction which would constitute obstructions in existing or proposed glide angle planes and transitional planes at air bases.

§ 644.167 Implementation.

When a District or Division Engineer determines that any of the conditions described in § 644.166(b) exist in connection with any proposed land acquisition project for military purposes not yet authorized by law, or if authorized, not yet covered by a real estate directive, he will initiate the following actions:

(a) *Planning Report.* A planning report will be developed and submitted in accordance with Subpart A. The report will include the purpose for which the property is "likely to be needed"; the estimated probable increase in value, if