



Public Notice

U.S. ARMY CORPS OF ENGINEERS

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Subject: Special Public Notice

Action ID: SPN-2014-00111

Comments Period: March 24 – April 11, 2014

SUBJECT: Proposal to accept funds from the State of California, Department of Transportation to expedite permit application review.

This Special Public Notice announces the preliminary intent of the U.S. Army Corps of Engineers' San Francisco District, Regulatory Division, to accept funds contributed by the California Department of Transportation ("Caltrans") in order to expedite processing of Caltrans' Department of the Army (DA) permit applications.

Section 214 of the *Water Resources Development Act of 2000* (WRDA 2000, Public Law No. 106-541 111-120), as amended by Public Law 111-315, authorizes the Secretary of the Army, after public notice, to accept and expend funds contributed by a non-Federal public entity to expedite the evaluation of a permit of that entity related to a project or activity for a public purpose under the jurisdiction of the Department of the Army. The Secretary of the Army has delegated this responsibility to the Chief of Engineers and his authorized representatives, including the Commander of the San Francisco District, U.S. Army Corps of Engineers. The authority provided under section 214 of the WRDA 2000 is presently in effect until December 31, 2016.

Currently, San Francisco District accepts funds from Caltrans in accordance with an existing Memorandum of Agreement (MOA), which is set to expire September 30, 2014. A new MOA, effective October 1, 2014, thru September 30, 2019, would allow the Corps to continue to accept and expend these funds. However, the Corps will neither accept nor expend funds provided by Caltrans after December 31, 2016, unless Federal law extends the Corps' authority under section 214 of WRDA 2000, as amended.

Definition of non-Federal public entities: Non-Federal public entities are comprised of state and local governmental agencies, Indian tribal governments, and other governmental economic development agencies seeking to expedite permit applications for certain kinds of work, including transportation projects, flood and storm water management, and industrial or commercial development. Caltrans meets this definition.

How the Corps would expend the funds: The Corps' Regulatory Program is funded as a congressionally appropriated line item in the annual Federal budget. Funds received from Caltrans will be added to the Regulatory budget of the San Francisco District, in accordance with the provisions of section 214 of WRDA 2000, as amended. San Francisco District, Regulatory Division, would establish a separate account to track receipt and expenditure of the funds. San Francisco District employees would charge his/her time against such account when working on Caltrans' permit applications deemed a priority.

Activities for which funds will be expended: Funds would be expended primarily on the labor and overhead of San Francisco District personnel processing priority permit applications designated by Caltrans. Such permit processing activities would include, but not be limited to, the following: application completeness review, jurisdictional determinations, site visits, preparation of public notices, preparation of correspondence, meetings, coordination concerning endangered species and cultural resources, public interest review, distribution of public notices, analysis of alternatives, review and comment on mitigation proposals, review of mitigation and monitoring report submittals, preparation of mitigation completion correspondence, and preparation of environmental assessments and permit decision documents. Funds may also be expended to pay for support services to perform select duties; such as site visits, technical writing or review of specific

technical or legal documents, such as biological assessments for endangered species, cultural resources surveys, Essential Fish Habitat determinations, and State coastal zone management consistency concurrence. No enforcement activities would be paid from monies received from Caltrans.

Procedures to be used to ensure impartial decision-making: To ensure the funds will not impact impartial decision-making, the following procedures would apply:

(a) The Corps will ensure that the evaluation of permits carried out using funds accepted from Caltrans are reviewed at least one level above the decision maker, unless the decision maker is the District Commander, then the Commander of the Corps Division in which the District is located, would review the permit decision. For example, if the decision maker is the Chief of the Regulatory Division, then the reviewer would be the District Commander.

(b) The Corps will ensure that all final permit decisions carried out using accepted funds from Caltrans are made available to the public, including on the Internet at:
<http://geo.usace.army.mil/egis/f?p=340:9:0::NO>

(c) The Corps will utilize the same procedures for decisions that would otherwise be required for the evaluation of permits for similar type projects or activities not carried out using funds accepted from Caltrans.

(d) The Corps will comply with all applicable laws and regulations.

(e) The Corps will only expend funds accepted from Caltrans to provide priority review of permit applications, and will not use them to carry out a review of the evaluation of permits, as required under (a) above.

Impacts to the Regulatory Program: We do not expect priority review of Caltrans projects to negatively impact San Francisco District's Regulatory Program or to increase the time for permit evaluations of other projects since additional staff have been hired, with the funds previously received from Caltrans, to augment this priority review.

Consideration of Comments: The Corps is soliciting comments from the public, Federal, State and local agencies and officials, and other interested parties. Comments will be made part of the record, and they will be considered in determining whether it would be in the public interest to proceed with this action. If the San Francisco District Commander determines, after considering public comments, that the acceptance and expenditure of the funds is in compliance with the Act and is not otherwise contrary to the general public interest, then San Francisco District, Regulatory Division will implement section 214 of WRDA 2000, as amended, through a signed memorandum of agreement and accept the funds from Caltrans. A second public notice will be issued regarding the District Commander's final decision on this matter. Beyond that, no new public notice will be issued if Caltrans increases the amount of funds previously furnished, provided that the proposed terms of acceptance and expenditure of funds remains the same.

Submission of Comments: Comments on implementing section 214 of WRDA 2000, as amended, will be accepted and made part of the record, and they will be considered in determining whether it would be in the best public interest to proceed with this administrative practice. Interested parties may submit, in writing, any comments concerning this proposal. **Comments should refer to SPK-2004-720 and be forwarded by the comment due date of March 31, 2014.** Comments must be sent to the U.S. Army Corps of Engineers, San Francisco District, Regulatory Division, ATTN: Laurie Monarres, 1455 Market Street, 16th Floor, San Francisco, California 94103-1398. Alternatively, comments can be sent electronically to Laurie.A.Monarres@usace.army.mil.