



US Army Corps
of Engineers®
San Francisco District

Regulatory Division
1455 Market Street, 16th Floor
San Francisco, CA 94103-1398

SAN FRANCISCO DISTRICT

SPECIAL PUBLIC NOTICE

PROPOSAL TO ACCEPT FUNDS FROM THE SAN FRANCISCO BAY RESTORATION AUTHORITY

PUBLIC NOTICE NUMBER: 2018-00204N
PUBLIC NOTICE DATE: September 14, 2018
COMMENTS DUE DATE: October 14, 2018

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This Public Notice announces the preliminary intent of the San Francisco District, U.S. Army Corps of Engineers (“Corps”) to accept and expend funds contributed by the San Francisco Bay Restoration Authority (Restoration Authority). The Corps’ San Francisco District, Regulatory Division would allocate funds internally in order to expedite processing of the Restoration Authority’s Department of the Army pre-application project list and permit applications, subject to a series of limitations specified below.

Section 214 of the *Water Resources Development Act of 2000* (WRDA 2000, Pub. Law No. 106-541, § 214, 114 Stat. 2594) as amended, provides:

- (a) The Secretary (of the Army), after public notice, may accept and expend funds contributed by non-federal public entities to expedite the evaluation of permits under the jurisdiction and of the Department of the Army.
- (b) In carrying out this section, the Secretary shall ensure that the use of funds accepted under subsection (a) will not impact impartial decision making with respect to permits, either substantively or procedurally.

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.

Definition of non-Federal public entities: Non-federal public entities are comprised of state and local governmental agencies and Indian tribal governments. They include, but are not limited to, local transportation agencies desiring to expedite highway projects, port authorities wanting permits expedited for marine terminals, flood and storm water management agencies, and governmental economic development agencies seeking to expedite permit application for certain kinds of work, including industrial or commercial development. The Restoration Authority meets this definition.

How the San Francisco District would expend the funds: The Corps’ Regulatory Program is funded as a congressionally appropriated line item in the annual Federal budget. Additional funds received by the San Francisco District from the Restoration Authority would be used to contribute to the Regulatory budget of the

San Francisco District, in accordance with the provisions of Section 214 of WRDA 2000. The San Francisco District would establish a separate account to track receipt and expenditure of the funds. A Regulatory employee would charge his/her time against a specific account when working on multi-benefit restoration projects that are deemed a priority by the Restoration Authority.

Activities for which funds will be expended: Funds would be expended primarily on the labor and overhead of Regulatory personnel processing priority permit applications designated by the Restoration Authority. Such permit processing activities would include, but not be limited to, the following: pre-application review, application completeness review, jurisdictional determinations, site visits, preparation of public notices, preparation of correspondence, meetings, consultation with other agencies, Section 408 review for alteration of a Civil Works project by another party, public interest review, distribution of public notices, analysis of alternatives, compensatory mitigation proposal reviews, preparation of environmental assessments, preparation of permit decision documents and permit compliance. No enforcement activities would be paid from the § 214 funds.

If the Restoration Authority's funds are fully expended and are not renewed, their remaining priority permit applications would be handled like those of any other non-participant, in a manner decided by the assigned Regulatory personnel and his/her supervisor.

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) All final permit decisions for cases where these funds are used must be reviewed at least one level above the decision maker, unless the decision maker is the District Commander. For example, if the decision maker is the Chief of the Regulatory Division, then the reviewer would be the District Commander.
- (b) All final permit decisions for applications where these funds are expended will be made available on the Corps Headquarters web page.
- (c) The Corps will not eliminate any procedures or decisions that would otherwise be required for that type of project and permit application under consideration.
- (d) The Corps will comply with all applicable laws and regulations.
- (e) Funds will only be expended to provide priority review of the participating non-Federal entity's pre-application project list and permit applications.

Impacts to the Regulatory Program: We do not expect priority review of Restoration Authority permits to negatively impact the regulatory program or to increase the time for permit evaluations of other projects since additional staff will be hired to supplement 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 Section 214 of WRDA 2000 as amended, the Corps will

implement the act through a signed memorandum of agreement and accept funds from the Restoration Authority. A second public notice will be issued regarding the final decision on this matter.

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 SPN-2018-00204 and be forwarded by the comment due date of October 14, 2018. Comments must be sent to the U.S. Army Corps of Engineers, San Francisco District, Regulatory Division, Attention: Sahrye Cohen, 1455 Market Street, 16th Floor, San Francisco, CA 94103-1398. Alternatively, comments can be sent electronically to Sahrye.E.Cohen@usace.army.mil.