



Public Notice

U.S. ARMY CORPS OF ENGINEERS

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Public Notice for Proposal to Accept Funds from the California High Speed Rail Authority

Action ID: SPL-2009-00623-VCC

Comments Period: December 29, 2009– January 29, 2010

This Public Notice announces the preliminary intent of the Los Angeles District to accept funds contributed by the California High Speed Rail Authority (the “Authority”). The Los Angeles District would allocate funds internally and distribute funds to the Sacramento and San Francisco Districts in order to expedite processing of the California High Speed Rail Authority’s Department of the Army (DA) permit applications, subject to a series of limitations specified below.

Section 214 of the Water Resources Development Act of 2000 (WRDA 2000, Public Law No. 106-541) 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 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.

(c) The authority provided under this section shall be in effect from October 1, 2000 to December 31, 2009.

The Secretary of the Army has delegated this responsibility to the Chief of Engineers and his authorized representatives, including the Commander of the Los Angeles District, U.S. Army Corps of Engineers. The authorization to accept and expend funds from non-Federal public entities is conditional on the extension of Section 214 of WRDA 2000.

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 applications for certain kinds of work, including industrial or commercial development. The Authority meets this definition.

How the Los Angeles 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 Los Angeles District from the Authority would be used to augment the Regulatory budgets of the Los Angeles, Sacramento, and San Francisco Districts, in accordance with the provisions of Section 214 of WRDA 2000. Each Corps District would establish a separate account to track receipt and expenditure of the funds. With the supplemental funding, each Corps District would hire additional personnel and pay for support services, both technical and administrative. A Regulatory employee would charge his/her time against a specific account when working on the Authority’s permit applications deemed a priority.

At this time, we would like to make you aware that, in the future, each Corps District may also consider accepting and expending funds to expedite evaluations of permits for modification and alteration of Corps of Engineers Projects pursuant to 33 U.S.C. 408. A separate public notice would be issued soliciting public comments prior to any Corps decision to accept such funds for that purpose.

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 Authority. 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 (with the non-Federal entity, applicants, agencies and general public), coordination concerning endangered species and cultural resources, public interest review, public hearings, distribution of public notices, analysis of alternatives, compensatory mitigation proposal reviews, and preparation of environmental assessments and permit decision documents. Funds may also be expended to pay for support services or to hire independent contractors to perform select duties; such as site visits, technical writing or review of specific technical documents, such as biological assessments for endangered species and Essential Fish Habitat determinations. No enforcement or compliance activities would be paid from the augmenting funds.

If the 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 by 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 cases where these funds are used will be made available on the Los Angeles District web page and the web page of the District where the permit originated.
- 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 permit applications.

Impacts to the Regulatory Program: We do not expect priority review of the Authority's projects to negatively impact the Los Angeles, Sacramento, or San Francisco District's Regulatory Program, or to increase the time for permit evaluations of other projects since additional staff will be hired 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 Los Angeles 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, the Los Angeles District will implement Section 214 of WRDA 2000 through a signed memorandum of agreement and accept the funds from the Authority. 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 the

Authority 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 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 Proposed Acceptance of Funds From The California High Speed Rail Authority and the date of this Public Notice, and be forwarded by the comment due date. Comments must be sent to the U.S. Army Corps of Engineers, Los Angeles District, Regulatory Branch, ATTN: Veronica Chan, P.O. Box 532711, Los Angeles, California 90053-2325. Alternatively, comments can be sent electronically to: Veronica.C.Chan@usace.army.mil

For additional information, please call Veronica C. Chan of my staff (213) 452-3292. This public notice is issued by the Chief, Los Angeles District Regulatory Division.