



SPECIAL PUBLIC NOTICE

PROPOSAL TO ACCEPT FUNDS FROM THE STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION TO EXPEDITE SECTION 408 PERMIT APPLICATION
REVIEW

**U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT**

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Public Notice No.: SPL-PN-2019-001

Comment Period: November 16 - December 15, 2018

Project Manager: Adam Bier; (213) 452-3190; Adam.J.Bier@usace.army.mil

This Special Public Notice announces the preliminary intent of the U.S. Army Corps of Engineers' ("Corps") Los Angeles District, Engineering Division, to accept funds contributed by the California Department of Transportation ("Caltrans") in order to expedite processing of their Section 408 requests, subject to a series of limitations below:

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, 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, wither 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 Los Angeles 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, 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' Section 408 Program is funded as a congressionally appropriated line item in the annual Federal budget. Additional funds received from Caltrans would be used to augment the budget of the Corps' Los Angeles District, Engineering Division, Section 408 Program, in accordance with the provisions of Section 214 of WRDA 2000, as amended. The Corps' Los Angeles District, Engineering Division would establish a separate account

to track receipt and expenditure of the funds. Los Angeles District employees would charge their time against such account when working on Caltrans' section 408 permit applications.

Activities for which funds will be expended: Funds would be expended primarily for the labor and overhead of Los Angeles District personnel when processing Section 408 requests. Such 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 and consultation with other agencies, public interest review, distribution of public notices, analysis of alternatives, compensatory mitigation proposal reviews, and preparation of environmental assessments, preparation of decision documents, and application compliance.

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 408 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 Engineering Division, then the reviewer would be the District Commander
- (b) All final 408 decisions for requests 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 Caltrans permit requests.

Impacts to the Section 408 Program: The Los Angeles District, Engineering Division does not expect priority review of Caltrans' projects to negatively impact the Section 408 program or to increase the time for evaluations of other projects since additional staff may be hired to augment these priority reviews.

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, then Los Angeles District, Engineering 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.

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 be forwarded by the comment due date of December 15, 2018. Comments must be sent to the U.S. Army Corps of Engineers, Los Angeles District, Engineering Division, ATTN: Adam Bier, 915 Wilshire Boulevard,

Suite 930, Los Angeles, California 90017-3409. Alternatively, comments can be sent electronically to Adam.J.Bier@usace.army.mil.

**DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS**

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