



**US Army Corps
of Engineers**
St Paul District

PUBLIC NOTICE

Comment Period Begins: 14 APR 2014

Comment Period Ends: 14 MAY 2014

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This Public Notice announces the intent of the Saint Paul District of the U.S. Army Corps of Engineers (Corps) to accept funds from the Minnesota Department of Transportation (MnDOT) in order to expedite processing of the MnDOT Department of the Army (DA) permit applications.

Authority to accept funds: Section 214 of the *Water Resources Development Act (WRDA) of 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, 2016.

The Secretary of the Army has delegated this responsibility to the Chief of Engineers and his authorized representatives to, after public notice, 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.

The District Commander for the Saint Paul District is negotiating an agreement with MnDOT to accept and expend funds to expedite evaluations of permit applications submitted by MnDOT pursuant to Clean Water Act Section 404 (13 U.S.C. 1344) and/or Rivers and Harbors Act Section 10 (33 U.S.C. 403).

Non-federal public entity: Non-federal public entities are defined for Section 214 purposes as 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 processing programmatically, or for a specific project. MnDOT is a non-federal public entity.

How the Saint Paul 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 District from a non-federal public entity would be used to augment the District Regulatory budget, in accordance with the provisions of WRDA 2000 as amended. With the supplemental funding, the District would retain a term employee or advertise for additional permanent staff and pay for support services, both technical and administrative.

Purpose of accepting funds and how this will expedite reviews: Timely review and authorization of state transportation projects is critical to MnDOT's ability to advertise these projects so as to meet scheduled dates for obligating federal and non-federal funding, statewide Transportation Improvement Program targets, and accelerated programs. The Corps is unable, within current staff resource constraints, to provide expedited evaluation of applications for transportation projects. MnDOT-funded Corps dedicated staffing will assist MnDOT in meeting its milestones for bid advertisement and help avoid unanticipated costs and delays to MnDOT projects

Activities for which funds will be expended: Permit application review activities would include, but not be limited to: application completeness review, jurisdictional determinations, site visits, preparation of public notices, public hearings, preparation of correspondence, interagency coordination, meetings (with the non-federal entity, applicants, agencies and general public), coordination concerning endangered species and cultural resources, public interest review, analysis of alternatives, compensatory mitigation proposal reviews, and preparation of environmental assessments and permit decision documents.

If the non-federal entity funds are fully expended and are not renewed, the remaining 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:

- a. All final permit decisions, including reporting general permit verifications will be reviewed and signed by at least one level above the decision maker, unless the decision maker is the District Commander.
- b. All documents involved in the decision making process must be reviewed and signed by the one-level-above reviewer as defined above.
- c. All jurisdictional determinations made on projects where funds are used must have documentation that a non-funded Regulator reviewed and agreed with the determination.
- d. All final permit decisions, including all reporting general permit verifications, for cases where these funds are used will be made available and updated monthly on the District's web page in an area separate from any other final actions, clearly identifiable as being for projects funded through this authority.
- e. Any procedures or decisions that would otherwise be required for a specific type of project or permit under consideration cannot be eliminated; however, process improvements that are developed can be shared in order for all members of the regulated public to benefit.
- f. The Corps must comply with all applicable laws and regulations.
- g. Funds will not be expended for the review of the decision maker's decision.
- h. Funds will not be used for enforcement or compliance activities.

Impacts to the Regulatory Program: We do not expect priority review of these non-federal entity's projects to negatively impact the District's Regulatory Program, or to increase the time for permit evaluations of other projects, as there will be no decrease in the permanent staffing level of the non-funded reviews.

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 District Commander determines, after considering public comments, that the acceptance and expenditure of the funds is in compliance with Section 214 of WRDA 2000 and is not otherwise contrary to the general public interest, the District will implement Section 214 of WRDA 2000 through a signed Memorandum of Agreement (MOA) and accept the funds from MnDOT. A second public notice will be issued regarding the final decision on this matter.

Provided that the purpose for accepting funds remains the same as that described in this notice, a new public notice is not required in the event that the MOA is amended to extend the term of the agreement; to modify the types of projects identified in the MOA; or to adjust the terms of the annual advance payment contemplated under the MOA.

We are seeking public comment. Anyone wishing to comment is encouraged to do so. **Comments should be submitted in writing within the comment period specified at the top of this notice**, and refer to the Proposed Acceptance of Funds from MnDOT. Replies may be addressed to: Regulatory Branch, St. Paul District, Corps of Engineers, 180 Fifth Street East, Suite 700, Saint Paul, MN 55101-1678. If you have any questions, please contact Chad Konickson at (651) 290-5364.

Tamara Cameron
Chief, Regulatory Division