



**US Army Corps
of Engineers** ®
Charleston District

SPECIAL PUBLIC NOTICE

PROPOSAL TO ACCEPT FUNDS FROM THE
SOUTH CAROLINA DEPARTMENT OF COMMERCE

PUBLIC NOTICE NO: SAC 2016-01440
COMMENT PERIOD: September 20, 2016 - October 5, 2016
PROJECT MANAGER: Elizabeth Williams (843) 329-8044

Applicant

South Carolina Department of Commerce
Jennifer Noel Fletcher – Deputy Secretary
1201 Main Street, Suite 1600
Columbia, SC 29201-3200

Location

South Carolina Department of Commerce projects throughout South Carolina.

Activity

This Special Public Notice announces the preliminary intent of the District Commander, Charleston District, to accept funds and expend funds contributed by the South Carolina Department of Commerce to expedite processing of Army (DA) permit applications, pursuant to 33 U.S.C. § 2352 (Section 214 of the Water Resources Development Act of 2000, as amended by Section 1006 of the Water Resources Reform and Development Act of 2014; 128 Stat. 1193; Public Law No. 113-121 [H.R. 3080]).

This Special Public Notice also solicits comments from the general public on the subject of acceptance and expenditure of funds contributed by SC Department of Commerce to expedite the evaluation of DA permit applications.

Comments should be mailed to:

**US Army Corps of Engineers, Charleston District
Regulatory Division
ATTN: Elizabeth Williams
69A Hagood Avenue
Charleston, South Carolina 29403**

Background Information: Section 214 of the Water Resources Development Act of 2000 (WRDA 2000) provides that the Secretary of the Army, after public notice, may accept and expend funds contributed by a non-federal public entity to expedite the DA permit review process. In doing this, the Secretary must ensure that the use of such funds will not impact impartial decision making with respect to permits, either substantively or procedurally.

Non-federal public entities are generally comprised of state and local governmental agencies and Indian tribal governments, but may also include entities such as port authorities, flood and storm water management agencies, and public infrastructure departments that have the desire to expedite the DA permitting process programmatically, or for a specific project..

Section 1006 of Water Resources Reform and Development Act (WRRDA), enacted after being signed by the President on June 10, 2014, eliminated the sunset date from the Section 214 authority for non-federal public entities.

How the Charleston District would expend funds: The U.S. Army Corps of Engineers, Charleston District's regulatory program is funded as part of a congressionally appropriated line item in the annual Federal budget. Additional funds received from SC Department of Commerce would be used to augment the Charleston District regulatory budget in accordance with the provisions of WRRDA. The Charleston District would establish a separate account to track receipt and expenditure of the funds. A Charleston District regulatory employee would charge their time against the respective account when they do work related to permit actions for SC Department of Commerce.

Activities for which funds will be expended: Funds would primarily be expended on the salary and overhead of a Regulatory Project Manager performing the expedited DA permit processing activities for SC Department of Commerce and/or its co-applicants. Such activities would generally include the following: pre-application meetings,

jurisdictional delineations, site visits, public notice preparation, preparation of correspondence, conduct of public interest reviews, preparation of draft permit decisions, preparation and/or review of Environmental Impact Statements and Environmental Assessments, coordinate and provide training on natural resource issues and permits, organize and/or attend meetings, organize and/or participate in conference calls, etc. SC Department of Commerce funds would not be expended for a Corps' supervisor's review of a WRRDA-funded project manager's work, other components of the Charleston District, or other persons in the decision-making chain of command. Furthermore, SC Department of Commerce funding would not be used for enforcement activities.

Procedures to be used to ensure impartial decision-making: To ensure funds received from a non-federal public entity would not impact impartial decision-making, the following procedures, mandated from Headquarters, U.S. Army Corps of Engineers, would apply to all cases using funds provided by SC Department of Commerce:

- All final permit decisions must be reviewed by at least one level above the decision maker.
- All final permit decisions made for projects where funds are used, will be entered accurately into the Charleston District's ORM database and will be posted on the HQUSACE ORM2 public portal.
- The Charleston District will not eliminate any procedures or decisions that would otherwise be required for that type of project and permit application under consideration.
- The Charleston District will comply with all applicable laws and regulations.
- Funds will only be expended to provide expedited review of permit applications submitted by the SC Department of Commerce and/or its co-applicants, including the associated DA permit processing activities identified above (*i.e.*, "Activities for which funds will be expended")
- Funds will not be expended for the review of the decision maker's decision.

The benefits SC Department of Commerce would receive from their funds: In general, the workload of the Charleston District has increased over the past five years. Section 1006 of WRRDA is designed to enable the Charleston District to expedite the processing of DA permit applications for certain public projects. SC Department of Commerce and its co-applicants can expect their DA permit applications to receive expedited handling by the Charleston District, and to the degree that the Charleston District considers it appropriate, SC Department of Commerce can set priorities among their pending DA permit applications. As a result of SC Department of Commerce's funding, SC Department of Commerce will have a dedicated Project Manager focus on

their applications and requests, better availability for site visits and meetings, and overall streamlined DA permit processing.

Impacts to the Regulatory Program: This method of expediting the review of DA permit applications should not negatively impact the Charleston District's Regulatory Program or increase the waiting time for permit evaluations that are not subsidized by funds contributed by non-federal public entities. The remaining workload for non-funding entities should actually be reduced. We expect the benefits of implementing this program to translate into an enhanced evaluation capability for all participants.

Consideration of Comments: This Special Public Notice has a 15-day comment period. Following the review of comments received, the Charleston District will determine if acceptance and expenditure of funds is in compliance with WRRDA. If the District Commander determines, after considering public comments, that acceptance and expenditure of the funds is in compliance with WRRDA, and is not otherwise contrary to the general public interest, the Charleston District will proceed to accept and expend such funds from SC Department of Commerce. Funds will be accepted only if the public interest is better served through cost-effectiveness, enhanced evaluation capability, streamlined permit processing, or other appropriate jurisdiction. A final public notice will be issued regarding the District Commander's decision. Beyond that, no new public notice will be issued if a participating non-federal public entity increases the amount of funds previously furnished, provided that the purpose remains the same.

Submission of Comments: Comments on implementing WRRDA 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. Comments should refer to the *Proposed Acceptance of Funds from SC Department of Commerce, SAC 2016-01440* and the date of this Special Public Notice, and should reach this office no later than the expiration date of this public notice.