



**US Army Corps
of Engineers**®
New England District
696 Virginia Road
Concord, MA 01742-2751

PUBLIC NOTICE

Comment Period Begins: December 10, 2019
Comment Period Ends: December 24, 2019
In Reply Refer To: Kevin Kotelly
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CONNECTICUT DEPARTMENT OF TRANSPORTATION FUNDING AGREEMENT UNDER SECTION 214 OF THE WATER RESOURCES DEVELOPMENT ACT OF 2000

The District Engineer announces the preliminary intent of the U.S. Army Corps of Engineers, New England District (Corps), to accept and expend funds from the Connecticut Department of Transportation (CT DOT), to expedite processing of their Department of the Army (DA) permit applications in Connecticut subject to certain limitations. This public notice solicits comments from the public on the subject of acceptance and expenditure of funds contributed by CT DOT to expedite the evaluation of Department of the Army (DA) permit applications.

Section 214 of the Water Resources Development Act of 2000 (Section 214), as amended and codified at 33 U.S.C. 2352, provides in part that:

“The Secretary, after public notice, may accept and expend funds contributed by a non-Federal public entity or a public utility company or natural gas company to expedite the evaluation of a permit of that entity or company related to a project or activity for a public purpose under the jurisdiction of the Department of the Army.”

The Corps must ensure that Section 214 funding agreements will not impact impartial decision making by the Corps or adversely affect the timeline for evaluation of the DA permit applications of other entities.

How the Corps Would Expend Funds: The Corps Regulatory Program is funded as a Congressionally-appropriated line item in the annual Federal budget. Additional funds received from CT DOT would be used to augment the budget of the Corps in accordance with the provisions of Section 214. The Corps would establish a separate account to track the receipt and expenditure of the funds.

Reason for the Funding Agreement:

CT DOT's work often requires permits from the Corps under Section 404 of the Clean Water Act (Section 404) and Section 10 of the Rivers and Harbors Act of 1899 (Section 10). Over the last few years, the number of CT DOT projects requiring DA Permits has increased substantially and CT DOT expects that these higher levels will continue for the foreseeable future. Many of these projects fall within Corps jurisdiction under Section 404 of the Clean Water Act. Accelerated review and authorization is critical to CT DOT's ability to advertise these projects so as to meet scheduled dates for obligating federal funding, statewide transportation improvement targets and accelerated programs. With this funding the Corps will be able to provide CT DOT with dedicated staff to ensure priority review, consistency, and opportunity for staff training and process improvements.

How Acceptance of Funds Is Expected to Expedite the Permit Review: Since the purpose of Section 214 is to expedite the permit review process, a funding agreement is an ideal vehicle to improve the permitting process. The Corps and CT DOT believe that a dedicated project manager will be able to develop expertise in the types of projects performed by CT DOT which will improve the efficiency of the review. As a result, based on past experience and the volume of expected work going forward, funding a full-time Corps reviewer for CT DOT projects will result in an expedited review process for CT DOT projects. It will also improve the ability of the Corps and CT DOT to coordinate and prioritize review of projects based on project schedules and deadlines. In addition, hiring an additional reviewer for CT DOT projects will also expedite the review process for non-CT DOT applications since Corps project managers that would otherwise be working on CT DOT projects will now have additional time to work on other applications.

Activities for Which Funds Would be Expended: Funds would be expended primarily for the labor and overhead of Regulatory Division staff processing DA permit applications, including permit coverage and authorizations under Section 10 and Section 404. Such permit processing activities could include but would not be limited to the following: pre-application conferences, permit area determinations, application completeness review, jurisdictional determinations, site visits, preparation and distribution of public notices, preparation of correspondence, meetings, consultation and coordination with other agencies and consulting parties, public interest review, analysis of alternatives, compensatory mitigation proposal review, preparation of environmental assessments, preparation of permit decision documents and permit compliance.

If CT DOT's funds are expended and not renewed, CT DOT's remaining permit applications would be processed like those of any other non-participant, in a manner decided by the assigned Regulatory Division project manager and his or her supervisor.

Procedures to Ensure Impartial Decision Making: To ensure the funds will not impact impartial decision making, the following procedures would be applied:

- (a) Funds would not be expended for review of project managers' work by supervisors or other persons in the decision making chain of command.
- (b) All final permit decisions for cases where these funds are used must be reviewed at least one level above the normal decision maker, unless the decision maker is the District Commander. For example, if the decision maker is a branch chief, then the decision would be reviewed by the Regulatory Division Chief.
- (c) The application must comply with all applicable laws and regulations and the Corps will not eliminate any procedures or decisions that would otherwise be required for the type of project and permit application under consideration.
- (d) Funds from this agreement will not be used for enforcement activities.
- (e) Funds from this agreement will not be used for public hearings (e.g., venue fees) and distribution of public notices (e.g., postage).
- (f) All final permit decisions where these funds are expended will be made available on the Corps Headquarters' web page.

Impacts to the Regulatory Program: We expect that this funding agreement will have a net positive impact on the ability of the Regulatory Program to evaluate other applicants' permit applications. The Corps will use the funds to hire a project manager to process applications that fall under this funding agreement. This will free up the time of existing staff that would otherwise be used to process CT DOT applications. Since process

improvements that result from the funding agreement will be applied widely to other permit applicants, the Corps anticipates that this funding agreement will result in additional time savings to the general public.

Consideration and Submission of Comments: In order to properly evaluate the proposal, we are seeking public comment. Anyone wishing to comment is encouraged to do so. Comments should be submitted in writing by the above date and should refer to the CT DOT Funding Agreement. Comments may be sent electronically to kevin.r.kotelly@usace.army.mil or mailed to:

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U.S. Army Corps of Engineers, New England District
Regulatory Division
696 Virginia Road
Concord, MA 01742-2751

This public notice has a 15-day comment period. Following the review of comments received, the New England District Commander will determine if acceptance and expenditure of the funds is in compliance with Section 214. If the District Commander determines, after considering public comments, that the acceptance and expenditure of the funds is in compliance with Section 214 and is not otherwise contrary to the public interest, the New England District will proceed to accept and expend such funds from CT DOT. Funds will be accepted only if the public interest is better served through cost-effectiveness, enhanced evaluation capability, streamlined permit application processing, or other appropriate justification. A final public notice will be issued regarding the District Commander's decision. Beyond that, no new public notice will be issued if CT DOT increases the amount of funds previously furnished or extends the duration of the agreement provided that the purpose remains the same.

For additional information please contact Kevin Kotelly of my staff at (978) 318-8703 or via email at kevin.r.kotelly@usace.army.mil.



Tammy R. Turley
Chief, Regulatory Division

If you would prefer not to continue receiving Public Notices by email, please contact Ms. Leslie Martin at (978) 318-8688 or by email at leslie.martin@usace.army.mil. You may also check here () and return this portion of the Public Notice to: Leslie Martin, Regulatory Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751.

NAME: _____
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PHONE: _____