



**US Army Corps  
of Engineers**  
Portland District

# **PUBLIC NOTICE**

## **PROPOSED WRDA AGREEMENT WITH CLEAN WATER SERVICES**

**Issue Date:** June 12, 2018  
**Expiration Date:** June 27, 2018

### **15-Day Notice**

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This Public Notice announces the preliminary intent of the U.S. Army Corps of Engineers, Portland District (Portland District) to accept and expend funds contributed by Clean Water Services, to expedite the processing of their Department of the Army (DA) permit applications, subject to a series of limitations. This Public Notice solicits comments from the general public on the subject of acceptance and expenditure of funds contributed by Clean Water Services to expedite the evaluation of DA permit applications pursuant to 33 United States Code (U.S.C.) Section 2352, Section 214 of the Water Resources Development Act (WRDA) of 2000, as amended (Section 214).

The following subjects will be discussed in this Public Notice:

- How the Portland District would expend the funds.
- The kind of activities for which funds would be expended.
- The procedures the Portland District would use to ensure that the funds would not impact impartial decision making.
- The benefits non-Federal public entities would receive from their funds.
- Impacts the Portland District foresees to its Regulatory program and to DA permit evaluations that are not subsidized by funds contributed by non-Federal public entities.

The U.S. Army Corps of Engineers (Corps) Regulatory program is funded as a congressionally appropriated line item in the annual Federal budget. Additional funds received from non-Federal public entities would be used in accordance with the provisions of 33 U.S.C. 2352. The Portland District would establish separate accounts for each non-Federal public entity providing funds and would track receipt and expenditure of such funds. Portland District Regulatory employees dedicated to processing Clean Water Services permit actions would charge their time when working on Clean Water Services permit actions against the respective account. Funds may be used for permit reviews when Clean Water Services is working in partnership with other governmental entities (e.g. Washington County, TriMet, Oregon Department of Transportation, cities within the Clean Water Services boundary).

Funds would primarily be expended on the salaries and overhead of Regulatory project managers and technical specialists performing dedicated permit processing activities for Clean Water Services. Such activities would include, but not be limited to, the following: pre-application coordination, permit application intake review, drawings review and

correction, jurisdictional determinations, site visits, technical support, training, public notice preparation, preparation of correspondence, conduct of the public interest review, preparation of draft permit decision documents, and meetings with the applicant. Funds would also be expended for administrative tasks associated with tracking the pending and completed work and funding received from Clean Water Services and expended on Clean Water Services permit actions. Funds may be expended by other Portland District or Corps offices that provide technical assistance in support of permit evaluations for Clean Water Services. Funds could be expended for development or review of programmatic tools beneficial to the non-Federal public entity and the general public, including but not limited to, compensatory mitigation banks or in-lieu fee programs, programmatic Endangered Species Act biological assessments, or regional general permits. Funds would not be expended for review of Corps project managers' work by supervisors or any other final decision makers. No enforcement activities would be paid for from the contributed funds.

Funds may also be expended to hire contractors to perform select technical or administrative duties in support of the Corps' processing of Clean Water Services permit actions. Examples of possible contracted services include, but are not limited to, field data collection, technical report writing, copying and other clerical tasks. If contracts are used to develop decision documents, such decision documents must be drafts only, for review and adoption, as appropriate, by Corps of Engineers Regulatory program employees, before the decision is made.

If a participating entity's funds are expended and not renewed, their remaining permit applications would be handled like those of any other permit applicant, in a manner decided by the assigned Regulatory project manager and his/her supervisor.

To ensure that the funds would not impact impartial decisionmaking, the following procedures, mandated by Corps Headquarters, would apply to all cases using additional funds provided by the participating non-Federal public entities:

- a. All final permit decisions for cases where these funds are used must be reviewed at least by one level above the normal decisionmaker, unless the decisionmaker is the District Commander. For example, if the decisionmaker is the Chief, Regulatory Branch, then the reviewer would be the Chief, Operations Division.
- b. All final permit decisions for cases where these funds are used would be made available on the Portland District web page.
- c. The Portland District would not eliminate any procedures or decisions that would otherwise be required for that type of project and permit application under consideration.
- d. The Portland District must comply with all applicable laws and regulations.
- e. Funds would only be expended to expedite the final decision on the permit application. Funds would not be expended for the review of the decisionmaker's decision.

The provisions of 33 U.S.C 2352 are designed to enable the Corps to provide timely review of public projects. Participating non-Federal public entities can expect some of their permit applications to receive expedited handling, and to the degree the Portland District considers it appropriate, the entities can set the Corps project managers' priorities for review of their permit actions. The result for participants should be efficient permit processing for public projects, increased predictability in permit processing time, and as appropriate, new programmatic tools.

The Portland District does not expect this method of expediting the permit review of certain public projects to negatively impact the Portland District's Regulatory program, or to increase the waiting time for permit evaluations that are not subsidized by funds contributed by non-Federal sponsors. Funds provided under the authority of 33 U.S.C 2352 allow the Corps to add staff resources dedicated to the non-Federal public entities' permit reviews. Reference documents and programmatic tools developed by public entity funding will also be available to the general public. We expect the benefits of implementing this program to translate into an enhanced evaluation capability for all members of the public working with the Portland District Regulatory program.

This special public notice has a 15-day comment period. Following the review of comments received in response to the public notice, the Portland District Commander will determine if acceptance and expenditure of the funds is in compliance with 33 U.S.C 2352. If the District Commander determines, after considering public comments, that the acceptance and expenditure of the funds is in compliance with the 33 U.S.C 2352 and is not otherwise contrary to the general public interest, the Portland District will proceed to accept and expend such funds from Clean Water Services. Funds will be accepted only if the public interest is better served through cost-effectiveness, streamlined permit processing, or other appropriate justification. A final special public notice will be issued regarding the District Commander's decision. Beyond that, no new public notice will be issued if Clean Water Services increases the amount of funds previously furnished or a new agreement is signed, provided the purpose for which the funds are used remains the same.

Comments on implementing provisions of 33 U.S.C 2352 through an agreement to accept funds from Clean Water Services 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 can be submitted to: Jaimee Davis, Regulatory Branch, by e-mail at: [jaimee.w.davis@usace.army.mil](mailto:jaimee.w.davis@usace.army.mil) or mail to this address: USACE, Portland District, CENWP-OD-GP Attn: Jaimee Davis, P.O. Box 2946, Portland, OR 97208-2946, no later than the expiration date of this public notice.

The Portland District point of contact for this public notice and the use of the 33 U.S.C 2352 authority in implementing the Corps Regulatory program is Ms. Jaimee Davis, Chief, Portland Permits Section, who can be reached at (503) 808-4381 or by e-mail at: [jaimee.w.davis@usace.army.mil](mailto:jaimee.w.davis@usace.army.mil).