



**US Army Corps
of Engineers®**
Fort Worth District

Public Notice

Applicant: North Central Texas Council of Governments

Project No.: SWF-2008-00394

Date: December 16, 2024

The purpose of this public notice is to inform you of the re-establishment of an agreement between the U.S. Army Corps of Engineers, Fort Worth District, and the North Central Texas Council of Governments, pursuant to Section 214 of the Water Resource Development Act of 2000, as amended. It is also to solicit your comments on this proposal. We hope you will participate in this process.

Regulatory Program

Since its early history, the U.S. Army Corps of Engineers has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the U.S. Army Corps of Engineers Regulatory Program.

Section 10

The U.S. Army Corps of Engineers is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate *all work or structures in or affecting the course, condition or capacity of navigable waters of the United States*. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

Section 404

The U.S. Army Corps of Engineers is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the *discharge of dredged and fill material into all waters of the United States, including wetlands*. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

Contact

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PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT

SUBJECT: Proposal to re-establish and agreement between the U.S. Army Corps of Engineers, Fort Worth District, and the North Central Texas Council of Governments District pursuant to Section 214 of the Water Resources Development Act of 2000, as amended.

APPLICANT: Mr. Mike Eastland, Executive Director
North Central Texas Council of Governments
616 Six Flags Drive
Arlington, Texas 76011

APPLICATION NUMBER: SWF-2008-00394

DATE ISSUED: December 16, 2024

AUTHORITY: Section 214 of the *Water Resources Development Act of 2000* (WRDA 2000, Public Law No. 106-541), as amended, provides: 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, pursuant to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899.

In carrying out this section, the Secretary shall ensure that the use of funds accepted under subsection will not impact impartial decision making with respect to permits, either substantively or procedurally. The Secretary of the Army has designated this responsibility to the Chief of Engineers and his authorized representatives, including the Commander of the Fort Worth District, U.S. Army Corps of Engineers. (USACE).

BACKGROUND: This Public Notice announces the Fort Worth District's proposal to re-establish a Memorandum of Agreement (MOA) to accept and expend funds contributed by the North Central Texas Council of Governments (NCTCOG), to expedite processing of their Department of the Army (DA) permit applications, subject to a series of limitations. The NCTC, a public subdivision of the State of Texas, for the purposes of this agreement would be acting by and through its Regional Transportation Council (RTC). An MOA was executed by both parties and became effective October 16, 2008. This agreement was extended multiple times and ultimately expired September 30, 2022. The NCTCOG has identified a need for expedited reviews of its requests related to infrastructure projects identified by the RTC and for which the USACE has legal responsibility to review pursuant to Section 10 of the Rivers and Harbors Act of 1899, and/or Section 404 of the Clean Water Act. The types of actions that would be covered under this agreement may include expedited DA permit evaluations for public infrastructure projects located within the Metropolitan Planning

Area (MPA), development of programmatic initiatives, templates, training materials, training sessions, advanced identification of permittee responsible mitigation areas and/or mitigation banks for MPA projects, advanced hydrologic and hydraulic (H&H) modeling products/outcomes integrating future development runoff effects and potential solutions, potential in lieu fee programs for MPA projects, and for management of this Section 214 Agreement. As a result of an interest in expediting these types of public infrastructure projects and initiatives, the NCTCOG has initiated coordination in an effort to re-establish this MOA.

EXPENDITURE OF FUNDS: The USACE Regulatory Program is funded as a Congressionally-appropriated line item in the annual Federal budget. Additional funds received from a public utility company would be used to augment the USACE Regulatory budget in accordance with the provisions of WRDA 2000. The USACE District will maintain accounts for each public funding to track receipt and expenditure of funds. USACE employees will charge their time against the respective account of a non-Federal public entity, or public utility company, when they perform such work to expedite resolution the subject entity's permit requests and/or programmatic initiatives.

Funds received under WRDA 2000, Section 214, as amended, will be accepted only if the public interest is better served through cost-effectiveness, enhanced evaluation and capability, streamlined permit processing, or other appropriate justification. Funds would mainly be expended on the salaries, travel, and overhead of Regulatory Project Managers performing expedited processing activities for participating public entities.

IMPARTIAL DECISION MAKING: To ensure that the funds will not impact impartial decision making, the following procedures, mandated from Headquarters, U.S. Army Corps of Engineers, would apply to all cases using additional funds provided by the participating non-Federal public entity, or public utility company:

- a. All final permit decisions for cases where these funds are used must be reviewed at least by one level above the decision maker. For example, if the decision maker is the Chief, Regulatory Division, then the reviewer would be the District Commander. If the decision maker is the District Commander, the final decision must be reviewed by the Division Commander.
- b. All final permit decisions for cases where these funds are used will be made available on the USACE Regulatory web page.
- c. The USACE will not eliminate any procedure or decisions that would otherwise be required for that type of project and permit application under consideration.
- d. The USACE must comply with all applicable laws and regulations.
- e. Relative to permit evaluation, funds will only be expended to expedite the evaluation and rendering of a final decision on permit applications. Funds will not be expended for the

higher-level review of the decision maker's decision.

EXPECTED IMPACTS TO DA PERMIT APPLICATIONS NOT PART OF THIS MOA: It is not expected that this method of expediting the permit review of certain public projects would negatively impact the USACE Regulatory Program or increase the waiting time for permit evaluations that are not subsidized by funds. It is predicted Regulatory Branch Project Managers may be capable of processing the remaining applications which are not assigned to the WRDA 2000 employees on a quicker basis. In some circumstances, reference documents and programmatic tools developed by public entity funding will also be available to the general public.

SOLICITATION OF COMMENTS: The public notice is being distributed to all known interested persons in order to assist in developing fact upon which a decision by the USACE may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing, setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before January 16, 2025, which is the close of the comment period. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to: Regulatory Division, CESWF-RD; U. S. Army Corps of Engineers; Post Office Box 17300; Fort Worth, Texas 76102-0300. You may visit the Regulatory Division in Room 3A37 of the Federal Building at 819 Taylor Street in Fort Worth between 8:00 A.M. and 3:30 P.M., Monday through Friday. Comments may also be submitted electronically by emailing jennifer.r.walker2@usace.army.mil. Telephone inquiries should be directed to (817) 584-2634. Please note that names and addresses of those who submit comments in response to this public notice may be made publicly available.

DISTRICT ENGINEER
FORT WORTH DISTRICT
CORPS OF ENGINEERS