



Special Public Notice

**U.S. Army Corps
Of Engineers**
Galveston District

Date Issued:

Entergy Texas, Inc.
(Entergy) - WRDA 2000

9 June 2020

**FUNDING AGREEMENT
BETWEEN
U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT
AND ENTERGY TEXAS, INCORPORATED
PURSUANT TO
SECTION 214 WATER RESOURCE DEVELOPMENT ACT 2000,
AS AMENDED (DECEMBER 2016)**

PURPOSE OF PUBLIC NOTICE: To inform you of an agreement between the U.S. Army Corps of Engineers, Galveston District, and the Entergy Texas, Inc. (Entergy) to transfer funds pursuant to Section 214 of the *Water Resources Development Act of 2000, as amended (December 2016)* to expedite the evaluation of permits under jurisdiction of the Department of the Army (DA).

AUTHORITY: Section 214 of the *Water Resources Development Act of 2000* (WRDA 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, or a public utility company, 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 through 31 December 2021.

The Secretary of the Army has designated this responsibility to the Chief of Engineers and his authorized representatives, including the Commander of the Galveston District, U.S. Army Corps of Engineers.

This Public Notice announces the Galveston District's decision to accept and expend funds contributed by Entergy, to expedite processing of their DA permit applications, subject to a series of limitations.

Qualification as a Public Utility Company: Entergy qualifies as a public utility company under Section 1262 of the Public Utility Holding Company Act of 2005. Activities for evaluation using Entergy Section 214 funds include construction of utility substations, utility transmission lines, utility distribution lines, generation facilities, and pipelines.

How the Galveston District will expend the funds: The Corps of Engineers' 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 Galveston District Regulatory budget in accordance with the provisions of WRDA 2000. The Galveston District will establish separate accounts for each funding non-Federal public entity, or public utility company, to track receipt and expenditure of the funds. Galveston District Regulatory employees will charge their time against the respective account of a non-Federal public entity, or public utility company, when they did work to expedite resolution of one of that entity's permit requests. With an increased Regulatory budget, the Galveston District may hire additional employees, paying salaries in part from the non-Federal public entity, or public utility company, funding to the degree the employees work on expediting those entities' permit applications.

The kind of activities for which funds would be expended: Funds would mainly be expended on the salaries and overhead of Regulatory Project Managers performing expedited processing activities for participating public entities. Such activities would include, but not be limited to, the following: application intake review, drawings correction, jurisdictional determinations, site visits, 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 not be expended for review of project managers' work by supervisors, other elements of the Galveston District, or other persons in the decision making chain of command. No enforcement or compliance activities would be paid from the augmenting funds, nor would the funds be used for paying the costs of public hearings and distribution of public notices.

If a participating entity's funds are expended and are not renewed, their remaining permit applications would be handled like those of any other non-participant, in a manner decided by the assigned Regulator and their supervisor.

Procedures Galveston District will use to ensure that the funds will not impact 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 Galveston District Regulatory web page.

c. The Galveston District will not eliminate any procedure or decisions that would otherwise be required for that type of project and permit application under consideration.

d. The Galveston District must comply with all applicable laws and regulations.

e. Funds will only be expended to expedite the final decision on the permit application. Funds will not be expended for the review of the decision maker's decision. If contracts are used to develop decision documents, such decision documents must be drafts only and be reviewed and adopted by the Corps Regulatory Program employees, before the decision is made.

Benefits non-Federal public entity, or public utility company, would receive from their funds: Section 214 of WRDA 2000 is designed to enable the Galveston District Regulatory Program to expedite the processing of public projects. Participating agencies can expect some of their permit applications to receive expedited handling, and to the degree we consider it appropriate, they can set priorities. Their augmentation of our Regulatory budget may allow us to hire additional people, increasing the size of the pool from which we would assign people to expedite these applications. The result for participants should be streamlined permit processing, new tools to resolve jurisdictional determination issues, and a more predictable time-line for obtaining DA authorizations.

Impacts we foresee to our Regulatory Program and to DA permit evaluations that are not subsidized by funds contributed by non-Federal public entity, or public utility company: We do not expect this method of expediting the permit review of certain public projects to negatively impact the Galveston District's Regulatory Program, or to increase the waiting time for permit evaluations that are not subsidized by funds contributed by non-Federal sponsors. Rather, the Regulatory Branch Project Managers could process the remaining applications which are not assigned to the WRDA 2000 employees/contractors on a quicker basis. 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.

Consideration of Comments: This Special Public Notice is intended to inform the general public of the Galveston District's decision to accept WRDA 214 funds from Entergy. A public notice was issued on 12 February 2019 and closed on 15 March 2019. Comments received during the public notice comment period were considered in the decision to accept WRDA 214 funds.

The 214 authority to accept and expend funds from non-Federal public entities has no expiration date. The 214 authority to accept and expend funds from a public utility company expires on 10 June 2024, unless extended by the appropriate authority.

DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS