

112TH CONGRESS
2D SESSION

S. 2138

To establish a pilot program to evaluate the cost-effectiveness and project delivery efficiency of non-Federal sponsors as the lead project delivery team for authorized civil works flood control and navigation construction projects of the Corps of Engineers.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 29, 2012

Mr. VITTER (for himself and Mr. NELSON of Florida) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To establish a pilot program to evaluate the cost-effectiveness and project delivery efficiency of non-Federal sponsors as the lead project delivery team for authorized civil works flood control and navigation construction projects of the Corps of Engineers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Corps of Engineers
5 Project Delivery Flexibility Act of 2012”.

1 **SEC. 2. PILOT PROGRAM.**

2 (a) IN GENERAL.—The Secretary of the Army, acting
3 through the Chief of Engineers, shall establish a pilot pro-
4 gram to evaluate the cost-effectiveness and project delivery
5 efficiency of non-Federal sponsors as the lead project de-
6 livery team for authorized civil works flood control and
7 navigation construction projects of the Corps of Engi-
8 neers.

9 (b) PURPOSES.—The purposes of the pilot program
10 are—

11 (1) to identify project delivery and cost-saving
12 alternatives that reduce the backlog of Corps of En-
13 gineers construction projects;

14 (2) to evaluate the technical, financial, and or-
15 ganizational efficiencies of a non-Federal sponsor
16 operating as the lead project manager for the de-
17 sign, execution, management, and construction of a
18 project; and

19 (3) to evaluate alternatives for the decentraliza-
20 tion of the project planning, management, and oper-
21 ational decisionmaking process of the Corps of Engi-
22 neers.

23 (c) ADMINISTRATION.—

24 (1) IN GENERAL.—Subject to paragraph (2), in
25 carrying out the pilot program, the Secretary of the
26 Army shall—

1 (A) identify not less than 12 congression-
2 ally authorized flood control and navigation
3 construction projects of the Corps of Engineers
4 that—

5 (i) have received Federal funds and
6 have experienced delays or missed sched-
7 uled deadlines in the 5 fiscal years prior to
8 the date of enactment of this Act;

9 (ii) have an unobligated funding bal-
10 ance in the Corps of Engineers Construc-
11 tion Account; and

12 (iii) include levees, floodwalls, flood
13 control channels, water control structures,
14 or navigation locks and channels;

15 (B) enter into a project partnership agree-
16 ment with the non-Federal sponsor for the non-
17 Federal sponsor to provide full project manage-
18 ment control for the design and construction of
19 the flood control or navigation project, includ-
20 ing preconstruction engineering and design,
21 project implementation, and construction activi-
22 ties; and

23 (C) in consultation with the district engi-
24 neer and the non-Federal sponsor, develop a de-
25 tailed project management plan for each project

1 under the pilot program that outlines the scope,
2 budget, design, and construction resource re-
3 quirements necessary for execution of the
4 project by the non-Federal sponsor.

5 (2) RESTRICTIONS.—

6 (A) IN GENERAL.—A flood control or navi-
7 gation project shall only receive Federal funding
8 under this Act if the project is federally owned.

9 (B) PROJECT DELIVERY TEAM.—As a con-
10 dition of receiving amounts under this Act, the
11 non-Federal sponsor, in consultation with the
12 district engineer and local project stakeholders,
13 shall establish to oversee the execution of the
14 project management plan a project delivery
15 team, which shall, at a minimum, consist of—

16 (i) a project manager; and

17 (ii) a Corps of Engineers official, who
18 shall provide technical assistance and guid-
19 ance on compliance with Corps of Engi-
20 neers engineering manuals and regulations.

21 (3) TECHNICAL ASSISTANCE.—On the request
22 of the non-Federal sponsor and in consultation with
23 other appropriate Federal agencies, the Secretary of
24 the Army shall provide the non-Federal sponsor with
25 any necessary technical assistance, including assist-

1 ance relating to Federal acquisition regulations, con-
2 tracting requirements, and environmental regula-
3 tions.

4 (d) **APPLICABILITY.**—Nothing in this Act alters any
5 cost-sharing requirement established before the date of en-
6 actment of this Act for a project carried out under this
7 Act.

8 (e) **REPORT.**—Not later than 2 years after the date
9 of enactment of this Act, the Secretary of the Army shall
10 submit to the appropriate committees of Congress a report
11 detailing the results of the pilot program carried out under
12 this Act, including any recommendations of the Secretary
13 concerning whether the program or any component of the
14 program should be implemented on a national basis.

15 **SEC. 3. FUNDING.**

16 (a) **RESCISSION OF UNOBLIGATED AMOUNTS.**—Not-
17 withstanding any other provision of law, \$200,000,000 of
18 discretionary amounts that have been appropriated for fis-
19 cal years 2008 through 2011 and remain unobligated on
20 the date of enactment of this Act—

21 (1) is rescinded on the date of enactment of
22 this Act; and

23 (2) shall be made available to the Secretary of
24 the Army, without further appropriation or fiscal

1 year limitation, for use only in accordance with this
2 Act.

3 (b) IMPLEMENTATION.—

4 (1) IN GENERAL.—The Director of the Office of
5 Management and Budget shall determine and iden-
6 tify from which appropriation accounts the rescission
7 under subsection (a) shall apply and the amount of
8 the rescission that shall apply to each such account.

9 (2) REPORT.—Not later than 60 days after the
10 date of enactment of this Act, the Director of the
11 Office of Management and Budget shall submit to
12 Congress and the Secretary of the Treasury a report
13 of the accounts and amounts determined and identi-
14 fied for rescission under paragraph (1).

15 (c) EXCEPTION.—This section shall not apply to the
16 unobligated funds of the Department of Defense, includ-
17 ing the Corps of Engineers, or the Department of Vet-
18 erans Affairs.

19 (d) USE OF AMOUNTS.—The Secretary of the Army
20 shall use the amounts made available to the Secretary
21 under subsection (a)(2) to provide grants to non-Federal
22 sponsors participating in the pilot program established
23 under section 2.

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