



Gulf Coast Ecosystem Restoration Council

JUL 29 2016

Mr. Toby Baker
Commissioner
Texas Commission on Environmental Quality
Designated Alternate of the Governor of Texas
to the Gulf Coast Ecosystem Restoration Council
Post Office Box 13087
Austin, Texas 78711

Dear Commissioner Baker:

Thank you for your submission of the Texas Planning State Expenditure Plan (PSEP) for review and approval. As the Chairperson of the Gulf Coast Ecosystem Restoration Council (Council), I am pleased to approve this PSEP based on the finding from the Council's Executive Director, Justin R. Ehrenwerth, that it is complete and meets all applicable requirements of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act) (33 U.S.C. § 1321(t)), the Council's State Expenditure Plan Guidelines, the Department of the Treasury's implementing regulations (31 C.F.R. Part 34), the Council's Final Rule on the RESTORE Act Oil Spill Impact Component Planning Allocation (40 C.F.R. Part 1800), and the Council's Request for Applications for Planning Grants (79 FR 78779).

Approval of the Texas PSEP does not constitute approval of specific procurement procedures, cost estimates, or other budget items detailed in the PSEP. Review of the detailed budget and procurement procedures pursuant to the standards established in 2 C.F.R. Part 200 will occur when a grant application is submitted.

I applaud the Texas Commission on Environmental Quality's endeavor to execute a transparent process and develop a thoughtful plan to restore the ecosystem and economy of Texas' Gulf Coast. Our collective efforts under the RESTORE Act will help to ensure the long-term health, prosperity, and resilience of the Gulf Coast.

Sincerely,

Thomas J. Vilsack
Chairperson
Gulf Coast Ecosystem Restoration Council

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Jon Niermann, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 2, 2016

Mr. Justin R. Ehrenwerth, Executive Director
RESTORE Council
500 Poydras Street, Suite #1117
New Orleans, Louisiana 70113

Dear Mr. Ehrenwerth,

Attached is the Step I application for Texas' Planning State Expenditure Plan (PSEP). I am submitting this application as the designated state entity responsible for the development of the Texas State Expenditure Plan (TxSEP).

The requirement to submit a TxSEP and my authority to do so is authorized under the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE).

The application is being submitted in response to the announcement published in December 2014, Notice of Funding Opportunity, GCC-SEP-16-001. The attached Step 1 application has been prepared in accordance with the requirements outlined in the *Oil Spill Impact Component: State Expenditure Plan Guidelines* and the RESTORE Council's *Recipient Guidance Manual*.

I want to express my thanks for the assistance your staff has provided in preparing this application.

We appreciate your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Toby Baker", written in a cursive style.

Toby Baker
Commissioner

Enclosure



PLANNING STATE EXPENDITURE PLAN GRANT

TEXAS PROPOSAL

**Submitted by: Toby Baker, Commissioner
Texas Commission on Environmental Quality**

EXECUTIVE SUMMARY

DESIGNATED STATE ENTITY

As required under 33 U.S.C., Section 1321 (t)(3)(B)(i), of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE), the State of Texas, Office of the Governor, is designated to plan, prepare and submit a State Expenditure Plan (SEP) under the Spill Impact Component of the Act. Texas Governor Greg Abbott appointed Toby Baker, Commissioner at the Texas Commission on Environmental Quality (TCEQ), as his designated alternate to the RESTORE Council. A copy of the Governor's appointment letter is in Appendix A.

POINTS OF CONTACT

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INTRODUCTION

This proposal represents the State of Texas' initial request for funding for the Planning State Expenditure Plan (PSEP) as provided for in the Notice of Funding Opportunity, GCC-SEP-16-001, for Fiscal Year 2016 or later. As presented, this proposal fulfills Step I of the application process. Upon its approval by the Chairman of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE), Texas will submit the required Step II administrative grant application to complete our request.

PROPOSAL: PLANNING STATE EXPENDITURE PLAN (PSEP)

Texas' PSEP effort will be a robust and transparent process. The planning activities to develop the State Expenditure Plan (SEP) will include opportunities for input from the state's federal, state and local elected officials, while engaging the participation of the public representing the varied interests of Texas coastal communities.

The significant portion of the PSEP-related efforts will involve varied activities associated with developing a list of projects that Texas, through the SEP, will request approval to RESTORE funds. The selected projects will be consistent with the eligibility requirements in both the Spill Component of the RESTORE Act (33 U.S.C., section 1321(t)(1)(B)(i)(III) and the Council's Comprehensive Plan.

Projects for inclusion in the SEP will be selected on a competitive basis, using a Request for Grant Applications (RFGA) process. The selection of the projects will be based on Texas' priorities for the state's gulf coast region. The priorities, which will be reflected in the criteria used to score the submitted projects, are based on discussions and exchanges with federal, state and local elected officials, as well as the general public, in particular those involved in the challenges faced by the Texas coastal region.

Below is an outline of the various planning-related tasks that will be conducted to develop the final SEP for submission to the RESTORE Council. (Appendix B)



Task 1: Finalize Priorities Document

- A review of the Priorities Document will be made to determine if changes are needed. The Priorities Document was initially created in 2015 to assist in the developing scoring criteria for the selection of projects to receive RESTORE funding. The first draft of the Priorities Document was developed by staff from several Texas state agencies and was posted for public comment.
- The Priorities Document is intended to reflect the areas of interest to the Texas coastal community and represent the types of activities eligible for funding under the RESTORE Act.

Task 2: Develop Request for Grant Applications (RFGA)

- At Commissioner Baker's direction an RFGA will be drafted to request submission of applications for projects to be funded under the Spill Component of the RESTORE Act. The RFGA will provide information for the competitive selection process. Elements of the RFGA:
 - Project eligibility requirements
 - Geographic eligibility requirements
 - Timeframe for submission
 - Submission of applications through the restorethetexascoast.org web site
 - General instructions on application considerations
 - Scoring criteria
 - Budget form
 - Federal and state requirements
 - Review process

Task 3: Post RFGA & Outreach Efforts

- The RFGA will be posted on the state's Electronic State Business Daily (ESBD), as well as the restorethetexascoast.org web site.
- A press advisory will be issued.
- Subscribers to the restore listserv will be notified of the opportunity to submit project applications.
- Letters to federal, state and local elected officials notifying them of the opportunities to submit project applications will be sent.



- Updates, as needed, will be posted on the restorethetexascoast.org web site.

Task 4: Application Workshops

- Materials for workshops will be developed.
- Workshops will be conducted in at least three coastal communities to provide general information on application submission.

Task 5: Review Process

- Commissioner Baker, in consultation with the Governor's Office, will establish a team of state employees to review and score all applications received through the restorethetexascoast.org web site.
- Meeting(s) will be held with the staff selected to review the submitted project applications to establish rules, timelines and to distribute and discuss the RESTORE-related Conflict of Interest documents, as well as to sign the non-disclosure document (Appendices C & D).
- Summaries and scores for all the reviewed projects will be compiled.

Task 6: Develop Draft Language for SEP

- A draft of the narrative language for the SEP will be developed.

Task 7: Develop draft Selected Project List (SPL) for inclusion in SEP

- Commissioner Baker, in consultation with the Governor's Office, will review project scores and summaries to develop a list of projects for the initial draft of the SPL.
- Discussions, as needed with project applicants on the draft SPL, will be conducted.

Task 8: Post for Public Comment

- The draft SEP, including the draft SPL, will be posted in the *Texas Register* and the restorethetexascoast.org web site for the required 45 day comment period.
- A press advisory will be issued about the opportunity for the public to submit comments on the draft SEP/SPL.
- A notification of the posting will be sent to the restore listserve.
- Letters will be sent to federal, state and local elected officials notifying them of opportunity to comment on draft SEP/SPL.



Task 9: Finalize SEP/SPL

- All public comments will be summarized and presented to Commissioner Baker.
- Commissioner Baker, in consultation with the Governor's Office, will review all relevant material to finalize the list of projects for the SPL and inclusion in the SEP.
- Discussions, as needed, with project applicants included in the final SPL, will be conducted.

Task 10: Submit SEP/ SPL to RESTORE Council

- The narrative language for SEP will be finalized.
- The SEP/SPL will be submitted to the RESTORE Council.

Task 11: SEP Approval

- Responses questions/inquiries from RESTORE Council staff will be provided.
- Upon receipt of the Council's approval of the SEP, preparations will be begin regarding submission of project applications in RAAMS.

FUNDING AMOUNT REQUESTED

An estimate of \$261,908 is expected to needed to support the planning efforts. The PSEP activities to develop the SEP are expected to take approximately 16 months. (Appendix E) A detailed breakdown of those costs are listed below.



Budget

Grant Category	Amount
Salaries	\$138,996.82
Travel	\$3,110
Supplies	\$500
Equipment	\$1,560
Contracts	\$1,056
Other (web site hosting & maintenance)	\$34,843.20
Subtotal	\$180,066.02
Fringe Benefits	\$42,255.03
Indirect Cost (using TCEQ's negotiated rate with cognizant federal agency, EPA)	\$39,586.30
Total Request	\$261,907.35

CERTIFICATION OF PROPOSAL FOR PLANNING PURPOSES

As the Texas Governor's appointee to the RESTORE Council, Commissioner Toby Baker hereby certifies that funds received under the Planning State Expenditure Plan (PSEP) are eligible for funding under the RESTORE Act 33 U.S.C., section 1321 (t)(1)(B)(i)(VIII) and will only be used for the development of the state's SEP. All of the tasks listed in the proposal are solely for the purpose of developing the State Expenditure Plan (SEP) that Texas is required to submit to receive funds authorized under the Spill Impact Component of the RESTORE Act.

CERTIFICATION OF COMPLIANCE

Commissioner Toby Baker further certifies that the requirements in Section 4.1 of the *Oil Spill Impact Component: State Expenditure Plan Guidelines* will be met. The PSEP process, including the final SEP, will comply with the list of eligible activities as outlined in both the RESTORE Act, 33 U.S.C., section 1321 (t)(1)(B) and Section V of the RESTORE Council's Comprehensive Plan (August 2013). The activities will also reflect efforts to address the RESTORE Act's primary goals and



objectives of restoring and protecting the ecology, environment and economy of the Gulf Coast region.

FINANCIAL MANAGEMENT

On behalf of Commissioner Toby Baker, Texas Governor's appointee to RESTORE Council, TCEQ submitted to the Council the required Organizational Self-Assessment (OSA). That document includes all of the financial management information requested for Part 1 of the PSEP application. A copy of TCEQ's OSA is attached in Appendix F. All of the attachments referred to in the OSA have been uploaded through RAAMS. It is our understanding that the OSA is currently under review by the Council staff.



APPENDICES



GOVERNOR GREG ABBOTT

September 22, 2015

Mr. Justin R. Ehrenwerth
Executive Director
Gulf Coast Ecosystem Restoration Council
200 Poydras Street, Suite 1117
New Orleans, Louisiana 70130

RE: Designation of Alternate to the Gulf Coast Ecosystem Restoration Council
State of Texas

Dear Mr. Ehrenwerth:

As the member representing the State of Texas on the Gulf Coast Ecosystem Restoration Council ("Council"), I am required to notify the Council of any designated alternates authorized to act on my behalf.

Pursuant to 33 U.S.C. § 1321(t)(2)(C)(iii) and Section 2.1 of the Standard Operating Procedures of the Council dated January 7, 2015, in the event of my unavailability I hereby designate Toby Baker as my alternate to represent me on the Council and to vote thereon on my behalf.

This designation is effective as of September 22, 2015.

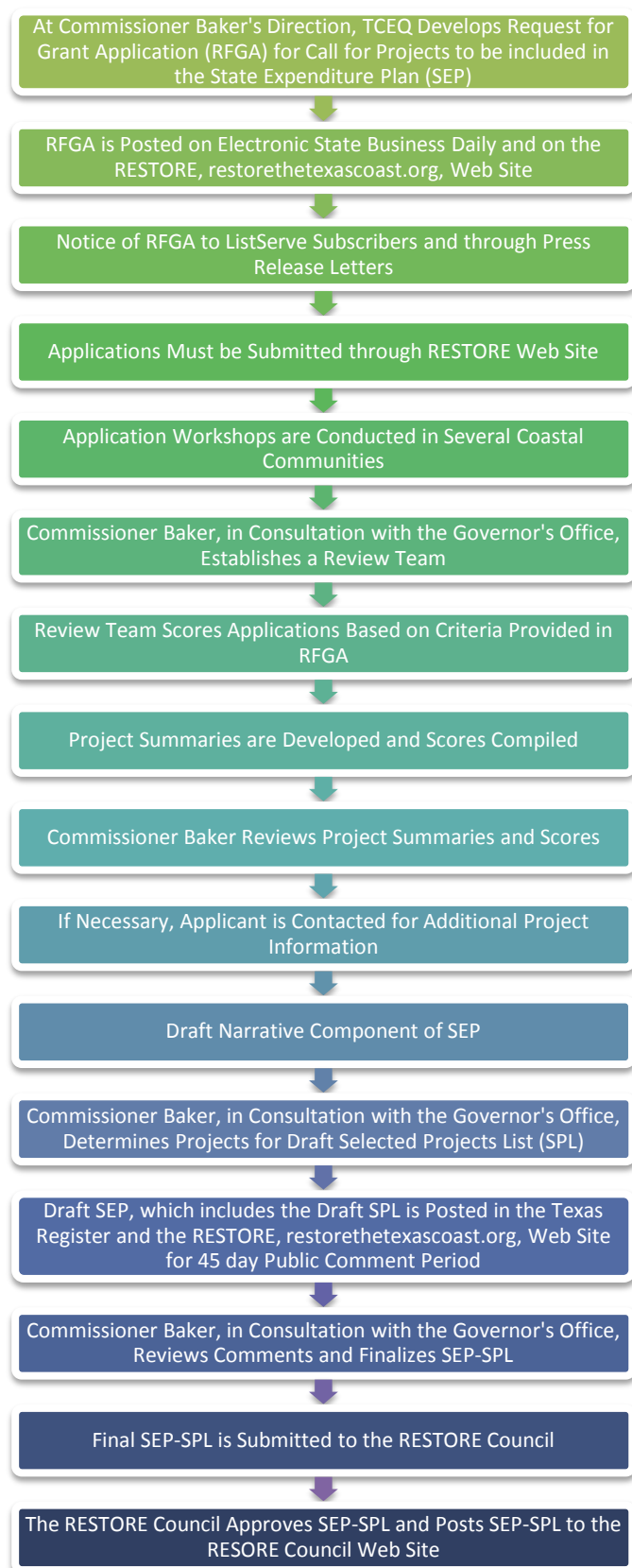
Sincerely,

A handwritten signature in black ink that reads "Greg Abbott".

Greg Abbott
Governor

GA:rvc

Planning State Expenditure Plan Grant Activities



Policy to Safeguard against Conflicts of Interest

1. PURPOSE

This policy is established to ensure compliance with all state and federal requirements and best practices to guard against conflicts of interest in relation to the development of Plans and the review, selection, and management of grant agreements or other activities performed or funded under the federal Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE). This policy is intended to ensure that all state officials and employees involved with RESTORE funds adhere to the highest level of ethics and professionalism in discharging their duties, that actual and potential vendors and grantees do not influence state officers or employees in discharging their official duties, and that the independent judgment of state officials and employees is not compromised.

2. GENERAL

All persons involved in the preparation of RESTORE materials for the State, or in the review and selection of RESTORE awardees, or in the management of grants and contracts funded by or related to RESTORE, must act in the public interest. All such persons should endeavor to pursue a course of conduct that does not raise suspicion among the public. Therefore, they shall avoid acts that are improper or give the appearance of impropriety.

A conflict of interest is a conflict between the duties or interests a person may have in one capacity (such as their official capacity as a state employee) and the duties or interests the person has in another capacity (such as their personal capacity as an individual with investments, or a second job, or as the spouse or parent of a person employed by an entity which is involved in a transaction with the state that should be an arms-length transaction). A conflict of interest arises when a person is in a position to exploit their official capacity in some way for their personal benefit. It does not matter whether or not the person actually does exploit their official capacity for personal benefit – there is a conflict of interest whenever the person is in a position to do so. A potential conflict of interest arises whenever a person might be placed in a position to exploit their official capacity for their personal benefit.

3. REQUIREMENTS FOR STATE OFFICERS AND EMPLOYEES:

STANDARDS OF CONDUCT:

Texas law establishes standards of conduct for state officers and employees (see Tex. Gov't Code 572.051). A state officer or employee should not:

1. Accept or solicit any gift, favor, or service that might reasonably tend to influence the officer or employee in the discharge of official duties or that the officer or employee knows or should know is being offered with the intent to influence the officer's or employee's official conduct;
2. Accept other employment or engage in a business or professional activity that the officer or employee might reasonably expect would require or induce

the officer or employee to disclose confidential information acquired by reason of the official position;

3. Accept other employment or compensation that could reasonably be expected to impair the officer's or employee's independence of judgment in the performance of the officer's or employee's official duties;
4. Make personal investments that could reasonably be expected to create a substantial conflict between the officer's or employee's private interest and the public interest; or
5. Intentionally or knowingly solicit, accept or agree to accept any benefit for having exercised the officer's or employee's official powers or performed the officer's or employee's official duties in favor of another.

DISCLOSURE AND AVOIDANCE OF CONFLICT OF INTEREST

All state officers or employees who participate in preparing program or application materials, or who participate in the review and selection of applications, must disclose any potential conflict of interest they anticipate prior to participating. Appropriate forms will be provided for this purpose. Persons with a conflict of interest will not participate. The TCEQ Ethics Advisor may be consulted to determine whether a conflict of interest exists.

Whenever competitive applications are sought, the application process must allow all eligible applicants an opportunity to submit applications on the same plane of equality, without favoritism, to further the purposes of the RESTORE Act and for the best interests and benefit of the State of Texas and the United States. State officers or employees who participate in preparing program or application materials, or who participate in the review and selection of applicants, shall not disclose any of Texas's program or application materials to potential applicants prior to their being made publicly available, and shall not disclose the contents of any application received to any other applicant or potential applicant prior to selection of awardees and entering a contract, except as required by applicable law.

There is a continuing obligation for state officers or employees to disclose any potential conflict of interest which may arise at any point in the process. Persons who acquire a potential conflict of interest, or learn of one they had not anticipated (for example, if an application is received from an entity with whom a person has a personal connection), shall immediately disclose the potential conflict of interest, and if necessary cease their involvement.

SPECIAL REQUIREMENTS RELATED TO RELATIONSHIPS BETWEEN STATE AGENCIES

The State of Texas may choose to expend some RESTORE funds on projects performed or managed, in whole or in part, directly by the State and its agencies. Texas intends to select such projects so as to ensure compliance with all RESTORE requirements, and to maximize the benefits to the State from the expenditure of RESTORE funds. To select Texas agency-led projects and to determine in particular cases whether the best use of RESTORE funds would be a Texas agency-led project or a private applicant's project, Texas intends to apply the same factors it will apply in the analysis and selection of other applications.

Required Disclosure.

If a state agency anticipates performing or managing a state-led or partly state-led project which may be considered for RESTORE funding, then no officers or employees of that state agency may participate in preparing program or application materials related to a RESTORE Request for Grant Applications or other solicitation, or participate in the review and selection of RESTORE applications, unless:

1. The officers and employees will not be directly involved in state-led or partly state-led projects that might be funded from the same RESTORE program or RFGA or other solicitation, and
2. The officers and employees have fully disclosed their potential involvement in the state-led or partly state-led projects, and do not participate in evaluating or making recommendations or providing comparative benefit information regarding any of their employers' projects.

Direct Involvement. Direct involvement includes performing project activities, managing or supervising the project or a contractor who is performing the project, or any other activities where the project's success or failure will be a measurable or significant factor in evaluating the officer's or employee's performance.

Common Law. Pursuant to Texas common law, no contract may be awarded if it is to be performed or managed by any entity, including a state agency, if a state official who sits on the governing body of a state agency that is charged with selecting and awarding grant applications is also, in a separate capacity, employed by or otherwise financially invested in that entity.

4. APPLICANT DISCLOSURES

To avoid conflicts of interest, all applicants, potential grantees, and potential contractors must disclose, in their applications or other responses to solicitations, or in writing prior to entering a grant agreement or contract if there is no solicitation, any actual or potential conflicts of interest in their proposed projects or provision of services or other performance under any agreements or contracts resulting from the solicitation or which might be entered without solicitation. Specifically, applicants, potential grantees, and potential contractors must disclose any state or federal debarment of the applicant, potential grantee, potential contractor, or of any proposed key subgrantee or subcontractor. The disclosure must also include any key personnel or principal who is or was a principal of any other entity debarred under Texas or Federal law. Applicants, potential grantees, and contractors must also update that information throughout the terms of any contracts resulting from the solicitations.

Applicants, potential grantees, and potential contractors must also:

- Represent and warrant that their provision of services or other performance under the agreement will not constitute an actual or potential conflict of interest and represent and warrant that it will not reasonably create even the appearance of impropriety;
- Disclose any principals or proposed project staff who are current or former employees of the state;

- Disclose any principals or proposed project staff who are related to any current or former employees of the state; and,
- Represent and warrant that they have not given, nor intend to give, at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant or employee or representative of the State of Texas in connection with the solicitation.

Grantees, and contractors will not be allowed to assign any portion of the grant or contract or their performance to others (e.g., subrecipients or subcontractors) without the prior written consent of the awarding agency and (absent an exception for good cause and in the best interest of the state) must remain responsible for the performance of the contract notwithstanding any such assignment or subcontract. This ensures that the evaluated and selected entity will actually be responsible for performance and that proposed transactions may be reviewed for compliance with provisions related to conflict of interest or relationships amongst parties.

Applicant, grantee, and contractor disclosures are continuing obligations. At any time that a potential conflict of interest arises or becomes known to an applicant, potential contractor, or potential grantee, that entity must immediately disclose it to the awarding agency. Appropriate measures will be taken to prevent an actual conflict of interest in the performance of grant or contract activities, which may involve removal of individuals from the project, creation of documented and enforceable information walls, termination of a grant or contract, or any other remedy provided by law.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
RESTORE-RELATED PROCUREMENT ETHICS CERTIFICATION

RESTORE Act - Grants

I am participating in the development, evaluation and award of the above-entitled procurement.

I will perform my duties in the best interests of the State of Texas and in a fair and impartial manner.

I agree to perform my duties in accordance with applicable law and policy, including Chapter 572 of the Texas Government Code, the conflict of interest policy related to RESTORE which was developed by TCEQ and published on Texas's RESTORE web site, and the ethics standards established by my employer agency. I certify that I am currently in compliance with applicable law and policy, specifically including the following:

- I have not received anything of value from any actual or potential vendor or grantee to this procurement.
- To the best of my knowledge, I do not have a direct or indirect financial interest in this procurement, including but not limited to, prospective employment.
- I have disclosed any known actual or potential conflicts of interest.
- I agree to keep all information in the development and evaluation of this procurement confidential.

I understand that I have a continuing obligation to immediately disclose to TCEQ any change in my certification.

Employee Name

Job Title

Agency/Division/Office

Signature

Date

