

# White Paper on CPRA - Parish Matching Opportunities under the RESTORE Act

## The RESTORE Act

The Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (“RESTORE Act”) was signed into law on July 6, 2012. The RESTORE Act creates a Gulf Coast Restoration Trust Fund (“Trust Fund”) and dedicates 80% of the administrative and civil penalties paid after the enactment of the Act under the Federal Water Pollution Control Act in connection with the *Deepwater Horizon* oil spill to the Trust Fund for the restoration and protection of the Gulf Coast region.

The RESTORE Act contains five different funding components, one of which directs 30% of the funds deposited into the Trust Fund to each of the five Gulf Coast States in equal shares (the “Direct Component”) and one of which directs 30% of the funds deposited into the Trust Fund to each of the five Gulf Coast States based on impact from the oil spill (the “Spill Impact Component”). The CPRA Board has committed to setting aside up to 10% of the total funds the State receives through both the “Direct Component” and the “Spill Impact Component” for matching opportunities with coastal Parishes, an estimated \$56M to \$240M.

Under the Direct Component, the Coastal Protection and Restoration Authority (“CPRA”) will receive 70% of the total funds allocated to the State, with the remaining 30% of the total funds allocated to the State going to the parishes in the coastal zone (as defined in Section 304 of the Coastal Zone Management Act of 1972). Before either the CPRA or an eligible parish may apply for a Direct Component activity grant, the CPRA and the Parish must first submit a Multiyear Implementation Plan describing each activity for which it will seek funding.

Under the Spill Impact Component, the State will receive a percentage of the total funds allocated under that funding component according to a formula established by the Council by regulation which must be used as described in a State Expenditure Plan developed by the CPRA.

## U.S. Department of Treasury’s RESTORE Act Regulations

In August 2014, the U.S. Department of the Treasury (“Treasury”) published the Interim Final Rule for the RESTORE Act which became effective on October 14, 2014. Consistent with 33 U.S.C. §§1321(t)(1)(B) and 1321(t)(3)(B), the Interim Final Rule lists the eligible activities in 31 C.F.R. §34.201 and §34.303 for the Direct Component<sup>1</sup> and 31 C.F.R. §34.203 and §34.503 for the Spill Impact Component<sup>2</sup> as follows:

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<sup>1</sup> Under 31 C.F.R. §34.201 and §34.303(c)(2), applicants must show that each activity designed to protect or restore natural resources is based on the “best available science”.

<sup>2</sup> Under 31 C.F.R. §34.203(b) and §34.503(d), activities funded under the Spill Impact Component must “contribute to the overall economic and ecological recovery of the Gulf Coast” and be based on the “best available science”. Under §34.203(c), those activities listed in §34.201(a)-(g) are eligible for funding from the Spill Impact Component to the extent they are carried out in the Gulf Coast Region. Additionally, under §34.503(f), “no more than 25 percent of funding under the Spill Impact Component is available to a Gulf Coast State . . . to pay for infrastructure, unless the Governor or the Governor’s representative on the Council certifies that: (1) the ecosystem restoration needs in the state will be addressed by the activities in the proposed plan; and (2) additional investment in infrastructure is required to mitigate the impacts of the *Deepwater Horizon* Oil Spill to the ecosystem or economy.”

- (a) Restoration and protection of the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast Region.
- (b) Mitigation of damage to fish, wildlife, and natural resources.
- (c) Implementation of a Federally approved marine, coastal, or comprehensive conservation management plan, including fisheries monitoring.
- (d) Workforce development and job creation.
- (e) Improvements to or on state parks located in coastal areas affected by the *Deepwater Horizon* oil spill.
- (f) Infrastructure projects benefitting the economy or ecological resources, including port infrastructure.
- (g) Coastal flood protection and related infrastructure.
- (h) Promotion of tourism in the Gulf Coast Region, including promotion of recreational fishing.
- (i) Promotion of the consumption of seafood harvested from the Gulf Coast Region.
- (j) Planning assistance. Eligible entities under § 34.202 may apply for planning assistance grants that are necessary to develop and submit the Multiyear Implementation Plan before the plan is submitted to Treasury.
- (k) Administrative costs.

#### **Louisiana law applicable to RESTORE Act funds**

Louisiana law also applies to the funds provided to the State under the RESTORE Act. Specifically, according to La. R.S. 49:214.5.4(I)(1), any monies received by the State pursuant to the RESTORE Act, shall be deposited and credited by the treasurer to the Coastal Protection and Restoration Fund for integrated coastal protection efforts, including coastal restoration, hurricane protection, and improving the resiliency of the Louisiana Coastal Area affected by the Deepwater Horizon oil spill. Because RESTORE Act funds will be deposited into the Coastal Protection and Restoration Fund, under La. R.S. 49:214.5.4(G), these funds must be used for the purposes of integrated coastal protection and may be used only for those projects and programs which are consistent with the statement of intent, R.S. 49:214.1, and the master and annual plans for integrated coastal protection, R.S. 49:214.5.3, and may include but not be limited to the following purposes:

- (1) Projects and structures engineered for the enhancement, creation, or restoration of coastal wetlands.
- (2) Match for federal or local project planning, design, construction, and monitoring.
- (3) Administration and project management, planning, design, construction, and monitoring.
- (4) Operation and maintenance of structural projects consistent with the purpose of the Coastal Protection and Restoration Fund.
- (5) Vegetation planting, seeding, or other revegetation methods.
- (6) Planning and implementation of modifications to federal, state, or local flood control, navigation, irrigation, or enhancement projects.
- (7) For coastal wetlands conservation, coastal restoration, coastal zone management, hurricane protection, and infrastructure directly impacted by coastal wetlands losses.

- (8) The administration and operation of the Coastal Protection and Restoration Authority, the Coastal Protection and Restoration Authority Board, the Governor’s Advisory Commission on Coastal Protection, Restoration, and Conservation, and the Coastal Protection and Restoration Financing Corporation.
- (9) Projects and programs promoting scientific, technical, and engineering advancements for the sustainability of coastal Louisiana and ensuring that the best available scientific and technical information and tools are available for the implementation of the master plan and annual plan.

Additionally, with the approval of the Louisiana’s 2012 Comprehensive Master Plan for a Sustainable Coast (“Master Plan”), state agencies were directed by Executive Order BJ 08-07 to “administer their regulatory practices, programs, contracts, grants, and all other functions vested in them in a manner consistent with the Master Plan and public interest to the maximum extent possible.” Accordingly, the CPRA must use any RESTORE Act funds it receives in a manner that complies with both federal and State law.

### **CPRA-Parish RESTORE Act Matching Program**

Given this legal and regulatory regime, and the importance of parish-State partnerships in working together to achieve comprehensive integrated coastal protection, the CPRA has elected to allocate up to ten percent (10%) of the funds it receives under the Direct Component and the Spill Impact Component of the RESTORE Act for project and program matching opportunities for eligible parishes (i.e. those identified in 33 U.S.C. §1321(t)(1)(D)(II)).

Because the total amount of funding for the RESTORE Act’s Trust Fund is not yet determined as litigation is still pending, and because each project and each eligible parish has its own unique set of circumstances, there will be no predetermined match percentage. However, the CPRA anticipates that it will offer a higher match percentage for those projects or programs that are proposed by an eligible parish for matching by State funds from the Direct Component or the Spill Impact Component of the RESTORE Act if that project or program is identified in Louisiana’s Master Plan and a lower match percentage for those projects that are not identified in the Master Plan but are consistent with the Master Plan. (*See, Master Plan Consistency Guidelines, Revised 11/20/2013*)<sup>3</sup>.

This matching program is designed to recognize and respond to the needs of parishes to implement projects that may not be specifically contained in the Master Plan. This approach will allow the CPRA to connect large scale projects with strategic local projects in a way that can maximize efficiencies and the impact of RESTORE Act funds.

### **Project Solicitation and Selection for a CPRA-Parish RESTORE Act Match**

Proposals for matching funds under the Direct Component or the Spill Impact Component should be no more than three pages in length (i.e., two page description and one page map). For each proposed project or program, the proposal should contain the following information:

- (1) A narrative description indicating the need for, purpose, and objectives of the activity as well as a conceptual design and project area map;

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<sup>3</sup> Available at <http://www.lacpra.org/assets/docs/MP%20Consistency%20Guidelines.pdf>.

- (2) For proposed matching of Direct Component funds, how the activity is eligible for funding under 31 C.F.R. §34.201 and meets all requirements of 31 C.F.R. §34.201 and 31 C.F.R. §34.303;
- (3) For proposed matching of Spill Impact Component funds, how the activity is eligible for funding under 31 C.F.R. §34.203 and meets all requirements of 31 C.F.R. §34.203 and 31 C.F.R. §34.503;
- (4) Location;
- (5) Budget;
- (6) Milestones;
- (7) Projected completion dates;
- (8) Criteria the applicant will use to evaluate the success of each activity in helping to restore and protect the Gulf Coast Region impacted by the *Deepwater Horizon* oil spill; and
- (9) A description of how the proposed activity relates or contributes to the criteria listed below.

The following criteria will be used by CPRA to prioritize proposed activities for matching funds under the RESTORE Act:

- (1) The funds available to CPRA for matching;
- (2) Consistency with the objectives of the 2012 Comprehensive Master Plan for a Sustainable Coast and the provisions of La. R.S. 49:214.5.4(I);
- (3) The relative merits of the proposed activity based on the information contained in the proposal;
- (4) Synergy with other conservation/restoration efforts;
- (5) Proposed constructability; and
- (6) Funds made available by the Parish for the proposed activity.

Proposals will be accepted through [**TBD**]. A selection committee made up of CPRA staff will review and evaluate each proposed project based on the criteria listed above. Projects selected as finalists for funding will be notified by [**TBD**]. Additionally, any projects selected for matching funding by the CPRA under the RESTORE Act will be subject to the approval of the CPRA Board and a forty five (45) day public comment period in accordance with 31 C.F.R. §34.303(a)(8) before their selection is finalized by CPRA. CPRA may announce additional rounds of funding in the future for matching proposals depending on availability of funds in the Trust Fund.

Proposals may be submitted via mail, email, or facsimile, but must be received by CPRA before close of business on [**TBD**]. Submissions should be sent to:

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 Project Management  
 Coastal Protection and Restoration Authority  
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For more information about CPRA and its coastal restoration and protection efforts, please contact Chuck Perrodin at (225) 342-7615 or by e-mail at [Chuck.Perrodin@LA.GOV](mailto:Chuck.Perrodin@LA.GOV).