



ALABAMA GULF COAST RECOVERY COUNCIL

RESTORE Act Frequently Asked Questions (FAQs) Relating to the Direct Component Program

APPLICATION PROCESS

1. Q. What is the format and deadline for submission?

- A.** The deadline for submission is **October 31, 2017**. Please submit completed packets to Eliska Morgan at the following address:

Eliska.morgan@dcnr.alabama.gov

Evaluation packets should be submitted electronically in Word format. Attachments may be submitted as a PDF document. Please do not leave any blank spaces – denote “N/A” for any items that do not apply to your project. Submit any questions you may have to Eliska Morgan by email or contact her by phone: (251) 380-7944.

2. Q. There are numerous forms to complete. Why are they necessary?

- A.** The initial Project Suggestion form you submitted received four or more Requests for Evaluation and now requires a detailed evaluation by the Alabama Gulf Coast Recovery Council. This evaluation will determine the feasibility and cost reasonableness of your project, as well as your organization’s ability to manage a Federal grant as a subrecipient and follow 2 CFR guidelines. Because Restore Act funds require submission and approval of a Multiyear Implementation Plan, the information you provide may also be included as part of ACGRC’s federal grant application to the U.S. Department of Treasury. This process will require completion of federal forms, certifications, and additional information for each project included in the plan.

3. Q. What time period should applicants cover in evaluation plans?

- A.** Restore Act funding will be awarded in phases as funding is received. The State has flexibility in setting the length of time covered in its plan(s), but must clearly document and support time needed to complete project activity. Please include enough detail in your project description and budget narrative to justify the proposed timelines. It is highly recommended you outline your project in Phases with clearly defined timeframes, activities, outcomes and costs associated with each Phase.

- 4. Q. Are eligible applicants required to make their proposals available for public review and comment?**
- A. Yes. Any project that receives approval for funding will be included in Alabama's Multiyear Implementation Plan (MIP) that will be posted for review and comment online.
- 5. Q. What is a subrecipient and how does that affect my application?**
- A. Applicants whose projects are funded will be considered subrecipients and must follow federal subrecipient guidelines outlined in 31 CFR 200.330. A subrecipient is defined as a non-federal entity that receives funding to carryout part of a federal program.
- 6. Q. Why do I need to complete the subrecipient questionnaire?**
- A. As a pass-through entity, the Alabama Department of Conservation & Natural Resources (ADCNR), as administrative agent for the AGCRC is required to assess each subrecipient's risk of non-compliance with Federal statutes, regulations, and the terms and conditions of the subaward. This assessment will be used to determine appropriate subrecipient monitoring procedures for your project; such as, progress reporting, need for onsite visits, and identification of needed training for your team.
- 7. Q. Do I need a DUNS number to receive funding?**
- A. Yes. You will need to have a Dun and Bradstreet Universal Numbering System (DUNS) Number. A DUNS number may be obtained from Dun and Bradstreet, Inc. by telephone, currently (866) 705- 5711, or the Internet, currently at <http://fedgov.dnb.com/webform>.
- 8. Q. How does the RESTORE Act define Gulf Coast region?**
- A. Under the RESTORE Act, Gulf Coast region is defined as:
- (1) In the Gulf Coast States, the coastal zones defined under section 304 of the Coastal Zone Management Act of 1972 that border the Gulf of Mexico (see map on page 12);
 - (2) Land within the coastal zones described in paragraph (1) of this definition that is held in trust by, or the use of which is by law subject solely to the discretion of, the Federal Government or officers or agents of the Federal Government;
 - (3) Any adjacent land, water, and watersheds, that are within 25 miles of the coastal zone described in paragraphs (1) and (2) of this definition; and
 - (4) All Federal waters in the Gulf of Mexico.
- 9. Q. How will Treasury determine if an activity will be carried out in the Gulf Coast region?**
- A. Treasury's regulations explain that Direct Component activities are carried out in the Gulf Coast region when, in the reasonable judgment of the eligible applicant applying to Treasury for a grant, each severable part of the activity is primarily designed to restore or protect that geographic area. The state must demonstrate that the activity will be carried out in the Gulf Coast region when it applies for the grant.

10. Q. What are the eligible activities under the Direct Component?

A. The criteria for eligibility are described in Treasury’s regulations, including 31 C.F.R. 34.201. In general, the following projects, programs, and activities are eligible for funding under the Direct Component. Activities 1 through 7 must be carried out in the Gulf Coast region.

- (1) Restoration and protection of the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches and coastal wetlands of the Gulf Coast region
- (2) Mitigation of damage to fish, wildlife, and natural resources
- (3) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan, including fisheries monitoring
- (4) Workforce development and job creation
- (5) Improvements to or on State parks located in coastal areas affected by the Deepwater Horizon oil spill
- (6) Infrastructure projects benefitting the economy or ecological resources, including port infrastructure
- (7) Coastal flood protection and related infrastructure
- (8) Planning Assistance
- (9) Promotion of tourism in the Gulf Coast region, including recreational fishing
- (10) Promotion of the consumption of seafood harvested from the Gulf Coast region

11. Q. How does the RESTORE Act define best available science?

A. Under the RESTORE Act, best available science means science that maximizes the quality, objectivity, and integrity of information, including statistical information; uses peer-reviewed and publicly available data; and clearly documents and communicates risks and uncertainties in the scientific basis for such projects.

12. Q. What projects require a best available science determination?

A. The requirement to use best available science applies to natural resource protection or restoration projects regardless of the project’s Primary Direct Component Eligible Activity label. Applicants must consider the nature of the activity when determining whether this requirement applies. A best available science determination may be required for any of the eligible activities, depending on the objectives of the activity.

13. Q. How will ADCNR evaluate a best available science determination?

A. ADCNR will review applications to determine whether the best available science question has been answered fully and work with subject matter experts who will evaluate if the applicant’s determination is reasonable and that the proposed project is based on best available science. Experts may request additional information or clarification that ADCNR will convey to the applicant. If necessary, subject matter experts will re-evaluate the project after receiving requested clarifications.

14. Q. Is a best available science determination still necessary if the project follows environmental compliance permit requirements?

- A. Yes. The requirement to base natural resource protection and restoration projects on best available science is separate from environmental compliance requirements. Permit requirements may influence a project's methods and should be referenced in the best available science determination; however, the applicant is responsible for demonstrating that the project is based on best available science.

15. Q. What information is required in a best available science determination?

- A. Applicants must explain how the project's natural resource protection and/or restoration objectives and the proposed methods are based on best available science. Applicants must also summarize any risks or uncertainties associated with the project and explain how these risks will be mitigated.

Applicants are required to cite and describe peer-reviewed literature and/or publicly available data. The sources should be objective, methodologically sound and support the conclusion that the proposed scope of work is an effective way to achieve the stated objectives of the project, consistent with the RESTORE Act. Cited sources are expected to represent the main body of relevant literature, including sources with negative and/or inconclusive findings. Applicants are encouraged to provide documentation of current project site conditions, evidence that the proposed project will achieve the stated natural resource protection and/or restoration objective, and evidence that the project's methodology is based on peer-reviewed or public sources and aligned with achievement of the objective. Applicants also are encouraged to include any relevant design or planning documents, such as feasibility studies, permit requirements, design documents, design specifications, or design drawings, and to state clearly if certain methodological details are unknown but will be developed as part of the project.

16. Q. What types of risks, uncertainties, or mitigation actions should be addressed in a best available science determination?

- A. Specific risks, uncertainties and mitigation actions will depend on the nature of the project. However, general categories of risks or uncertainties to consider include: potential negative impacts on natural resources, likely or potential reasons the project may not achieve its objective, the anticipated longevity of project benefits, risks described in cited sources, and uncertainties in the underlying science used to justify the project and/or methods. Mitigation actions may include: siting or design considerations, phasing projects, and/or monitoring and adaptive management.

17. Q. What sources are acceptable evidence for a best available science determination?

- A. Under the RESTORE Act, peer-reviewed literature and publicly available data sets, such as those from state agencies, the U.S. Census Bureau, U.S. Fish and Wildlife Service, Environmental Protection Agency, and National Oceanic and Atmospheric Administration, are acceptable evidence for a best available science determination. If peer-reviewed literature or publicly available data sets are unavailable, alternative scientific information may be used, including design guidelines, design criteria, best management practices documents, and photographs or other baseline documentation of the project site.

Sources based on work conducted in regions outside the Gulf Coast may be cited as evidence; however, applicants must justify the relevance of the work by describing how findings are applicable to and methods will be adapted for conditions in the Gulf. Applicants are encouraged to

consider differences in physical and biological factors, such as tides, salinity, wildlife, temperature or currents, between the source’s study site and the Gulf.

18. Q. How should applicants cite sources in the best available science determination?

- A. Sources should be cited parenthetically in the best available science determination, with a list of full citations provided at the end. Citations for peer-reviewed articles should include the author, publication date, article title, journal title, and volume and page numbers. Citations for non-peer-reviewed sources should also include the author, publication date, article title, journal title, and volume and page numbers, if applicable, as well as the date of access. Applicants are encouraged to provide PDFs of documents or links to websites, if necessary.

CONSTRUCTION

19. Q. What is the subrecipient’s responsibility when real property is improved using Treasury RESTORE Act grant funds?

- A. The subrecipient is responsible for the administration, operation, and maintenance of the real property during its designated Estimated Useful Life. The subrecipient must use it for the authorized project purposes, during which time the recipient must not dispose of or encumber its title or other interests. Treasury retains an undivided equitable reversionary interest (the “federal interest”) in the real property improved, in whole or in part, with RESTORE Act Trust Funds for the Estimated Useful Life of the project.

20. Q. How is real property defined?

- A. “Real Property” is defined in 2 CFR 200.85 of the Uniform Guidance as “land, including land improvements, structures and appurtenances thereto, but excludes moveable machinery and equipment.”

21. Q. How will the Estimated Useful Life be determined for Treasury-funded infrastructure?

- A. For all infrastructure funded by a Treasury grant under the RESTORE Act, the applicant will propose an Estimated Useful Life for the infrastructure in its grant application and document the method by which it determined the Estimated Useful Life. One accepted method would be to use the State’s standards for determining useful life of capital assets. Treasury’s issuance of the grant agreement will represent Treasury’s concurrence with the applicant’s proposed Estimated Useful Life.

22. Q. What is the Estimated Useful Life of land?

- A. Land has an unlimited useful life.

23. Q. What is “infrastructure” under Treasury’s regulation?

Infrastructure is a subset of real property, and is a capital asset. Treasury’s regulation defines it at 31 CFR 34.2 as “the public facilities or systems needed to support commerce and economic development. . . . [It] encompasses new construction, upgrades and repairs to existing facilities or systems, and associated land acquisition and planning.” Such installations and facilities may include, but are not limited to:

- highways,
- airports,
- roads,
- buildings,
- transit systems,
- port facilities,
- railways,
- telecommunications,
- water and sewer systems,
- public electric and gas utilities,
- levees,
- seawalls,
- breakwaters,
- major pumping stations, and
- flood gates.

PROCUREMENT

24. Q. What procurement procedures should subrecipients use?

A. Subrecipients should follow their own procurement procedures; however, the procedures followed by subrecipients must be consistent with and conform to Federal procurement standards. *See 2 CFR 200.318—200.326.*

25. Q. Are subrecipients required to comply with regulations regarding conflicts of interest related to procurement?

A. Yes. No employee, officer, or agent of a subrecipient may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. The subrecipient must maintain written standards of conduct, to include conflict of interest policies, governing the actions of its employees who are engaged in the award and administration of a contract. The written standards must provide for disciplinary actions to be applied for violations of such standards by its officers, employees, or agents. *See 2 CFR 200.318(c)* for additional information on procurement standards.

26. Q. When does the applicant need to comply with the Davis-Bacon Act for grants awarded by Treasury under the RESTORE Act?

A. Davis-Bacon Act-related provisions apply to grants awarded by Treasury under the RESTORE Act in two situations:

- Davis-Bacon Act-related provisions are applicable for a construction project if it is for the construction of a project that can be defined as a “treatment works” in 33 U.S.C 1292; and

- Davis-Bacon Act-related provisions are applicable for a construction project regardless of whether it is a “treatment works” project if it is receiving federal assistance from another federal agency operating under an authority that requires the enforcement of Davis-Bacon Act-related provisions.

27. Q. Where can the applicant go for more information on the Davis-Bacon Act as it may apply to the applicant?

- A. The Department of Labor oversees the administration of Davis-Bacon Act-related provisions and has a website with extensive information on the Davis-Bacon Act and Davis-Bacon Act-related provisions.

28. Q. What are “treatment works”?

- A. Pursuant to 33 U.S.C. 1292, the definition of treatment works means:

- (1) Any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement 33 U.S.C. 1281 of the Federal Water Pollution Control Act, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including the acquisition of the land that will be an integral part of the treatment process (including land used for the storage of treated wastewater in land treatment systems prior to land application) or is used for ultimate disposal of residues resulting from such treatment and
- (2) Any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems.

29. Q: Does the Buy American Act apply to Direct Component awards?

- A. No. However, as referenced in the RESTORE Act Standard Terms & Conditions, grant condition V.5, recipients are encouraged to the greatest extent practicable to purchase American-made equipment and products with funding provided under the grant.

BUDGET

30. Q. What is required for the budget narrative section?

- A. Please provide a narrative justifying how the proposed costs within each of the budget categories on the SF-424A (or SF-424C for Construction projects) listed directly below are necessary, reasonable, allowable, and allocable:

- Personnel – This refers to salaries and wages paid to employees of the applicant organization who are directly involved in grant implementation. *This line item does not include personnel hired as subrecipients or contractors; those costs are included in the “Contractual” line item.*

- Fringe Benefits – This refers to the allowances and services employers provide their employees as compensation in addition to regular salaries and wages. Fringe benefits include, but are not limited to, the costs of leave (vacation, family-related, sick, or military), employee insurance, pensions, and unemployment benefit plans.
- Travel – This refers to the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed in like circumstances in the non-Federal entity's non-federally funded activities and in accordance with the non-Federal entity's written travel reimbursement policies. *This line item does not include a subrecipient's/contractor's travel expenses; those costs are included in the "Contractual" line item.*
- Equipment - This refers to tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost that equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000.
- Supplies – This refers to all tangible personal property other than equipment. A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the non-Federal entity for financial statement purposes or \$5,000, regardless of the length of its useful life.
- Contractual – This refers to purchases of property or services needed to carry out the project or program under a Federal award. It is not specific to the legal instrument used, so it may include both subawards and contracts. (It does not include construction.)
- Other – This refers to direct costs that do not fit any of the aforementioned categories, such as rent for buildings used to conduct grant activities, utilities and/or leased equipment, transportation expenses, tuition for training, etc.
- Indirect Costs – Indirect costs must be supported by either a current federally approved Indirect Cost Rate Agreement or an election to use the de minimis indirect cost rate. In accordance with 2 C.F.R §200.414(f), any non-federal entity that has never received a negotiated indirect cost rate with the Federal government and receives less than \$35 million in direct Federal funding per year, may elect to use a de minimis rate of 10% of Modified Total Direct Costs within their Direct Component grant. Grantees must keep the documentation of this decision on file. Applicants electing to use the de minimis rate should include in their applications a letter or other similar document, signed by their Chief Financial Officer or other senior official, stating that the state government department/county/parish is electing to use the de minimis indirect cost rate of 10% of Modified Total Direct Costs based on 2 C.F.R. 200.414(f); has never previously negotiated an indirect cost rate with the Federal government; and receives less than \$35 million in direct Federal funding per year.
- Construction – This refers to the total costs of all construction categories. Provide a narrative justification of the proposed budget for each of the budget categories on the SF-424C (listed directly below):
 1. Administration and Legal Expenses
 2. Land, structures, rights-of-way, appraisals, etc.
 3. Architectural and engineering fees
 4. Other architectural and engineering fees

5. Project inspection fees
6. Site work
7. Demolition and removal
8. Construction
9. Equipment
10. Miscellaneous

31. Q. What must an applicant do if it does not have a negotiated indirect cost (IDC) rate?

- A. The answer to this question differs depending on the applicant. A cognizant agency for negotiating IDC rates is determined by the Federal agency that provides a recipient with the majority of its federal funding. If they do not have a current IDC rate, some applicants must negotiate one with their cognizant agency. Some applicants may not need to negotiate an IDC with their cognizant agency. If an applicant has never negotiated an IDC rate with the Federal government and receives \$35 million or less in direct federal funding per year, it may be eligible to use 10% of the project's modified total direct costs as its eligible IDC rate in lieu of negotiating an IDC rate with its cognizant agency.

32. Q. Is there a cost sharing or matching requirement for Direct Component grant awards?

- A. No. There is no cost sharing or matching requirement for Direct Component grant awards.

33. Q. Who are considered key personnel?

- A. Key personnel should include the applicant's organization director who is authorized to sign the evaluation form and award, the technical person who is responsible for the project, and the financial person who is responsible for the award's accounting and financial records. You will be required to notify the Alabama Department of Conservation and Natural Resources, as Administrative agent for the Alabama Gulf Coast Recovery Council, if there are any changes in identified key personnel.

34. Q. Where can I find sample scopes of work including project descriptions, project need, project purpose, and objectives?

- A. The Department of Treasury website includes approved Multiyear Implementation Plans and Planning Assistance applications that you may use as a sample when preparing your packet.

<https://www.treasury.gov/services/restore-act/Pages/Direct%20Component/Direct-Component.aspx>

35. Q. What is required for a complete Evaluation Packet?

- A. A complete packet includes all required documents as set forth below. All documentation and data submitted as part of the application package should be current as of the date of application submission. Throughout the review and selection process, ADCNR may request written clarification or corrected or missing documents and require that applicants provide such clarifications or corrections in order to continue to be considered for funding. ADCNR will provide applicants a reasonable amount of time to provide any additional documentation.

Applications must include the following documents:

(Please see Required Evaluation Documents Checklist included with this packet. Return completed Checklist with Evaluation Forms.)

1. Completed Alabama Gulf Coast Recovery Council Direct Component Project Evaluation Form
2. RESTORE Act Direct Component Application Certifications/Department of Treasury
3. Form SF-424 (Application for Federal Assistance)
4. Form SF-424A (Budget Information-Non-Construction Programs) or Form SF-424-C (Budget Information-Construction Programs)
5. Form SF-424B (Assurances-Non-Construction Programs) or Form SF-424D (Assurance-Construction Programs)
6. A letter from the applicant's highest official designating a senior authorized official who can legally bind the entity to execute the RESTORE Act Direct Component Applicant Certifications. A letter is not required if the applicant's highest official executes the certifications.
7. RESTORE Act Milestones Report. The applicant must provide the major milestones of the activity. Major milestones are discrete, high-level actions that, taken together, result in a completed eligible activity, e.g., awarding a contract, beginning planning; and when applicable, assessing property, purchasing property, awarding a contract, beginning design, beginning construction, ending construction. Columns G and H should be reserved for reporting post-award. (See attached RESTORE Act Milestones Report sample)
8. RESTORE Act Status of Performance Report. The applicant must provide the status of progress toward reaching priority goals for project activity. Focus on a discrete number of priority goals (1-3) and the corresponding performance measures. Please complete Columns B-E in the initial report submitted as part of an application package. (See attached RESTORE Act Status of Performance Report sample)
9. RESTORE Act Environmental Checklist. The applicant must identify the environmental laws that may apply to the eligible activity and the environmental documents that may be required. The applicant must include the status of all applicable Federal and state environmental compliance requirements and documentation of fulfilled requirements. Treasury approval of financial assistance is subject to compliance with applicable Federal and state environmental requirements. (Completion of the template in GrantSolutions.gov is required.)
10. Current federally approved Indirect Cost Rate Agreement or election to use the de minimis rate, if indirect costs are included in the budget.
11. A map of the study or planning area which will be affected by the project, with the boundaries of the affected area clearly delineated. For Construction projects, a map of the area in which the construction project will be located and/or the real property to be acquired will be located, with the boundaries of the project site clearly delineated. Only the following file formats will be accepted for maps: PDF, GIF, JPEG, or PNG. USGS maps are available in PDF format at <http://www.usgs.gov/pubprod/maps.html>.
12. Organizational Chart
13. Subrecipient Questionnaire
14. A Federal Emergency Management Agency (FEMA) floodplain map of the area in which the construction project and/or real property to be acquired will be located with the boundaries of the site clearly delineated. Only the following file formats will be accepted for maps: PDF, GIF, JPEG, or PNG. FEMA floodplain maps, in PDF or PNG format, are available at the FEMA Map Service Center, <https://msc.fema.gov/portal>.
15. A proposed Estimated Useful Life for infrastructure and a description of the method used to determine the Estimated Useful Life of the project. Acceptable methods to determine the Estimated Useful Life include but are not limited to the State's standards for determining useful

- life of capital assets. Land has an unlimited useful life. Treasury's issuance of the grant agreement will represent its concurrence with the applicant's proposed Estimated Useful Life.
16. Legal documents relating to title (i.e., recorded easements, liens, rights-of-way, real property acquisition, conveyance), construction (i.e., permits, performance bonds), and disclosure of ongoing real property litigation.
 17. Recent title opinion showing ownership of the property and any deed restrictions. In general, a recent title opinion is one that has been completed within the last year. If the title opinion is more than one year old, a justification also must be provided for Treasury's review and approval.
 18. If the project will include the acquisition of real property, the applicant must provide an appraisal of the property to be acquired from a certified appraiser. The appraisal should be dated no more than one year before the date of the grant application being submitted. If the appraisal is older than one year from the date of the grant application, a justification must be provided to Treasury for review and approval.



