



Attachment #4

# Escambia County RESTORE Act

Analysis of the RESTORE Act of 2012

Creation of Local RESTORE Act Committee and  
Funding Guidelines

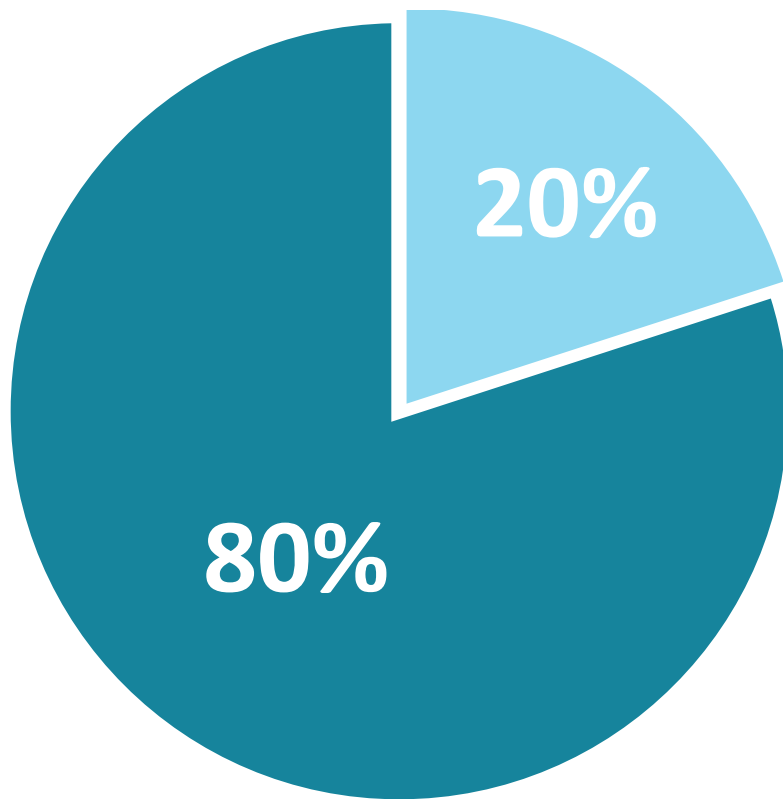


SCG Governmental Affairs  
Bill Williams



# Analysis of the RESTORE Act of 2012

# OVERALL RESTORE ACT FEDERAL/STATE “SPLIT”\*



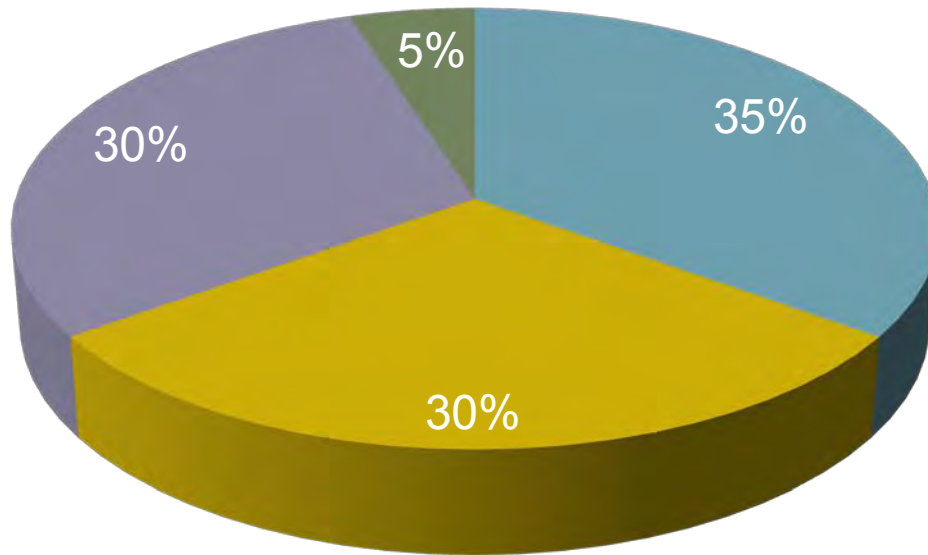
- Federal Share
- Gulf Share

**\* Sends 80% of all administrative and civil penalties by Responsible Parties in Deepwater Horizon, together with any additional appropriations provided by law to the Gulf region (5 affected states).**



# THE 80% TO THE GULF SPLIT\* (GULF COAST RESTORATION TRUST FUND)

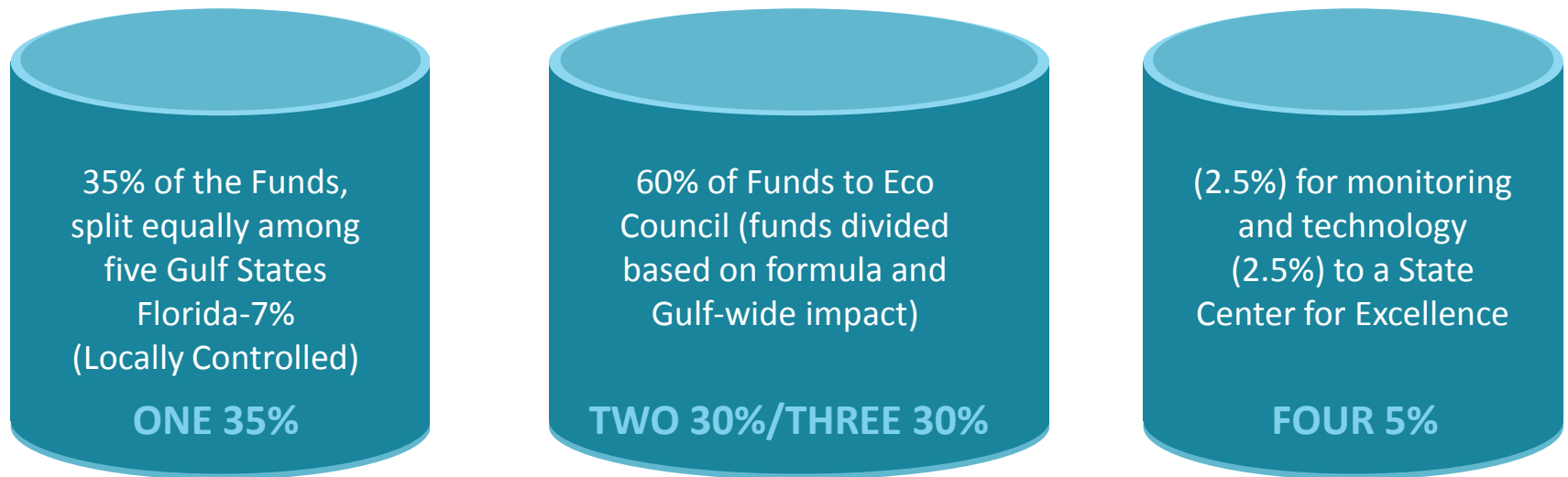
## Breakdown



- 1st Pot: 35% Equal State Allocation (LOCAL)
- 2nd Pot: 30% Gulf Coast Ecosystem Restoration Council Allocation (Federal)
- 3rd Pot: 30% Oil Spill Restoration Impact Allocation (State)
- 4th Pot: 5% Research



# UNDERSTANDING THE POTS IN THE 80%



# HOW THE POTS ARE GOVERNED

75% 8 Counties  
25% 15 Counties  
Local Government  
Control

ONE

Governor (or  
Designee) sits as  
Member of 11 person  
Council  
(6 fed/5 state)

TWO

State/Governor  
Approved Council  
(Florida Consortium  
of 23 Counties)

THREE

2.5 %  
Administered by  
NOAA/USFWS  
2.5%  
Public/Private  
Institutions &  
DEP/FWC

FOUR

# Pot One in the State of Florida



*Projects to restore natural resources or economy*

*Project selection requires meaningful public input*

*Multiyear plan for use of the funds*

*Consistent with standard procurement rules*

- ▶ **75% directly to the 8 disproportionately affected counties (Escambia to Wakulla)**
  - ▶ Example: if total fine is \$20B, 75% of \$1.12B = \$840M
- ▶ **25% directly to the non-disproportionally impacted counties (15 Counties)**
  - ▶ Formula: 34% based on population; 33% based on the county per capita sales tax collections estimated for FY2012; 33% based on the inverse proportion of the weighted average distance from the Deepwater Horizon oil rig to each of the nearest and farthest points of the shoreline.
  - ▶ Example: If total fine is \$20B, 25% of \$1.12B = \$280M, then 34% = \$95.2M; 33% = \$92.4M)

# Pot One in the State of Florida



*Projects to restore natural resources or economy*

*Project selection requires meaningful public input*

*Multiyear plan for use of the funds*

*Consistent with standard procurement rules*

## Conditions:

- ▶ **(1) Agree to Sec’y of Treasury requirements (includes audit)**
  - ▶ **(2) Certify to Sec’y of Treasury projects/programs:**
    - ▶ (a) Meets criteria (approved usage)
    - ▶ (b) Was selected based on meaningful input from public (including individuals, businesses, and NPOs)
    - ▶ (c) For natural resource protection or restoration projects, based on the best available science.
  - ▶ **(3) Certify the projects/programs/contract award are consistent with standard procurement rules and audit requirements**
  - ▶ **(4) Develop and submit a multi-year implementation plan for the use of funds**
- \*Funds allocated to a coastal political subdivision (in FL, a county) shall remain in the Trust Fund until plans submitted and approved**





# What Can Pot One Money Be Used For?



*Projects to restore natural resources or economy*

*Project selection requires meaningful public input*

*Multiyear plan for use of the funds*

*Consistent with standard procurement rules*

- ❖ **Restoration and protection of the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast region**
- ❖ **Mitigating damage and restoration of fish, wildlife, and natural resources**
- ❖ **Implementing a federally approved marine or coastal conservation management plan**
- ❖ **Promotion of tourism in the Gulf Coast Region, including recreational fishing**
- ❖ **Promotion of the consumption of seafood harvested from the Gulf Coast region**

# What Can the Pot One Money Be Used For? Continued...



*Projects to restore  
natural resources or  
economy*

*Project selection  
requires meaningful  
public input*

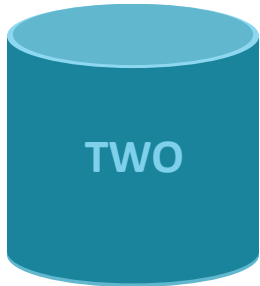
*Multiyear plan for  
use of the funds*

*Consistent with  
standard  
procurement rules*

- ❖ **Infrastructure projects benefitting the economy or ecological resources, including port infrastructure**
- ❖ **Workforce development and job creation**
- ❖ **Improving state parks in coastal areas affected by the Spill**
- ❖ **Planning assistance**
- ❖ **Coastal flood protection and related infrastructure**
- ❖ **Administrative costs of complying with the Act (limited to 3%)**



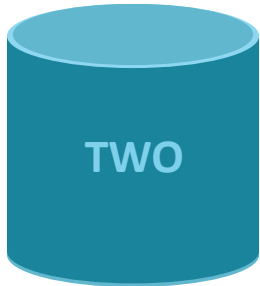
# How Does the Pot Two Council Money Flow?



*Council shall expend funds, using the best available science, to undertake programs and projects that would restore and protect the natural resources, ecosystem, and economy of the Gulf Coast.*

- ❖ **Federal members are Secretary of the Interior, Secretary of the Army, Secretary of Commerce, Administrator of the EPA, Secretary of Agriculture, head of the department in which the Coast Guard is operating**
- ❖ **State members are the Governors of the five Gulf states or their designees**
- ❖ **Council's actions consist of approving a Comprehensive Plan, approving state plans, and approving reports to Congress**
- ❖ **50% of Council money is disbursed back to the states based on a formula including oiled shoreline miles, distance from the rig to the shoreline, and the average population of coastal counties from the 2010 census**

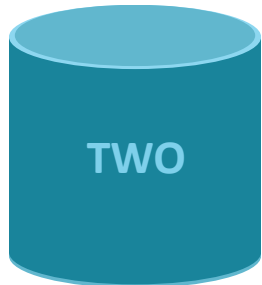
# How Does the Pot Two Council Money Flow? Continued...



*Council shall expend funds, using the best available science, to undertake programs and projects that would restore and protect the natural resources, ecosystem, and economy of the Gulf Coast.*

- ❖ **50% of Council money goes to the creation of the comprehensive plan**
- ❖ **State Governors select one federal member to serve as Council Chair**
- ❖ **All significant council actions require the vote of the Chair plus a majority of the Governors**
- ❖ **A majority of state members must be present for the Council to take meaningful action.**
- ❖ **States must develop state implementation plans listing the projects which will receive grants. Such plans may specifically include economic recovery projects**

# Pot 2 Council Members



*Council shall expend funds, using the best available science, to undertake programs and projects that would restore and protect the natural resources, ecosystem, and economy of the Gulf Coast.*

## Members:

**CHAIR:** Department of Commerce  
Dr. Rebecca Blank

Department of Agriculture  
Thomas J. Vilsack/Harris Sherman

Department of the Interior  
Kenneth L. Salazar/Rachel Jacobson

Department of the Army  
John McHugh/Jo Ellen Darcy

Department of Homeland Security  
Janet Napolitano/VADM John Currier

Environmental Protection Agency  
Lisa P. Jackson/Ken Kopocis

### Governors' Representatives

AL - David Perry  
FL - Mimi Drew  
LA - Garret Graves  
MS - Trudy Fisher  
TX - Toby Baker



# How Does the Pot Three Money Flow?



*Council shall expend funds, using the best available science, to undertake programs and projects that would restore and protect the natural resources, ecosystem, and economy of the Gulf Coast.*

❖ **Weighted formula to determine how much money each state receives.**

- 20% avg population of coastal counties
- 40% miles of oiled shoreline
- 40% distance from Deepwater Horizon

❖ **State Plans must be approved by Council (pot 2)**

❖ **FL Association of Counties facilitated a group of 23 counties to develop an interlocal agreement to oversee this fund. (Structure must be approved by Governor)**

❖ **Executive Body**

- **Chairman: Grover Robinson, Escambia County**
- **Vice Chairman: Susan Latvala, Pinellas County**
- **Sec./Treasurer: Warren Yeager, Gulf County**

# How Does the Pot Four Money Flow?



❖ **2.5% Gulf Coast Ecosystem Restoration Science, Observation, Monitoring & Technology Program**

**NOAA and US Fish & Wildlife Service shall consult Gulf of Mexico Fishery Management Council & Gulf States Marine Fisheries Commission**

❖ **2.5% Centers of Excellence**

**The funds will be split up evenly among the 5 Gulf States to establish a center in each state.**

**Florida's center will be a consortium of public & private research institutions, including DEP & FWC**



# Critical Factors in Receiving the Money

- ❖ **State agrees to abide by the guidelines set for by the Secretary of the Treasury, including audit requirements**
- ❖ **States bring forward plans/projects based on input from the public, including broad-based participation from individuals, businesses, and nonprofit organizations**
- ❖ **Projects to restore the environment are based on the best available science**
- ❖ **Projects comply with state procurement, bidding, and audit requirements**
- ❖ **State presents a multiyear implementation plan with milestones and evaluation processes**



## Special Uses for the Money

- ❖ **Funds may be used to satisfy the non-Federal share of the cost of any project or program authorized by Federal law that is an eligible activity under the Act**
- ❖ **Previously approved projects may qualify under RESTORE provided the conditions for use, public input, and fund integrity are place.**
- ❖ **In awarding contracts under the Act, a State may give preference to individuals and companies that reside in, are headquartered in, or are principally engaged in business in the State.**

# When Will We See the Money?

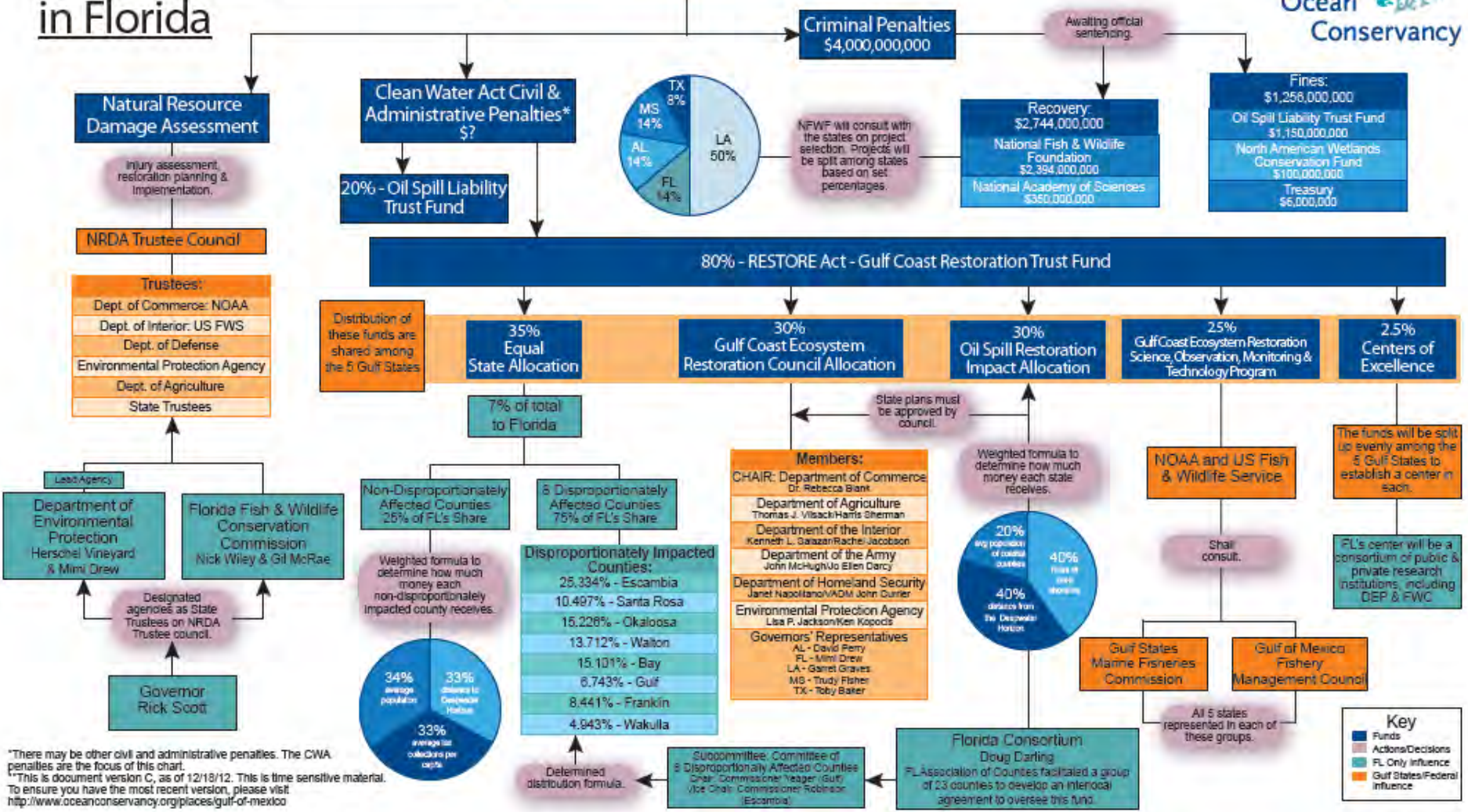
- ❖ **There will be no RESTORE Act monies until the CWA penalties are either settled OR litigated.**
- ❖ **The litigation process would likely push the money well into 2013.**
- ❖ **Settlement could occur at any time, either as a separate CWA settlement or as part of a global settlement that pulls in the NRDA claims as well.**



# Flow of Oil Spill Funds in Florida

Resolution of Criminal, Civil, Administrative & Natural Resource Claims

Contact: TJ Marshall  
Director, Constituent Outreach  
tmarshall@oceanconservancy.org  
727-369-6616

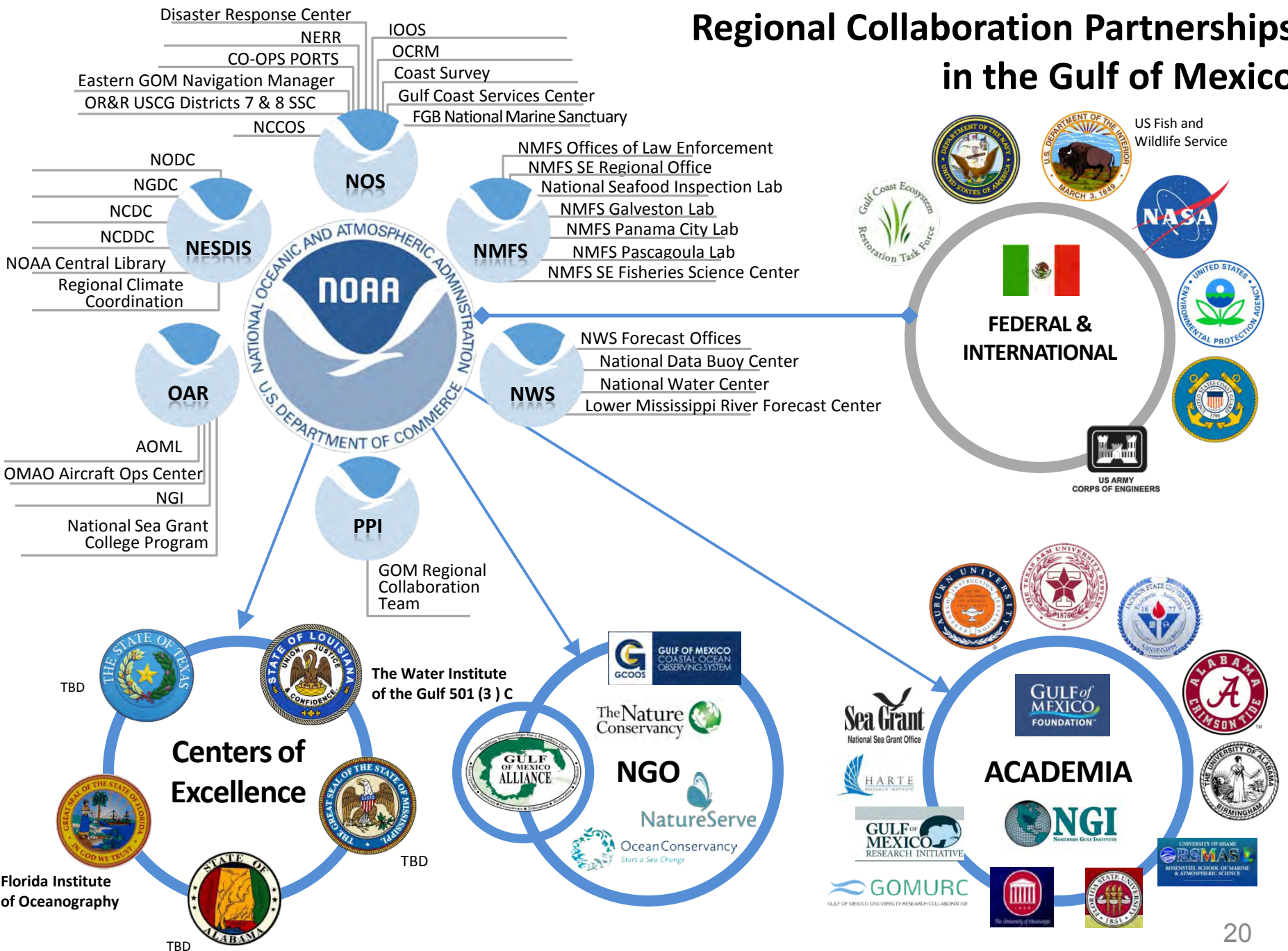


\*There may be other civil and administrative penalties. The CWA penalties are the focus of this chart.  
\*This is document version C, as of 12/13/12. This is time sensitive material. To ensure you have the most recent version, please visit <http://www.oceanconservancy.org/places/gulf-of-mexico>

**Key**  
 ■ Funds  
 ■ Actions/Decisions  
 ■ FL Only Influence  
 ■ Gulf States/Federal Influence



# Regional Collaboration Partnerships in the Gulf of Mexico





## Creation of Local RESTORE Act Committee and Funding Guidelines

# RESTORE Act Local Funds

Escambia County will receive an automatic allotment of RESTORE Act funding in the event of a settlement.

Here are estimates for Escambia County's local amount, based on range of settlement amounts:

Settlement Amount	Local Distribution to Escambia
Example) \$ 1B	\$ 10.64M (FAC/Transocean
5B	53.20 M
10B	106.40 M
15B	159.61 M
20B	212.81 M

Why is the money coming to the County? The RESTORE Act legislation directs the State of Florida's funding to "coastal political subdivisions" defined in the Act as "any local political jurisdiction that is immediately below the State level of government, including a county, parish or borough, with a coastline that is contiguous with any portion of the United States Gulf of Mexico."



# Distribution of Local Funds

To distribute these funds, the County will need to:

1. **Establish a local Restore Act Committee.**
  - ▶ The main responsibility of committee is to solicit project applications, review applications, evaluate projects, rank projects, and present its ranked list to the County Commission for approval. (BOCC has final authority).
  
2. **Develop selection process for projects to be funded with RESTORE dollars.**
  - ▶ In order to solicit, evaluate and rank projects, we will need to develop an application, an application process and scoring criteria.

# Gen Requirements for the Local Committee

## --Sunshine, Ethics, Public Records

As a general reminder, the following requirements apply to the Committee and its members:

- ▶ As members of advisory body, all members are governed by standards of conduct and code of ethics in FS Ch 112
- ▶ The committee and its members will be subject to state Sunshine laws (FS Ch 286)
- ▶ The committee and its members will be subject to Florida Public records law (FS Ch 119)
- ▶ No member or their designee shall receive any personal gain from serving on the committee
- ▶ Members will not be required file a statement of financial interests



# Role of Local Committee

- ▶ Its main responsibility will be to review and rank each proposed project based upon the guidelines provided in the RESTORE Act, federal rules, and community needs.
- ▶ Hold advertised public meetings
- ▶ Provide regular status reports to the BOCC
- ▶ Establish an application and application procedure (*in consultation with BOCC? After specific direction and input from BOCC?*)
- ▶ Solicit and accept all applications for projects that comply with RESTORE Act eligibility
- ▶ Review, score and rank projects, and present the ranked project list to BOCC (*BOCC will review its ranking, and make the final decision regarding best use of the RESTORE Act funds.*)
- ▶ May provide input and assistance to the County's responsibility to develop and submit a multi-year implementation plan for RESTORE Act projects

# Local RESTORE Act Committee Composition

- ▶ BOCC needs to determine:
  - ▶ General composition of this committee, and
  - ▶ Selection/appointment process for each member
- ▶ **Considerations for Committee Composition:**
  - ▶ Appropriately representative but manageable in size (9?)
  - ▶ Expertise: Members with diversified backgrounds, including the knowledge related to the allowable uses of the funds, and expertise to perform the responsibilities of the committee.
    - Subject area expertise: enviro ecol, fisheries, tourism, eco development, financial/gov contracts/grants
    - Reps from: EDC, TDC, Fishing Industry, etc.
  - ▶ County-wide geographic representation and/or specific municipal representation
  - ▶ Representatives of applicants for funding on committee – yes/no?  
*(If yes, conflict of interest issues. If no, limiting pool of expertise on committee.)*
  - ▶ Elected officials on committee – yes/no? *(If yes, officials will be constrained by sunshine.)*
  - ▶ Inclusion of non-voting advisory members, such as technical experts

# Committee Composition

## Additional considerations:

- ▶ Levy County and Wakulla County Models have been submitted for BOCC review
- ▶ Considering all of the uncertainty that still exists, you may wish to allow some flexibility with the local council make-up and its role.
- ▶ One recommendation would be to make it clear in the resolution that the BOCC anticipates that additional changes may be made to the composition and representation on the local Council as this whole thing evolves, as we learn the rules from the Treasury, and as we learn from other counties.

# Committee Selection

- ▶ BOCC must establish a process for selection of committee members. Options for consideration:
  - ▶ Appoint members
  - ▶ Nomination process
  - ▶ Combination of appointments and nominated positions
  
- ▶ For appointments: BOCC and/or other entities represented may make their own appointments.
  
- ▶ For nominations:
  - ▶ Those interested and qualified to be on committee can submit a letter of interest with their CVs, resumes or statement of qualifications.
  
  - ▶ Each commissioner will review the submissions and make his/her own list of nominations for the committee appointments.
  
  - ▶ BOCC will discuss and approve, as a group, and name to the seats those with the most votes.

# Recommended Stakeholders for Committee Composition

It is recommended that the nine member committee be made up of Key Stakeholders, such as:

- BOCC Representative
- Municipalities Representatives
- Tourist Development Council Representative
- Economic Development Council Representative
- Chamber of Commerce Representative
- Environmental Community Representative
- School Board/College Representative
- Seafood/Fishing Industry Representative
- Workforce Board Representative
- High Priority Industry Representative
- Members at Large

# RESTORE Act Funding

## –General Conditions

The County must adhere to general conditions for funding:

- Agree to US Treasury audit requirements
- Certify that a project requesting funding:
  - Is designed to restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands or economy of the Gulf Coast
  - Carries out one or more of the eligible activities
  - Was selected based on meaningful input from the public
  - In the case of natural resource protection or restoration project is based on the best available science
- Certify that the project or program and the awarding of the contract are consistent with standard procurement rules and regulations, inc. applicable competitive bidding and audit req.
- Develop and submit a multi-year implementation plan for the use of funds, which may include milestones, timelines, and evaluation

*(Note: The responsibility for ongoing oversight of local projects and administration of contracts is not clearly established. We will have to wait for the rules.)*

# RESTORE Act Funding

## – Eligible Uses

Projects must meet the following criteria to be eligible for funding, per RESTORE Act legislation:

- Restoration and protection of nat resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast region.
- Mitigation of damage to fish, wildlife, and nat resources
- Implementation of a federally approved marine, coastal or comprehensive conservation management plan, including fisheries monitoring
- Workforce development and job creation
- Improvements to state parks in coastal areas affected by Deepwater Horizon spill
- Infrastructure projects benefitting economy or ecological resources, including ports
- Coastal flood protection and related infrastructure
- Planning assistance
- Promotion of tourism, including recreational fishing
- Promotion of consumption of seafood harvested from the Gulf Coast region

*(Note: US Treasury rules, when they are promulgated, may impose additional criteria,*

*details, and clarifications.)*

# RESTORE Act Funding

## –Project Ranking Criteria

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The BOCC may wish to assign a higher ranking for some projects based on additional project benefits or components, such as:

- The project's impact(s) or benefit(s) is county-wide
- Demonstrated economic benefit
- Demonstrated environmental benefit
- Ability to leverage other sources of funding (match)
- Long-term implications/lasting value
- Shovel-readiness
- Comprehensive Plan projects
- Consistency with local government comprehensive plans
- Capital Improvement Plan projects
- Consideration of request amount (*setting of min or max amounts to funding requests*)



# Funding Application Process

Project applications will be developed. In addition to the ranking criteria, applications will require standard grant request information, such as:

- ▶ Project descriptions/need/science/benefits, costs and timelines
- ▶ Demonstrated applicant experience/expertise related to the proposed project, and ability to manage project type and size
- ▶ Demonstrated applicant experience managing government grants and contracts, financial history and track record, etc.

Process: A timeframe and process for soliciting and accepting applications will be developed.

Pre-proposals: Due to the uncertainty regarding the amount of funding and when the funding might be available, we may wish to consider developing an interest form or pre-proposal initially, so that we can start gauging the level of interest and range of projects,

▶ without asking applicants to devote an inordinate amount of time to full-blown applications.

# Recap for Next Steps

- ▶ Decide upon Committee composition
- ▶ Decide upon selection process (appointments and/or nominations)
- ▶ Develop/approve a resolution
- ▶ Assign staff point of contact/team leader & county staff operations team
- ▶ Develop parameters for project ranking – scoring criteria or guiding principles
- ▶ Develop an interest for funding/pre-proposals form, in advance of full, formal application
- ▶ Continue to post information and links on County website