

CONTRACTING PREFERENCES FOR RESTORE ACT-FUNDED PROJECTS

RECOMMENDATIONS TO THE GULF COAST ECOSYSTEM RESTORATION COUNCIL

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INTERNATIONAL ECONOMIC DEVELOPMENT COUNCIL

COMMISSIONED BY OXFAM AMERICA







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PREFACE

The people who live and work along America's Gulf Coast have confronted enormous setbacks and challenges in the past decade or so. From Hurricane Katrina in 2005 to the unprecedented BP oil spill in 2010, the region has endured the damaging, ongoing effects of natural and man-made disasters. Sadly, every blow to the environment and the economy has hit the most vulnerable coastal communities the hardest. Oxfam America continues to work in the region, helping leaders in these communities to have a voice in their recovery and to build a more resilient future, economically and environmentally.

As this report goes to press, the Gulf Coast is preparing for an enormous opportunity to restore natural resources and strengthen community resiliency. As a result of settlements and agreements over fines and penalties related to the oil spill, states and Federal agencies have received hundreds of millions of dollars to invest, with billions more likely to come. Federal and state decision-makers will have the chance to work with businesses and communities to chart an innovative path that addresses two critical needs: restoring the environment and building new career pathways (particularly for the region's most vulnerable communities).

Oxfam America and its partners have been working across sectors to build a collaborative approach to restoration projects in Louisiana and Mississippi. Based on this experience, Oxfam America has been making recommendations as to how the Gulf Coast Ecosystem Restoration Council can develop contracting terms within forthcoming restoration projects both to create new economic opportunities for local workers, and to meet the needs of local businesses for a better skilled workforce. For this report, we enlisted the Business Division of Economic Development at the Louisiana State University E. J. Ourso College of Business, along with additional input from the International Economic Development Council, to help devise comprehensive and practical guidelines around contracting terms.

Oxfam America—along with our community-based partners Asian Americans for Change, Bayou Grace Community Services, BISCO, GO FISH, Limitless Vistas, Inc., Steps Coalition, and Zion Travelers Cooperative Center—has been listening to and learning from vulnerable communities in the aftermath of Hurricane Katrina. One common refrain in our conversations with people from all walks of life along the Gulf was the missed opportunity to leverage the investments made in recovery to create local jobs and career pathways—especially for those struggling to bounce back from the disaster. After the Deepwater Horizon oil rig exploded in 2010, this concern has echoed again and again in town halls and public meetings across the five Gulf States and in the U.S. Congress.

This report recommends concrete steps—guided by input from leaders and experts in business, workforce development, community nonprofits, and state government across the five Gulf Coast states—on how to begin to tackle these challenges in a way that works for each sector. The Gulf Coast Ecosystem Restoration Council has a chance to create new incentives to jumpstart a local restoration economy in a way that creates "win-win" scenarios: building local expertise in this growing industry for the future, potentially turning tragedy into growing opportunity in the most impacted communities.

We owe it to the people of the Gulf to make the most of this opportunity, and begin to heal both the environmental and economic wounds of this tragedy.

Author information and acknowledgments

This paper was researched and written by the Business Division of Economic Development at the Louisiana State University E. J. Ourso College of Business, along with additional input from the Liz Thorstensen and Louise Anderson at the International Economic Development Council.

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Stephen R. Barnes has a lot of degrees.

Citations of this paper

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EXECUTIVE SUMMARY

The health of the US Gulf Coast economy and that of the ecosystem on which it depends have been severely compromised since April 2010 when the Deepwater Horizon oil-drilling rig exploded and sank at a BP well in the Gulf of Mexico. To help ensure that fines and penalties associated with that event are used to restore damaged resources, Congress passed the Restore Act in 2012, which commits 80 percent of Clean Water Act fines to Gulf Coast restoration. The Restore Act also established the Gulf Coast Ecosystem Restoration Council. Composed of state governors and federal agencies, the Council is charged with creating a comprehensive ecosystem restoration plan—known as the Comprehensive Plan—and overseeing the use of a significant portion of those funds. This report—produced by the Division of Economic Development at Louisiana State University and Oxfam America, with additional support and expertise provided by the International Economic Development Council provides recommendations to the Council on how best to align workforce objectives with restoration work to encourage economic benefits to those communities most adversely affected by the BP spill.

Our recommendations derive from a review of relevant literature and from interviews with experts in the field. The literature review identified successes and failures of previous preference-based contracting efforts and also encompassed articles and reports pertaining to the coastal economy and ecosystem restoration. Phone and in-person interviews with policy experts, state contracting officials, workforce development officials, trade association representatives, and other stakeholders provided insight into the existing contracting and workforce systems as well as advice on the best opportunities for providing economic restoration through Restore Act projects and programs. Findings from these two research prongs are discussed in detail in this report and serve as the foundation for our recommendations to the Council, presented at the end of this report.

The Restore Act bestows a duty on the Council to develop common terms to be included in contracts funded through the Council allocation that will prioritize the use of local companies and individuals, including low-income, displaced, and disadvantaged workers. Because procurement for Restore Act projects and programs may be undertaken by any of the Council member agencies, including the US Department of Commerce, US Department of Interior, Environmental Protection Agency, Army Corps of Engineers, US Coast Guard, and US Department of Agriculture and environmental and natural resource agencies representing the states of Alabama, Florida, Louisiana, Mississippi and Texas, common terms have to be consistent with standard contracting practices across

all of the potential procurement entities. Given this limitation, we developed recommendations to achieve the stated goals of local economic development within ecosystem restoration by outlining a strategy for improving the ability of local companies to identify and hire better-prepared local workers. Our recommendations to the Council and member agencies and states:

- Contracts terms should prioritize the use of local companies and individuals by requiring contractors to create and submit a workforce outreach plan to the state workforce agency. This requirement will improve opportunities for local workers and will better position local companies to compete for restoration by increasing their connection to local labor and thus lowering costs. A related objective of this report is to identify specific mechanisms through which the Council can outline a strategy to ensure that ecosystem restoration work funded through the Restore Act also enhances community resilience and restores and revitalizes the Gulf economy.
- As part of an overarching strategy for economic recovery, the Council should incorporate policies that promote local economic development as part of implementing ecosystem restoration into the Comprehensive Plan by requiring that whenever possible in the selection process a preference be given to local companies and individuals.
- The Council should support the states' developing workforce development plans to support ecosystem restoration activities.
- The Gulf Coast states that have not yet passed local hiring legislation should consider doing so.

These recommendations provide the Council, its member agencies, and its state partners with mechanisms that directly encourage them to use local companies and organizations for Restore Act projects. The recommendations also provide incentives for the companies contracted to hire local residents and develop partnerships with local workforce agencies and programs, including those targeting disadvantaged communities. Along with supporting state workforce development and state legislation to hire locally, the Council and its members fulfill the Comprehensive Plan's commitment to "support ecosystem restoration that builds local workforce capacity" in meeting the Plan's goals of enhancing community resilience while restoring and revitalizing the Gulf economy.

INTRODUCTION

The US Gulf Coast benefits from an abundance of natural resources and serves as one of the nation's most important shipping gateways to international markets. The area's local communities rely heavily on the coastal ecosystem to support fisheries, to provide shoreline recreation, and to offer storm protection as well as other ecosystem services. These Gulf Coast ecosystems and their dependent communities were severely harmed by the BP oil spill in 2010. To ensure that fines and penalties associated with that event are used to restore damaged resources, the US Congress passed the Restore Act, which commits 80 percent of Clean Water Act fines to Gulf Coast restoration. The Restore Act also established the Gulf Coast Ecosystem Restoration Council, a body charged with overseeing the use of a significant portion of those funds. This report is intended to provide recommendations to the Council on how to leverage workforce opportunities within restoration work to encourage economic benefits for those communities most adversely impacted by the BP spill.

BACKGROUND

The health of the Gulf Coast economy and the ecosystem on which it depends have been severely compromised since April 2010 when the Deepwater Horizon oil-drilling rig exploded and sank at a BP well just 50 miles off the mouth of the Mississippi River. The exposed pipeline spewed millions of barrels of oil over the course of nearly three months. The resulting damage harmed not only the Gulf Coast's fragile ecosystem but also the millions of people who live along the Gulf of Mexico coast and who rely on the coastal economy for jobs. In response to this crisis, US federal and state officials took a series of steps to ameliorate local economic conditions and to restore the damaged coastal ecosystem.

As directed by the 1990 Oil Pollution Act, the Natural Resource Damage Assessment (NRDA) process began in the immediate aftermath of the spill to measure the extent of oil spill damage. An important part of this process is determining how to help restore damaged resources in an environmentally conscious manner. On the one-year anniversary of the spill, the NRDA trustees and BP announced an agreement in which BP would spend an initial \$1 billion to begin work to restore the Gulf Coast while damages were still being quantified.

To help address some of the immediate economic fallout from the event, a total of \$27 million in National Emergency Grant funds were allocated within months to four of the five Gulf Coast states. These grants—from the US Department of

Labor—provide employment-related assistance and retraining to displaced coastal workers.

In July 2011, the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act (the Restore Act) was proposed to dedicate resources to the Gulf Coast. Specifically, the Restore Act proposed that 80 percent of the fines associated with the BP spill that are collected under the Clean Water Act would be returned to the Gulf Coast states to fund environmental restoration and economic development. In June 2012, Congress passed the Restore Act and it was signed into law as part of the Surface Transportation Extension Act. As proposed, the act guaranteed that 80 percent of Clean Water Act fines would be directed into the Gulf Coast Restoration Trust Fund (the Gulf Fund).

The Restore Act also created the Gulf Coast Ecosystem Restoration Council, a federal body overseeing expenditures for as much as 60 percent of the Gulf Fund. The Council is chaired by the acting secretary of the US Department of Commerce with representatives from the Environment Protection Agency, the Army Corps of Engineers, the Department of Interior, the Coast Guard, the Department of Agriculture, and the governors of the states of Alabama, Florida, Louisiana, Mississippi, and Texas. It was tasked with developing a comprehensive ecosystem restoration plan—known as the Comprehensive Plan—to guide the allocation and expenditure of 30 percent of the total Gulf Fund. (This allocation is known as the "Council allocation.") Expenditures from these funds will be split between federal and state agencies that are members of the Council. The other portion of the Gulf Fund that will be overseen by the Council is referred to as the "oil spill impact allocation," and it represents another 30 percent of the total dollars. Funds from the oil spill impact allocation will be distributed to individual Gulf Coast states based on a weighted formula intended to assess the relative impact of the spill across states. This portion of funding will be disbursed directly to states, conditional on approval of a state plan that must take into consideration the Comprehensive Plan. Moreover, according to the law, the state plan must demonstrate that "projects, programs, and activities included in the plan contribute to the overall economic and ecological recovery of the Gulf Coast."1

To ensure that the benefits of the restoration funded through the Restore Act effectively reach the most adversely affected coastal communities, Oxfam worked with a bipartisan group of leaders in the US Congress to implement the recommendations to policymakers first presented by Secretary of the Navy Ray Mabus. To leverage the ecosystem restoration work to generate local economic benefits, the secretary recommended that this work "Maximiz[e] participation of the local labor force in contracting and job skills training and provid[e] opportunities for disadvantaged and underemployed members of the population"

and "build economic development strategies around community needs, and take particular efforts to address the needs of disadvantaged, underserved, and resource constrained communities." In line with Secretary Mabus's earlier recommendations, the US Senate report accompanying the legislation defined the local hiring preference to "includ[e] the development of procurement and grant policies that promote the use of local workforce development agencies and programs to assist with training and hiring of local workers, including workers from disadvantaged, underserved and resource constrained communities."

The Restore Act itself gave the Council the duty to "develop standard terms to include in contracts for projects and programs awarded pursuant to the Comprehensive Plan that provide a preference to individuals and companies that reside in, are headquartered in, or principally engaged in business in a Gulf Coast State." This language provides the Council with a mechanism to directly encourage contracts with local companies and organizations and thus begin to fulfill the Plan's commitment to "support ecosystem restoration that builds local workforce capacity."

METHODOLOGY

To help the Council develop standard terms for contracts awarded pursuant to the Comprehensive Plan, Oxfam America partnered with the Division of Economic Development at Louisiana State University (LSU) to research best practices in contracting that provide a preference for local workers and to produce the recommendations in this report. Additional support and expertise were provided by the International Economic Development Council. Our research consisted of two phases: a literature review of articles and reports that identified successes and failures of preference-based contracting efforts across the nation and that also included material pertaining to the coastal economy and ecosystem restoration, and interviews with experts in this field to gather insights on contracting and training that target local workers. Our interviews, on the phone and in-person, were conducted with policy experts, state contracting officials, workforce development officials, representatives of trade associations, and other stakeholders. LSU researchers asked interviewees about their previous experience with contracting and about the job opportunities they associated with ecosystem restoration projects. State and regional experts from each of the Gulf Coast states were also asked to provide advice on the feasibility of efforts to promote local hiring and training for ecosystem restoration projects.

This research serves as the foundation for our recommendations to the Gulf Coast Ecosystem Restoration Council discussed at the end of this report.

LITERATURE REVIEW

HEALTH OF THE GULF ECONOMY

With its diverse array of industrial production and commercial enterprises, the Gulf Coast region plays a significant role in the American economy. The five Gulf Coast States—Alabama, Florida, Louisiana, Mississippi, and Texas—contribute \$2.7 trillion to US gross domestic product and account for more than 22 million jobs each year. The Gulf region provides 33 percent of the nation's seafood harvest, \$34 billion annually in tourism revenue, and 90 percent of the nation's total offshore crude oil and natural gas production. Taken together, the Gulf Coast states produce 1.3 billion pounds of seafood annually—more than the entire US Atlantic seaboard. The tourism and recreation industries alone provide more than 600,000 jobs and nearly \$9 billion in wages annually. The region's energy production and shipping infrastructure boast more than 4,000 offshore oil platforms, 33,000 miles of pipeline, and 10 of the nation's 15 largest ports by cargo volume.

The economic strength of the region is tied closely to the Gulf ecosystem. Similarly, damage incurred by the Gulf Coast states as a result of coastal degradation negatively affects the nation's economy as a whole. Each year, the Gulf Coast suffers an average of \$14 billion in losses due to storm-related damage. The increased risk of rising sea levels, land subsidence, and hurricane damage could cost the Gulf Coast states a total of \$350 billion in losses by 2030. These losses not only manifest themselves directly in the form of taxpayer-funded federal relief but also indirectly in terms of opportunity costs. Investing in coastal restoration and resiliency projects could save billions of dollars spent each year on preventable damage. Healthy marshes, wetlands, reefs, and other coastal habitats can help reduce the vulnerability of coastal communities to erosion and flooding—and could protect the nation's vital infrastructure.

ECONOMIC BENEFITS OF GULF COAST RESTORATION

Coastal restoration projects will create new job opportunities and spur innovation in emerging industries as well as strengthen traditional industries. The LSU Division of Economic Development conducted an impact study on behalf of the

Louisiana Workforce Commission to consider the economic benefits of increased coastal restoration spending. That study found that future coastal restoration spending in Louisiana could create as many as 10,300 jobs in the state if spending were increased to an annual level of approximately \$750 million. The average annual earnings from the jobs directly engaged in coastal restoration work are estimated to be \$56,000, nearly 60 percent higher than current average earnings in Louisiana.⁹

Although further investments in coastal restoration would undoubtedly benefit the Gulf Coast economy, such investments would also have a wide-reaching impact on the rest of the American economy. According to a 2011 study conducted by Duke University, coastal restoration provides job opportunities for 32 states outside the Gulf Coast region. Moreover, two-thirds of the firms involved in coastal restoration qualify as small businesses, meaning the opportunities could be distributed to a variety of small firms. Because 30–50 percent of these firms' revenues are derived from international trade, coastal restoration also provides enormous opportunities for increased exportation of new technologies and innovations by American firms. 11

MAXIMIZING THE RETURN ON INVESTMENT

The influx of coastal restoration funds brought about by the Restore Act and the associated rise in the demand for skilled workers will require coordination and communication between training programs, workforce agencies, and contractors to help match workers with job openings. Fortunately, many of these occupations—particularly in the construction of key types of projects like marsh, oyster reef, and barrier island restoration—are already well established in the coastal economy. These jobs include laborers, deckhands, marine vessel captains, and heavy equipment operators. A significant number of these jobs are already in high demand, and many require training that can be completed in two years or less.

The infrastructure certainly exists at the national, state, and local level to help align labor supply and demand in the context of a significant uptick in ecosystem restoration work. However, as with other rapid changes in labor market conditions, careful planning is required so that local companies and workers have every opportunity to avail themselves of these new opportunities. State and local education and training programs have already been established in the Gulf region to support some of the occupations involved in restoration work in the Gulf. But the rapid increase in the level of restoration work will require additional educational and training capacity to prepare a qualified workforce large enough to meet demand. Within the US Department of Labor, the Employment and

Training Administration funds job training programs and employment services. Many of these programs and services are provided through state and local workforce development systems, which have created a support network at the state and local level for businesses and workers to access workforce development resources that can be tailored to local demands. This network includes the Texas Workforce Commission, the Louisiana Workforce Commission, the Mississippi Department of Employment Security, the Alabama Department of Economic and Community Affairs, and the Florida Department of Economic Opportunity as well as each state's local workforce investment boards, which are geared to addressing local needs. Many of these states report successful collaborations between area community colleges, private training institutions, construction and design firms, industry and community groups, and state and local agencies in meeting training needs.

Nevertheless, obstacles that might prevent an efficient equilibrium of labor supply and demand from being realized are numerous. Poor communication between community organizations, workforce agencies, training providers, and contractors might prevent workers from accessing information about job and training opportunities or prevent firms from being able to hire from a ready stream of local workers. Fortunately, as the following section shows, these potential obstacles can be overcome with appropriate planning and community outreach efforts.

EXISTING PREFERENCE REGIMES

Preference-based contracting has been widely utilized by federal, state, and local authorities as a means of ensuring that the job opportunities associated with government contracting are available to targeted individuals and businesses. In the Restore Act, the Council has a charge to develop common terms for a preference for local workers and businesses. Similar preferences have been seen in federal contracting associated with the US Department of Agriculture (USDA) Forest Service's Stewardship Contracting program, several Small Business Administration programs, and the American Recovery and Reinvestment Act (ARRA) of 2009, among others.

The Forest Service's Stewardship Contracting program also places an emphasis on "meeting local and rural community needs" by "providing a continuing source of local income and employment." Under this program, federal contracts are bundled into a single integrated resource contract (IRC) and are rewarded on a "best-value" basis. This approach allows the program to formally incorporate local economic and environmental needs whereby one contractor is responsible for completing all the work itself or through the use of subcontractors. This system grants contracting authorities the flexibility to specify a range of best-

value criteria for selecting contractors according to local socioeconomic and ecological priorities on a case-by-case basis.¹³

The University of Oregon's Ecosystem Workforce Program, led by Cassandra Moseley, has researched how the use of socioeconomic performance measures might better assess community benefits provided by public programs. In the context of the US Forest Service, these measures help share the story of social and economic benefits of watershed management. Such performance measures rely on four major categories of socioeconomic restoration: adaptive capacity, economic impact, social equity, and provision of ecosystem services. Adaptive capacity refers to the Forest Service's dependence on collaborative groups such as community benefit organizations and local businesses whenever it invests in activities that improve local human and natural capital. Economic impact refers to the Forest Service's focus on job creation and retention as well as on establishing high-quality jobs to boost economic growth and resiliency, especially for projects located in poverty-stricken communities. Social equity refers to ensuring an equitable distribution of benefits from watershed restoration to nearby communities through the use of a social vulnerability index. This index highlights socially vulnerable communities composed of traditionally underserved minority or tribal populations. Finally, provision of ecosystem services refers to the attempt to measure the hidden "nonmarket" social impact of restoration efforts rather than relying exclusively on more overt financial indicators. 14 These socioeconomic performance measures not only quide the US Forest Service's selection process, but also provide a valuable lesson for other ecosystem restoration agencies, such as the Council. By capturing data to track the effect of a targeted policy, the success of projects and programs in accomplishing the dual goals of coastal restoration and economic resilience can be seen more clearly.

Another example is the three programs administered by the Small Business Administration. These programs are designed to offer assistance to businesses owned by disadvantaged or underserved individuals and communities. The 8(a) Business Development Program offers a broad scope of assistance to help small businesses that are owned primarily by minority or disadvantaged groups or individuals to compete for government contracts. The Historically Underutilized Business Zones (HUBZone) program helps small businesses located in urban and rural communities gain preferential access to federal procurement opportunities. Finally, the Service-Disabled Veteran-Owned Small Business program establishes an annual government-wide goal that states no less than 3 percent of all contracting opportunities should be awarded to small businesses owned and controlled by service-disabled veterans.¹⁵

A memorandum issued by the Office of Management and Budget (OMB) prior to ARRA's implementation explicitly called for targeting federal assistance

consistent with policy goals. One example of this is "supporting projects that comply with equal opportunity laws and principles, support small businesses including disadvantaged business enterprises, engage in sound labor practices, promote local hiring, and engage with community-based organizations." 16 It also strongly encouraged federal agencies to "promote maximum practical opportunities for small businesses to compete and participate as prime and subcontractors" through the use of small business set-asides. 17 Because a large portion of ARRA spending was infrastructure-related, the US Department of Transportation (DOT) was responsible for the administration of many ARRAfunded projects. It utilized its Disadvantaged Business Enterprises (DBE) program, which establishes a 10 percent contracting goal for minority- and women-owned businesses as well as for businesses owned by any other socially and economically disadvantaged group. Firms generally receive DBE certification by applying through their respective state's Uniform Certification Program (UCP). 18 The UCP then serves as a database for DBEs that other contractors and agencies may reference.

Many states also include preference-based language as part of their contracting processes, though it is important to note that these contracting processes vary from state to state. The most common preferences in contracting are preferences for local contractors and workers, which can be found in some form in virtually every state. States may also provide preferences for small and veteran-owned businesses. Louisiana, for example, has statutorily established the Hudson and Veterans initiatives to help target both local small businesses and veteran-owned businesses for contracting opportunities, often in the form of making these initiatives 10 percent of the state's request for proposal (RFP) evaluation formula. These sorts of preferences are especially prominent because they comply with equal protection and antidiscrimination laws that often prevent states from establishing explicit hiring goals based on ethnic or gender criteria.

Some Gulf Coast states have also passed legislation in advance of receiving ecosystem restoration funding through the Restore Act. This state legislation is designed to help local firms and workers become aware of and apply for contracting and job opportunities in ecosystem restoration. The Louisiana First Hiring Act of 2012 encourages employers to seek Louisiana workers for coastal restoration and protection projects that fall under the state's \$50 billion Louisiana Coastal Master Plan for flood protection and ecosystem restoration as well as state projects that will be funded under the Restore Act. Under the law, coastal restoration or protection contractors are required to outline employment plans to the Louisiana Workforce Commission (LWC) within 10 days of when a contract has been awarded. The plan may include information on the types of jobs involved in a project, the skill level required, wage information, and—most importantly—how the contractor will recruit unemployed or low-wage applicants.

The LWC can then use this information to offer better services to employers and job seekers as well as to better coordinate efforts to train workers for these jobs. ¹⁹

Similarly, the Mississippi Jobs First Act requires contractors receiving funding resulting from any federally declared disaster or spill of national significance to outline an employment outreach plan in bid submissions. The Mississippi Jobs First Act covers work supported by funds directed to the state by the Restore Act as well as all other damages, penalties, fines, or supplemental projects. The plan must include the types of jobs involved in a project, the skill level required, wage information, and how the contractor will recruit unemployed or low-wage applicants. The state can then use this information to identify qualified workers or to begin training workers for available jobs through workforce training programs.²⁰ The Mississippi Jobs First Act also provides for the collection of valuable data on hiring, job trends, and training to help supply businesses with qualified local workers.

Even more broad-based statutes can offer assurances that local workers and businesses will benefit from Restore Act–funded projects. Florida, for instance, requires contractors and vendors to register job openings with the Employ Florida Marketplace (EFM) matching system through the 24 regional workforce boards across the state. The EFM system works particularly well in helping accommodate construction employers in their efforts to comply with state contracts, which require construction contractors to give a preference to state residents. Title XVIII, Chapter 255, of Florida state law explicitly mandates these contractors to post job ads in the state's job bank system to meet this requirement.

Local governments, nonprofit groups, and community benefit organizations across the country have also taken steps to promote local hiring and training. For instance, in anticipation of increased water management–related projects, San Francisco Public Utilities adopted a "triple bottom line" evaluation metric as a part of its Community Benefits Program to balance economic, environmental, and social equity goals. The program places an emphasis on workforce development and on forming collaborative partnerships by working with City Build, San Francisco's local job training program, to foster coordination between workforce programs and to implement strategic recruiting, training, and placement initiatives. By effectively engaging community groups and stakeholders and developing performance measures to evaluate community benefits, the San Francisco Public Utilities Commission was able to increase contracting with local companies, hire local workers, and provide efficient, renewable energy at reduced costs.²¹

The Partnership for Working Families (PWF), a national network of regional advocacy organizations, has also documented how three local government units in Los Angeles—the city of Los Angeles, the Los Angeles Unified School District, and the Los Angeles Community College District—worked to promote community benefits. These government units established new construction career pathways using community workforce agreements (CWAs). These CWAs were negotiated, legally binding agreements signed by local government units, trade unions, and general contractors that ensured that some of the higher-paying job opportunities from publicly funded construction projects were channeled back into poor, underserved local communities. These objectives were met through the use of project labor agreements, which required contractors to hire a certain percentage of local residents from high unemployment areas. The pre-apprenticeship and pre-vocational jobs training programs were designed to help local disadvantaged and "at-risk" workers find employment opportunities and build long-standing careers. Explicit hiring targets were set for each group, and contractors were required to provide documentation and certified payroll records so that the results could be monitored and reviewed. Although not all the hiring targets were reached, the report shows that the CWAs that combined targeted hiring goals with project labor agreements created career opportunities for a significant number of low-income local residents in higher-paying jobs.²²

Another PWF report also outlines the success of community benefit efforts in a series of nine case studies that took place across the state of California. The community benefits movement strove to build "relationships between unlikely allies in labor, community, environmental, and faith-based groups" to foster economic development agendas that prioritized creating new career pathways in high-quality jobs for low-income local workers.²³ The movement placed an added emphasis on establishing concrete local hiring requirements, job quality standards, and responsive communication networks to improve community outreach and advertise workforce development opportunities. To help reduce the informational costs borne by contractors in the hiring process, PWF also introduced the First Source Referral System as a sort of local job clearinghouse that matched employers with willing and ready job applicants. The effectiveness of this system depended heavily on fluid coordination between community-based organizations such as trade unions and faith-based groups, the workforce development system, and existing job trainers. Ultimately, the combination of local hiring requirements and the First Source Referral System proved to be an effective way to help disadvantaged workers find gainful employment.

EXPERT INTERVIEWS

The LSU Division of Economic Development conducted a series of interviews with a wide range of subject experts to determine how existing examples of contracting preferences might translate to Gulf Coast states through the Restore Act. In total, 19 interviews were conducted during April and May 2013. Interviewees included coastal and ecosystem restoration experts, community benefit organization researchers, state contracting and workforce officials, trade association representatives, and other local stakeholders. By selecting a diverse array of experts from across the nation—particularly from state workforce agencies and industries across the Gulf Coast states—the researchers were able to gain extensive insights on preference-based contracting and were able to identify recommendations that fit best within the context of Restore Act-funded projects.

Throughout the interviews, experts consistently echoed one theme: the need for the regional labor supply to be adequately prepared to meet the increased demand for labor arising from Restore Act-funded projects. As a consequence, the interviews focused the interviews focused on two areas to ensure this objective was being met. The first was the way in which preference-based contracting by either the Gulf Coast Ecosystem Restoration Council or the individual Gulf Coast states may or may not help ensure local workers have every opportunity to access coastal restoration job opportunities. The second area discussed was which steps need to be taken by workforce development officials to ensure both employers and workers are informed about these contracting opportunities and have adequate access to job training and career-development programs.

HIRING PREFERENCES IN CONTRACTING

In talking to state contracting officials and workforce representatives in each of the Gulf Coast states, one of the first realities we encountered was that virtually all of the Gulf Coast states have legal obstacles and statutory requirements that make it very difficult to establish explicit quotas that could be uniform across the five states. These legalities block any potential preferences based on race, gender, or any other discriminatory measure that might violate existing equal protection and antidiscrimination laws. Even preferences with explicit quotas based on nondiscriminatory measures such as income level or local residency are often quite difficult to establish owing to the intricate, far-reaching, and multifaceted nature of state contracting laws. The Gulf Coast states might

therefore be somewhat restricted in their ability to employ contracting that includes practices that could be construed as discriminatory, such as explicit hiring quotas of subgroups defined by something other than geography. Nevertheless, state-level restrictions on what types of preferences may be established and to what degree they might influence state contracting do not eliminate entirely the scope for some degree of nondiscriminatory preference-based contracting, such as preferences for local hiring. Given this situation and the fact that state agencies will be involved in procurement for Council-selected restoration projects (under Section 2 of the Restore Act) and will be the key source of procurement under the oil spill impact allocation (outlined in Section 3 of the law), the Council should refrain from establishing any contracting preferences for projects and programs that are at odds with existing state statutes.²⁴

Another key finding had to do with the bifurcated nature of state contracting depending on the type of work involved. States tend to employ entirely different contracting requirements for "best-value" contracting and for "low-bid" contracting. Best-value contracting, which tends to be used more frequently in the provision of engineering and design work within the context of ecosystem restoration, evaluates responses on a range of quantitative and qualitative factors as part of a request for proposals (RFP). Low-bid contracting, in which all qualified bidders agree to a similar deliverable and thus cost is the only consideration in evaluating eligible contractors, tends to be utilized in construction. The distinction between these two types of contracting is especially pertinent to the topic of establishing preferences for specified groups or individuals. Whereas RFP contracting may typically allow for some qualitative factors to be included in the evaluation criteria—such as preferences for local small businesses and veteran-owned businesses—construction contracting is almost exclusively determined by quantitative factors such as lowest cost, as required by state law. Thus, the options for establishing any sort of explicit preference regime in selecting contract winners are far more limited for construction-related contracts than for RFP contracts. An important caveat is that additional requirements may be added either as line items to be fulfilled within the actual contract, or after selecting the lowest-bid contractor or vendor. This approach is seen in Florida's EFM program, as noted, which requires contractors and vendors to register job openings in the EFM through the 24 regional workforce boards across the state.

Many of the experts we spoke with defended these restrictions on the scope of preference-based contracting on practical grounds. Explicit quotas, they argued, often produce unintended consequences such as reducing competition locally, which may lead to higher costs for states. Preferences that are overly restrictive can also discourage local firms from pursuing work in other states if local

opportunities are relatively easy to come by. Preferences that are defined too rigidly have a tendency to drive away smaller contractors, who may lack the means to cost-effectively attract certain workers. Preferences also raise hiring compliance costs and training costs by increasing the rate of worker turnover and reducing the relative proportion of experienced workers that firms may hire. Moreover, the heterogeneous nature of the projects that are funded by state contracts makes it especially difficult to establish a uniform system of hiring requirements. Some labor-intensive projects require a sizable number of highly skilled workers who cannot be trained quickly enough from a narrowly defined preference standard. Other capital-intensive projects might require only a small number of highly skilled workers with specialized skills; local workforce development may not be a feasible option for satisfying demand. This type of work is especially common in the dredging and heavy lifting work associated with many coastal restoration projects.

Holding all else equal, the experts we interviewed suggested that contractors are usually more than happy to hire locally because local workers, when available, usually make for the most cost-efficient option. Our interviewees argued that the real key to promoting local hiring is to focus first and foremost on ensuring an adequate supply of willing and ready workers. This feedback wasn't limited to industry and trade representatives: state government representatives and contracting officials also argued that poorly construed preferences are a blunt tool for achieving any desired policy end. Attempting to reach some predetermined hiring goal through the use of legally binding quotas, they contended, puts the cart in front of the horse.

One of the ways the Council could meet hiring goals within the confines of state law, some experts suggested, is by demanding that the state or federal organization administering a project require contractors to submit a workforce outreach plan as a part of their bid proposal to the Council. Such a plan would require contractors to explain how they hope to incorporate local workforce agencies and community-based organizations in order to guarantee that local workers have every opportunity to apply for these jobs. By requiring contractors to conduct some degree of local workforce outreach to as broad a group of potential workers and training providers as possible, including to disadvantaged and displaced workers, firms will be naturally led to reach out to community organizations and workforce development agencies in order to secure the project. This requirement sets in motion the processes that will foster increased community engagement without imposing rigid hiring quotas. It also has potential to establish long-lasting ties between employers and local training and community organizations. As one expert noted, the only thing that many firms require to hire locally is a "gentle push in the right direction."

It is worth noting that these preferences could just as easily be applied to state contracting as to projects approved and funded by the Council. States may have more leeway to establish preferences based on qualitative, nondiscriminatory measures—especially in RFP contracting. Requiring workforce outreach plans as part of the bidding process would help meet local economic and community development goals while minimizing any conflicts with existing state contracting laws and guidelines. It would also grant individual states more autonomy to craft appropriate evaluations of qualitative preferences that fit their specific circumstances and the type of projects they anticipate. As mentioned earlier, rigid quotas often become difficult to impose universally because of the varying nature of coastal restoration projects. Although experts note that states can and should continue to provide recommendations in state contracting to meet certain (nonbinding) hiring targets for minority and disadvantaged groups, these targets do not necessarily have to be binding to achieve the end goals.

The Louisiana First Hiring Act and the Mississippi Jobs First Act provide useful templates for what this type of preference might look like at the state level. Rather than setting explicit quantitative hiring targets, the laws require contractors to inform state workforce agencies about the types of workers they need so that workforce agents can help bring qualified workers together with employers. Interviewed experts suggested this sort of "win-win" arrangement is far more likely to encourage the hiring of local workers by contractors without hindering the completion of restoration projects. It can also serve as the foundation for a constructive, symbiotic relationship between employers, regional workforce agencies, and training providers.

A third important recommendation our contacts provided had to do with how to better incorporate local small businesses. They suggested that contracting agencies should consider the size and structure of their contracts and how these variables might affect local small businesses' ability to compete. Smaller contracts tend to put smaller firms on a level playing field with large firms, whereas larger contracts or contracts that "bundle together" a series of smaller projects tend to make small businesses less competitive. To the extent that contracting officials would like to incorporate small businesses and have the ability to break up contracts into smaller, more competitive pieces, they should consider doing so. This approach has the benefit of opening up projects to smaller bidders without the need for any sort of explicit quota to be established for local small businesses. While likely creating a greater administrative burden for the contracting entity, it may also lead to cost savings: more firms competing for projects could potentially more than offset the increased administrative cost.

One last insight interviewed experts shared on the topic of preferences in contracting was that states should not give undue focus to funding labor-intensive projects over capital-intensive restoration projects. The reasons for this

are twofold. First, capital-intensive projects, though they employ a smaller number of workers on the job site, tend to provide higher-quality jobs that can more easily be translated into permanent careers. In addition, higher-skill jobs tend to be more attractive to young workers than the low-skill, menial labor typically associated with more labor-intensive projects. Capital-intensive projects can also provide a larger regional economic impact if capital is sourced locally and if higher-paying and longer-lasting jobs are filled locally. Second, several experts emphasized that policymakers should remain focused on the primary objective of the Restore Act—coastal ecosystem restoration—and a natural consequence of these projects will be local economic and community development. To the extent that both policy aims can be achieved, experts believed policymakers can and should try to meet them with efforts that are carefully aligned.

WORKFORCE DEVELOPMENT AND TRAINING

As noted earlier, the primary concern among most of the experts we contacted was how to ensure the supply of local workers meets industry demand for qualified workers. Interviewees suggested that the Council and state organizations could help overcome these workforce-related obstacles by promoting better coordination and information sharing between state and local workforce and training organizations across the region and by providing resources as possible. The current workforce system includes a combination of industry efforts, state workforce agencies, local workforce boards, education and training providers, and nonprofit community organizations. Experts noted that sometimes these groups do not align their efforts well and that opportunities exist for improving efficiency.

One way for the Council to unite these disparate organizations, the experts suggested, is by partnering with the US Department of Labor and state workforce agencies to promote skills training and to develop career pathways related to coastal restoration projects. The Council could incorporate a workforce development initiative into the Comprehensive Plan to encourage states to invest in ecosystem restoration training programs that provide long-term career pathways for local workers. Already, these training programs have begun to emerge in anticipation of increased demand for coastal restoration workers. The Gulf of Mexico Foundation's Habitat Restoration Technology Training Center, located in Galveston, Texas, has been funded by a consortium of federal, state, industry, and philanthropic interests and serves as a model for how a crosscutting collaboration on training initiatives might look in practice. The program will offer training for a wide range of skill levels in disaster relief and

coastal restoration and preservation. Another prominent example is the federal government's American Great Outdoors Initiative, which brings together at-risk youth workers and returning veterans to create the 21st Century Conservation Service Corps (21CSC). The initiative's goal is to maintain—across the Gulf Coast states—a trained workforce that can respond quickly to disasters.

A further step that could be taken to help unite workers looking for jobs with employers looking to hire is for states to develop a first source referral system like the one discussed earlier as a part of the community benefits movement within California's public works. This system operates as a local worker clearinghouse, providing qualified job applicants to employers once they've undergone training. Such a system would dramatically reduce the informational costs and risks associated with hiring from a less experienced pool of workers for employers and help build successful relationships between training providers, workforce agencies, and employers. By providing trained and vetted workers, the program would also gradually erase the stigma industry typically attaches to workers provided by state and local workforce agencies.

A critical component of this workforce training is developing effective community and worker outreach and engagement to bring local workers into the effort. State workforce agencies could partner with community-based organizations to spread the word to local communities about these long-term career opportunities. Because many workers might not be able to afford leaving their current jobs for months at a time to receive training for coastal restoration jobs, some experts suggested that states could potentially dedicate a portion of training dollars to provide workers with a stipend while they undergo more extensive workforce training to prepare them for a more sustainable career. This suggestion is particularly important in terms of reaching disadvantaged and displaced workers. who most need access to such training and job opportunities to ensure greater resilience and financial security. By encouraging collaboration among workforce agencies, community organizations, training organizations, and the restoration industry to make sure industry workforce needs are met, such programs could help better achieve the dual goals of ecosystem restoration and economic recovery.

One final topic stressed by the interviewed experts was the need to effectively monitor the results of these programs to share the successes and benefits with the community and policymakers. Accountability is a key component in building trust and legitimacy. By promoting transparency and requiring employers to provide reports on outreach activities undertaken and workers hired through local training organizations, public officials will have a better sense of how well these efforts are working and what steps can be taken to improve them.

REACHING POCKETS OF NEED

A topic that was raised in several interviews dealt with weaknesses in the connection of certain groups along the coast to the broader region and workforce system. Several contacts expressed concern over the distinct lack of representation of local and disadvantaged groups in steering and participating in the recovery process. In some areas, such as southwestern Alabama, the workers most adversely affected by the BP spill came from tightly knit, lowincome Asian communities along the coast. These workers relied exclusively on jobs in fishing and oyster shucking that were devastated after the spill. Many of these communities still haven't recovered, despite efforts of local government and nonprofit groups to connect these workers to new job opportunities. These problems are especially pronounced among ethnic minority groups who do not speak English, other low-income populations who are disconnected from training infrastructure, and those who lack an effective means of transportation to training centers or distant job sites. Because workforce agencies are often tasked with broad outreach efforts but mobilized with limited budgets, these communities are often not reached.

Although these communities do not represent the only potential workers, interviewees emphasized a need to consider these pockets of acute need across the entire Gulf Coast and the issues they face in accessing these new jobs. Additionally, helping these most vulnerable workers access better-paying jobs can help make communities more resilient and better able to cope with future hazards. The policy experts we spoke to conceded that these problems are among the most difficult to solve. Nevertheless, they felt that it is important for political representatives, workforce agencies, trade organizations, and local contractors to take note of the problem and make efforts to ameliorate it by providing further assistance to the local organizations and nonprofits that are engaged with these groups.

RECOMMENDATIONS

The Restore Act bestows a duty on the Council to develop common terms to be included in contracts funded through the Council allocation that will prioritize the use of local companies and individuals. Because contracting for those projects and programs may be done by any of the Council members, these common terms must be consistent with standard contracting practices across all the potential contracting entities. Given this limitation, several recommendations were developed in an effort to achieve the stated goals of local economic development, community resiliency, and building the capacity of the local workforce. These recommendations outline a strategy both for improving the ability of local companies to identify and hire better-prepared local workers and for providing access to those most vulnerable workers.

The following recommendations to the Gulf Coast Ecosystem Restoration Council contain specific actions and implementation mechanisms informed by the input of numerous subject experts from a variety of backgrounds. These recommendations are intended to provide the most feasible means of promoting the use of local companies and individuals by combining the best elements of preference-based contracting with other implementation measures designed to improve coordination between workforce and industry. Moreover, these recommendations are designed to be inclusive of all segments of local communities in order to align the implementation of Restore Act–funded restoration work with the Council's goals of enhancing community resilience and restoring and revitalizing the Gulf economy.

1. CONTRACTOR WORKFORCE OUTREACH PLANS

As part of the Council's standard terms in contracting for projects associated with its allocation of the Gulf Fund, the Council should include a requirement that firms develop workforce outreach plans. The plans should outline precisely the steps contractors will take to recruit and hire local workers, including any coordination efforts with state and local workforce entities, training providers, and community-based organizations. The plans should be divided into two sections: a general workforce outreach strategy and a project-specific workforce plan, which provides estimates of workforce needs.

The general workforce outreach strategy should include a description of current hiring practices that target local workers, including the advertising of jobs and recruitment of workers. In describing these practices, contractors should identify

any existing barriers to hiring local workers as well as specific actions that will be taken to overcome those barriers. One component of the general workforce outreach strategy should be a commitment to post all job openings resulting from Gulf Fund projects on the state's official job board to improve access to these opportunities. The plans should also contain any other steps for recruiting and hiring local workers that will improve connections between the contractor and qualified local workers. Examples of these steps include additional efforts to notify interested persons of job opportunities by participating in career fairs or partnering with professional associations, civic associations, or educational institutions. Employers may also consider community-involvement activities to raise the company's profile among local residents. The general workforce outreach plans should also describe how a contractor will develop new relationships or maintain existing relationships with local education and training providers. Contractor relationships with education and training providers can range from soliciting applications from the recent graduates of an institution to a formal partnership to jointly develop training that is tailored to the contractor's needs. Optimally, the approaches outlined in these plans, once compiled and developed in a way that satisfies the requirements of a specific contracting entity. could be utilized in subsequent bids for similar types of work, thus minimizing paperwork requirements.

The project-specific workforce plan should provide a synopsis of the contractor's expected hiring needs to complete the work requirements of the individual project. These requirements include estimates of the number and types of jobs that may require additional hiring. Estimates of the timing of any hiring as well as the wage or salary range for each type of job should be included where possible. This information will ensure that state workforce agencies are able to respond to workforce needs appropriately.

For all types of contracts associated with Gulf Fund dollars, the general workforce outreach strategy should be submitted prior to the Council member agency which is sponsoring the particular project selects a contractor. When proposals are submitted and ranked, as in an RFP process, the general workforce outreach strategy document should be included as part of the contractor's proposal so that it can be incorporated into the evaluation of proposals. In the case of a low-cost bid selection process, the workforce outreach strategy can be required as part of the process for becoming eligible to bid on the project. However, because of differences in the contracting process, the project-specific workforce plan will be submitted at different times, depending on the type of selection process being used. In an RFP setting, this portion of the plan can be submitted as part of the original proposal. For low-bid contracts, however, this document would be submitted along with the project-specific bid. In the case of projects that may be executed through grants from Council member

agencies instead of contracts, similar terms covering workforce outreach plans should be included as criteria for evaluation within the grant RFPs. In these cases, the grantee(s) should have their own workforce plan or agree to require and evaluate plans of any subcontractors of the grant.

This recommendation offers a general framework that prioritizes the use of local workers while maintaining flexibility for contractors to tailor plans to their unique circumstances. To the extent that individual Gulf Coast states are involved in the contracting process, they can further develop the scope of their workforce development plans in a way that fits the specific types of projects expected to be funded locally. Once the benefits of this coordination manifest themselves, the foundation will be set for meaningful, long-term relationships between local employers and workforce and training agencies.

2. PROPOSAL SELECTION CRITERIA

Across the wide array of projects that may ultimately be funded through Gulf Fund dollars, it is not known what type of processes will be used to select contractors. However, where possible, an RFP-style process that includes a quantitative ranking system should be used to directly encourage the use of local companies and individuals in this work. For contracts awarded through this type of process, we recommend that a ranking system be used that assigns a score based on the quality of the workforce plans of companies that promote the use of local workers. By directly linking the selection of contractors to the goal of employing local individuals, the inclusion of a local preference in selecting which companies will complete Restore Act-funded work will create a clear incentive to increase the involvement of local companies and the hiring of local workers. Scoring workforce plans is perhaps the most direct mechanism for encouraging the use of local companies and individuals; the strength of the incentive is directly proportional to the portion of the ranking system dedicated to the hire of local workers. Some interviewees suggested that a value as high as 20 percent for the local preference would provide the necessary incentive for businesses to respond in a significant way.

3. STATE WORKFORCE DEVELOPMENT PLANS

Ensuring that the supply of qualified local workers is adequate to meet industry demand is just as important as promoting local hiring. To accomplish this goal, the Council should encourage states to develop streamlined workforce development plans to address ecosystem restoration demands. Such state plans

should identify sources of labor that can help fill the needs of a growing ecosystem restoration industry. In this effort, states should identify underemployed or unemployed workers who can help fill the needs of a growing ecosystem restoration industry. Hiring these workers will also help maximize job creation and the wage improvement benefits of this work. In addition, the state workforce development plan should identify the existing capacity for education and training as well as gauge the ability of existing education and training programs to provide an adequate qualified workforce to meet future demands. Where shortages exist, states should develop an inclusive strategy—working with employers, education and training providers, and local communities—for recruiting and training additional workers to high-demand occupations. In addition, states should identify available sources of funding to support those training programs.

These state workforce development plans should also consider contractor proposals that have been submitted to the state workforce agencies. Plans should be responsive to the needs of companies actively engaged in ecosystem restoration and provide an effective communication strategy to ensure that companies are aware of the opportunities to employ qualified candidates identified by the state workforce agency. As many industry and state representatives alluded to in interviews, employers are by no means averse to hiring local workers, provided such workers are available. If employers can identify an adequate supply of local workers, they are unlikely to look elsewhere. An additional step workforce agencies might wish to take is to increase efforts to reach out to young workers who have little knowledge concerning coastal restoration employment opportunities. If successful in attracting young workers to these occupations, near-term solutions will provide long-term benefits with a skilled workforce that can remain engaged in restoration work for years to come.

4. LOCAL HIRING LEGISLATION

Looking beyond the Council to state-level policy, we also recommend that the remaining Gulf Coast states without local preference statutes—Alabama and Texas—pass acts similar to the Louisiana First and Mississippi Jobs First acts. Such legislation enables state workforce agencies to better coordinate labor needs with contractors and plants the seeds for fruitful, long-term relationships between industry and labor. Although this recommendation relates to policy changes beyond the scope of the Restore Act or the Council, our review of best practices in contracting demonstrates that such a law can help a state implement the other recommendations of this report.

CONCLUSION

A central goal of this study is to identify best practices and offer recommendations that can help the Council fulfill its duty to "develop standard terms to include in contracts for projects and programs awarded pursuant to the Comprehensive Plan that provide a preference to individuals and companies that reside in, are headquartered in, or are principally engaged in business in a Gulf Coast State."25 To that end, the recommendation to have contractors develop workforce outreach plans can be implemented by requiring all contracts associated with the Council allocation to include language stipulating that contractors create and submit a workforce outreach plan. A related objective of this report is to identify specific mechanisms through which the Comprehensive Plan can outline a strategy of ensuring that ecosystem restoration work funded through the Restore Act also helps to enhance community resilience and helps to restore and revitalize the Gulf economy. By incorporating these recommendations into the Comprehensive Plan, the Council will provide an overarching strategy that ensures the restoration funded through the Council allocation and the oil spill impact allocation will contribute to the economic recovery of the Gulf Coast because both allocations require projects to be consistent with the Comprehensive Plan.

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CONTRACTING PREFERENCES FOR RESTORE ACT-FUNDED PROJECTS

RECOMMENDATIONS TO THE GULF COAST ECOSYSTEM RESTORATION COUNCIL

The influx of coastal restoration funds and the associated rise in demand for skilled workers brought about by the Restore Act will require coordination and communication between training programs, workforce agencies and contractors to help match workers with job openings. Fortunately, many of these occupations are already well established in the coastal economy; a significant number of these jobs are already in high demand and many require training that can be completed in two years or less.

In the effort to help the Gulf Coast Ecosystem Restoration Council determine the best ways to reach out to local, disadvantaged groups, Oxfam America partnered with the Louisiana State University Division of Economic Development to determine best practices in contracting preferences for projects funded through the Restore Act.

This document summarizes findings and recommendations.

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