

## 7. Governance

## What Is in This Chapter?

- **Introduction (Section 7.1):** What are the Trustees' responsibilities on behalf of the public in developing and implementing restoration?
- **Management Structure (Section 7.2):** How are the Trustees organized and what are the overall roles and responsibilities of the Trustee Council, Trustee Implementation Groups, and Individual Trustee Agencies?
- **Restoration Planning (Section 7.3):** What are the specific roles and responsibilities of the Trustee Implementation Groups, the Individual Trustee Agencies, and the Trustee Council with respect to overall restoration planning and consistency with this PDARP?
- **Restoration Implementation (Section 7.4):** What are the specific roles and responsibilities of the Trustee Implementation Groups, the Individual Trustee Agencies, and the Trustee Council with respect to leading restoration projects, ensuring projects are implemented consistent with final restoration plans, and tracking restoration progress?
- **Monitoring and Adaptive Management (Section 7.5):** What are the specific roles and responsibilities of the Trustee Implementation Groups, the Individual Trustee Agencies, and the Trustee Council with respect to monitoring restoration and ensuring that new information or changing conditions are considered?
- **Financial Management (Section 7.6):** What are the specific roles and responsibilities of the Trustee Implementation Groups, the Individual Trustee Agencies, and the Trustee Council with respect to managing and accounting for the use of natural resource damage monies for restoration activities?
- **Public Engagement and Restoration Tracking (Section 7.7):** How will the Trustees engage and inform the public to maintain an open and documented process for implementing restoration under this PDARP/PEIS?
- **References (Section 7.8)**

## 7.1 Introduction

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As specified in the Oil Pollution Act of 1990 (OPA),<sup>1</sup> natural resource trustees are designated to act on behalf of the public to:

- Assess and recover damages for the injury to, destruction of, and loss and lost use of natural resources caused by an oil spill and the services those resources provide.
- Develop and implement plans for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the damaged natural resources under their trusteeship.
- Develop and implement these restoration plans after adequate public notice, opportunity for a hearing, and consideration of all public comment.
- Use recovered sums only to reimburse or pay the costs of assessing natural resource injuries and of developing and implementing these restoration plans.

Trustees fulfill these responsibilities by developing restoration plans, providing the public with meaningful opportunity to review and comment on proposed plans (including the information that supports that purpose), implementing and monitoring restoration projects, managing natural resource damage funds, documenting trustee decisions through a public Administrative Record (including those that involve the use of recovered damages), and providing for public involvement and transparency in keeping with the public responsibilities with which they have each been entrusted under OPA.

In keeping with these responsibilities, and in the context of the comprehensive, integrated ecosystem restoration plan identified as the preferred alternative, this chapter describes the Trustees' governance structure to implement restoration under this PDARP/PEIS. This chapter also describes procedures to guide the restoration process and establish transparency and public accountability of the Trustees' actions.

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<sup>1</sup> From 33 USC § 2706.

## 7.2 Management Structure

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The magnitude and geographic scale of the restoration in this PDARP/PEIS is far greater than in any other prior undertaking by natural resource trustees. Because of this, and because of the programmatic restoration determinations described in Chapter 5, Restoring Natural Resources, the Trustees propose a governance structure to streamline restoration implementation and oversight. The Trustees will continue to function as a Trustee Council with overall responsibility for assuring that restoration is achieved with financial accountability and that obligations set forth in OPA, the Consent Decree, the Programmatic DARP, and future restoration plans are met. Trustee Council and Trustee Implementation Group (TIG) duties include restoration planning, restoration implementation, monitoring and adaptive management, financial management, public engagement, and restoration tracking. The Trustee Council will also assure that those Trustees assigned through this chapter carry out their duties fully to achieve restoration.

As such, the Trustees propose a distributed governance structure that assigns a TIG for each of the eight Restoration Areas (restoration in each of the five Gulf states, Open Ocean, Regionwide, and Unknown Conditions and Adaptive Management—consistent with Table 5-10.1 in Chapter 5). The Trustees believe that restoration can be carried out most efficiently by directly vesting restoration decision-making to those Trustees who have the strongest collective trust interests in natural resources and their services within each Restoration Area. Because these are shared public trust resources, with overlap in federal and state jurisdiction, both state and federal Trustees serve on the Trustee Council and within respective TIGs. The composition of each TIG varies, depending on the geographic area and Restoration Types to be performed in each Restoration Area, discussed below.

Specifically, the Trustees allocated restoration funds to the following:

- **Restoration Types.** The Trustees allocate funds using an integrated restoration portfolio that includes a substantive focus on restoring Gulf of Mexico coastal habitats as well as improving water quality in priority watersheds, protecting and restoring living coastal and marine resources, and enhancing recreational use opportunities. Integrated ecosystem restoration best meets the programmatic goals established in Chapter 5, Restoring Natural Resources. Restoration funds are allocated to specific Restoration Types.
- **Restoration Areas.** The Trustees allocate specific funding to seven geographic areas: each of the five Gulf states, Regionwide, and Open Ocean. Some additional funds will be reserved for an eighth Restoration Area, Unknown Conditions and Adaptive Management. This allocation reflects where restoration implementation for the various Restoration Types is most appropriate. The funds allocated to Restoration Areas include funding for monitoring, adaptive management, and administrative oversight.

Generally, administrative oversight will be funded as follows:

- The state Trustees will support their individual Trustee non-project specific responsibilities on all TIGs and the Trustee Council using the administrative oversight and comprehensive planning funds allocated to their respective state-specific TIGs.

- The federal Trustees will support their individual Trustee non-project specific responsibilities on all TIGs and the Trustee Council using the Open Ocean TIG Administrative Oversight and Comprehensive Planning funds.
- Collective administrative work (e.g. LAT responsibilities and website hosting) conducted on behalf of the Trustee Council and TIGs will be funded from the Regionwide Administrative Oversight and Comprehensive Planning funds.

The general division of responsibilities between the TIGs and the Trustee Council is as follows:

- The TIGs’ function will primarily be planning, deciding on, and implementing restoration, including monitoring and adaptive management. Each TIG will make all restoration decisions for the funding allocated to its Restoration Area on a consensus basis (decision-making described below).
- The Trustee Council’s function will primarily be to ensure coordination and efficiency across the TIGs by establishing procedures and practices needed to standardize or provide for consistency of some TIG activities. These activities include financial management, public information availability, and other activities identified in the sections below; aggregating and disseminating information to the TIGs; facilitating use of existing tracking tools; and facilitating the TIGs’ ability to implement the ecosystem-wide restoration goals of this PDARP/PEIS.

Under this restoration planning structure, the Trustees recognize the need to establish agreements and procedures<sup>2</sup> such as:

- **Memoranda of Understanding (MOUs) (and/or Memoranda of Agreement [MOAs]).** The Trustees will revise their existing MOU for the Trustee Council that forms the basis of Trustee coordination and cooperation under this PDARP/PEIS. The Trustee Council MOU will be followed by each TIG and Trustee member. The TIGs, at their discretion, may develop additional MOUs for their respective Restoration Areas, provided TIG MOUs are consistent and compliant with the Trustee Council MOU.
- **Standard Operating Procedures (SOP).** Consistent with, and in support of, the Trustee Council MOU, the Trustee Council will develop SOP for administration, implementation, and long-term management of restoration under this PDARP/PEIS. The Trustee Council SOP will document the overall structure, roles, and decision-making responsibilities of the Trustee Council. The Trustee Council SOP will also provide the common procedures to be used by all TIGs. Each TIG may develop additional SOP for their respective Restoration Areas, provided they are consistent with the Trustee Council SOP. The Trustee Council SOP will be in place prior to any TIG’s withdrawal of funds from the U.S. Department of Interior (DOI) Natural Resources Damage Assessment and Restoration (NRDAR) Fund (see Section 7.6, Financial Management). The Trustee Council SOP will include, but will not necessarily be limited to, the following topics:

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<sup>2</sup> Upon completion, final MOUs (Trustee Council and TIG) and SOP (Trustee Council and TIG) will be made publicly available in the Administrative Record.

- Trustee Council structure and management (e.g., Lead Administrative Trustee responsibilities).
- Decision-making and delegation of authority.
- Funding.
- Administrative procedures.
- Project reporting.
- Conflict resolution.
- Monitoring and adaptive management.
- Consultation opportunities among the Trustees.
- Public participation.
- Administrative accounting and independent auditing procedures.
- Administrative Record.

These SOP will be developed and approved by consensus of the Trustee Council, or TIGs for TIG-specific SOP, and may be amended as needed. Final Trustee Council and TIG SOP, and updates to these SOP, will be made available to the public on the Trustee Council and/or TIG websites.

The division of responsibilities among the Trustee Council, TIGs, and Individual Trustee Agencies is summarized in Table 7.2-1. The following sections provide more detailed descriptions of the composition and roles of the TIGs and the Trustee Council, along with those of Individual Trustee Agencies, in implementing this PDARP/PEIS.

**Table 7.2-1.** Trustee Council, TIG, and Individual Trustee Agency responsibility matrix.

		Trustees' Governance Structure		
		Trustee Council	TIGs	Individual Trustee Agencies
Responsibilities	Restoration Planning	Aggregates status of TIG restoration planning, maintains web portals, makes planning information publicly available, compiles the planning Administrative Record, and coordinates with other <i>Deepwater Horizon</i> Restoration Programs (i.e., RESTORE and Gulf Environmental Benefit Fund).	Develop draft and final restoration plans/environmental reviews (environmental assessments and environmental impact statements), coordinate environmental compliance, select projects, provide for public engagement within the Restoration Area, and maintain materials for the planning Administrative Record.	Prepare project-level conceptual designs, costs, plans, analyses, and environmental compliance documentation.
	Restoration Implementation	Aggregates restoration program status tracking, publicly reports overall PDARP/PEIS restoration implementation, and compiles the implementation Administrative Record.	Track Restoration Area project implementation progress and report by Restoration Type, and maintain materials for the implementation Administrative Record.	Carry out project implementation and contracting (all phases—planning, engineering and design, construction, monitoring, and long-term management), and report implementation status to their TIG.
	Monitoring and Adaptive Management	Aggregates restoration program monitoring information and performance, makes information publicly available, compiles administrative record, and adaptively manages the overall PDARP/PEIS restoration program.	Track and aggregate Restoration Area monitoring data and reporting to the Trustee Council by Restoration Type, conduct environmental reviews, oversee corrective actions and development of adaptive management plans, and maintain materials for the Administrative Record.	Develop project-specific monitoring plans and conduct project-specific monitoring, data analysis, adaptive management, and reporting.
	Financial Management	Aggregates restoration program financial tracking, publicly reports use of funds across the restoration program, and compiles the Administrative Record, as applicable.	Track financial information for the Restoration Area, provide summarized financial reporting to the Trustee Council, and maintain materials for the Administrative Record.	Conduct project-level financial tracking through project completion, track project receipts and expenditures, and report use of funds to their TIG.

### 7.2.1 Trustee Council

Pursuant to OPA § 1006(b),<sup>3</sup> the President designates the federal trustees, and the governor of each state designates state and local trustees who act on behalf of the public as trustees for natural resources. The Trustee Council is composed of Designated Natural Resource Trustee Officials (DNRTOs), or their alternates, for the following state and federal natural resource Trustee agencies:

- DOI, as represented by the United States Fish and Wildlife Service (USFWS), National Park Service (NPS), and Bureau of Land Management (BLM).
- The National Oceanic and Atmospheric Administration (NOAA), on behalf of the United States Department of Commerce.
- The United States Department of Agriculture (USDA).
- The United States Environmental Protection Agency (EPA).
- For the state of Texas, the Texas Parks and Wildlife Department (TPWD), Texas General Land Office (TGLO), and Texas Commission on Environmental Quality (TCEQ).
- For the state of Louisiana, the Coastal Protection and Restoration Authority (CPRA), Oil Spill Coordinator's Office (LOSCO), Department of Environmental Quality (LDEQ), Department of Wildlife and Fisheries (LDWF), and Department of Natural Resources (LDNR).
- For the state of Mississippi, the Department of Environmental Quality (MDEQ).
- For the state of Alabama, the Department of Conservation and Natural Resources (ADCNR) and Geological Survey of Alabama (GSA).
- For the state of Florida, the Department of Environmental Protection (FDEP) and Fish and Wildlife Conservation Commission (FWC).

The Trustee Council may designate dedicated support staff, as necessary, for conducting its business. The Trustee Council may establish a permanent operations structure, such as an executive directorate to conduct the day-to-day operations of the Council, promote coordination among its members, and facilitate voting among the Trustees. Support staff and operational structure may also serve as resources across the TIGs to promote efficiency and exchange of information.

The Trustee Council will designate a Lead Administrative Trustee(s), in accordance with 15 CFR § 990.14, to promote coordination of administrative functions of the Trustee Council, such as procuring contracts to support Trustee Council functions, facilitating financial management requirements, and organizing and maintaining the publicly available Administrative Record (see Section 7.7, Public Engagement and Restoration Tracking) of the Trustees' restoration planning and implementation actions. All decisions of the full Trustee Council will be by consensus, which requires agreement by all nonabstaining federal

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<sup>3</sup> The federal Trustees for this spill are designated pursuant to 33 USC § 2706(b)(2); Executive Orders 12777 and 13626; and 77 FR 56749.

Trustees and all nonabstaining Gulf states (as decided for each Gulf state by the state Trustees as a group).

## 7.2.2 Trustee Implementation Groups

TIGs are composed of Individual Trustee Agency representatives designated by the respective Trustee Council DNRTOs (Figure 7.2-1 below). The TIGs develop plans for, choose, and implement specific restoration actions under this PDARP/PEIS. Each TIG ensures their actions are fully consistent with this PDARP/PEIS and SOP. The TIGs are constituted as follows:



**Figure 7.2-1.** Composition of the TIGs.

1. **Restoration in Alabama.** This TIG will be responsible for planning and implementing restoration activities for Restoration Types described in Table 5-10.1 in Chapter 5, Section 5.10 (Summary of Preferred Alternative and Funding Allocations), to benefit resources within the geographic jurisdiction of the state of Alabama. This TIG shall comprise the natural resource Trustees for the state of Alabama and the federal Trustees.
2. **Restoration in Florida.** This TIG will be responsible for planning and implementing restoration activities for Restoration Types described in Table 5-10.1 in Chapter 5, Section 5.10, to benefit resources within the geographic jurisdiction of the state of Florida. This TIG shall comprise the natural resource Trustees for the state of Florida and the federal Trustees.
3. **Restoration in Louisiana.** This TIG will be responsible for planning and implementing restoration activities for Restoration Types described in Table 5-10.1 in Chapter 5, Section 5.10, to benefit resources within the geographic jurisdiction of the state of Louisiana. This TIG shall comprise the natural resource Trustees for the state of Louisiana and the federal Trustees.
4. **Restoration in Mississippi.** This TIG will be responsible for planning and implementing restoration activities for Restoration Types described in Table 5-10.1 in Chapter 5, Section 5.10, to benefit resources within the geographic jurisdiction of the state of Mississippi. This TIG shall comprise the natural resource Trustee for the state of Mississippi and the federal Trustees.
5. **Restoration in Texas.** This TIG will be responsible for planning and implementing restoration activities for Restoration Types described in Table 5-10.1 in Chapter 5, Section 5.10, to benefit

resources within the geographic jurisdiction of the state of Texas. This TIG shall comprise the natural resource Trustees for the state of Texas and the federal Trustees.

6. **Open Ocean.** This TIG will be responsible for planning and implementing restoration activities for resources primarily in the Open Ocean Restoration Area, which includes Restoration Types described in Table 5-10.1 in Chapter 5, Section 5.10. Open Ocean funding will also support federal Trustee administrative and preliminary planning activities across all TIGs. This TIG shall comprise the federal Trustees.
7. **Regionwide.** This TIG will be responsible for planning and implementing restoration activities for resources that range throughout the Gulf, which include Restoration Types described in Table 5-10.1 in Chapter 5, Section 5.10. This TIG shall comprise all state and federal Trustees.
8. **Unknown Conditions and Adaptive Management.** Funding is set aside for future use to provide for additional adaptive management of the restoration program or to plan and implement restoration that addresses injuries or conditions that were unanticipated or unknown when this PDARP/PEIS was finalized. This TIG will comprise all state and federal natural resource Trustees. This TIG's function is separate from, but informed by, the continual monitoring and adaptive management that each of the above TIGs conduct as part of their overall restoration implementation responsibilities (see Section 7.5, Monitoring and Adaptive Management; for more detail on monitoring and adaptive management activities, see Appendix 5.E, Monitoring and Adaptive Management Framework).

The responsibilities of each TIG are described in greater detail in the remainder of this chapter. Depending on its needs, each TIG may establish subgroups to support and assist meeting its responsibilities (e.g., financial representatives to advise on issues related to financial administration and/or technical representatives to advise on issues related to restoration program implementation).

Each TIG will develop, select, and implement projects on a consensus basis. For the five TIGs for each of the five Gulf states, consensus requires that a proposed action or decision be supported by both the United States (as decided by the federal Trustees as a group) and the state (as decided by the state Trustees as a group). The federal Trustees will develop an MOU setting forth an approach and procedures pursuant to which the federal Trustees speak with a single voice on decisions made within the TIGs for each of the five Gulf states; the state Trustees for each state will develop an MOU setting forth an approach and procedures pursuant to which their state Trustees speak with a single voice on decisions made by the five TIGs for each of the five Gulf states. For the TIGs for the Regionwide and Unknown Conditions and Adaptive Management Restoration Areas, consensus requires that a proposed restoration action be supported by all nonabstaining federal Trustees and all nonabstaining Gulf states (as decided for each Gulf state by the state Trustees as a group). For the Open Ocean Restoration Area, consensus requires that a proposed restoration action be supported by all nonabstaining federal Trustees.

TIGs should seek to resolve any disputes, including those regarding an established SOP, within the TIG in a timely manner. However, if a dispute about a substantial matter arising from within a TIG remains

unresolved, any Trustee within that TIG may seek guidance from the full Trustee Council through a nonbinding, nonvoting executive session discussion.

### **7.2.3 Individual Trustee Agencies**

Individual Trustee Agencies will prepare project-specific information and implement projects, including executing contracts, conducting project-specific monitoring, and tracking project-specific expenditures, as authorized by the respective TIG. The TIG will designate one or more Individual Trustee Agencies as Implementing Trustee(s) for each selected restoration project. An Implementing Trustee may be designated for a project's entirety, or responsibility for a project's various implementation phases (e.g., engineering and design and construction) may be shared or divided among multiple Implementing Trustees.

## 7.3 Restoration Planning

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The Trustees developed this PDARP/PEIS at a programmatic level to guide and direct subsequent project-specific restoration plans. This section broadly describes the restoration planning responsibilities of the TIGs, the Individual Trustee Agencies, and the Trustee Council.

### 7.3.1 Trustee Implementation Groups

The TIGs will develop project-specific restoration plans for their respective Restoration Area consistent with the Restoration Type funding allocations (see Chapter 5, Section 5.10, Summary of Preferred Alternative and Funding Allocations). Over the full time period of restoration, each TIG ensures all Restoration Type goals are supported via the series of TIG restoration plans.<sup>4</sup> TIGs identify, develop, and evaluate project alternatives; propose projects in draft restoration plans; engage the public for comment on restoration plans; and select projects in final restoration plans (15 CFR 990.55). Each TIG will develop projects in accordance with the OPA regulations and other applicable requirements, including consistency with this PDARP/PEIS. General restoration planning procedures are described below. Additionally, during project planning, TIGs will coordinate with other TIGs or individual Trustees for proposed projects that overlap TIG Restoration Areas. The Open Ocean TIG will coordinate with other TIGs when proposed projects overlap their jurisdictions.

General planning procedures to be conducted by the TIGs include:

- **Initial project identification.** TIGs develop project ideas and conduct project screening consistent with the Restoration Type and the restoration approaches described in Chapter 5, Restoring Natural Resources, and its appendices. TIGs will consider a reasonable range of restoration alternatives (15 CFR 990.53[a][2]) in restoration plans (see below for “Draft Restoration Plan”).
- **Public involvement in project identification.** The TIGs will continue to provide opportunity for public input of project ideas. TIGs consider project ideas from the public and may hold public meetings and will maintain or update tools to collect project ideas, such as the existing project submission database and other Trustee portals.
- **TIG meetings for public input.** Each TIG will hold at least one annual TIG meeting (these may be virtual) focused on public engagement on the progress and future of PDARP/PEIS implementation in that Restoration Area, unless a TIG planning cycle calls for a different frequency. These TIG meetings can be coordinated with other restoration meetings, provided those meetings have a role for all TIG Trustees and for all Restoration Types that are under the purview of the TIG (e.g., in the Louisiana Restoration Area, the TIG may consider how to coordinate this annual TIG meeting with public meetings of the Coastal Protection and Restoration Authority Board).

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<sup>4</sup> The Trustee Council will maintain a website to allow for project idea submittals and provide information related to restoration plan development. This website will contain links to TIG websites and state and federal Trustee websites.

- **Notify the public at initiation of restoration plans.** The Council website will be updated to notify the public when a TIG is initiating a restoration plan. For example, the notification could describe, to the extent known, the Restoration Types and approaches (or projects, if applicable) to be considered, the context for the restoration plan in relation to other Gulf restoration programs, and the intended years of funding to be included in the restoration planning for each Restoration Type. Where a restoration plan will rely on or incorporate portions of a regional restoration plan, the TIG may use this step as an opportunity to notify the public of projects to be considered from regional restoration plans.
- **Project development.** The identification and development of potential projects will be consistent with the NRDA regulations and this PDARP/PEIS; and with one or more of the Restoration Type goals described in Chapter 5, Section 5.5, Alternative A: Comprehensive Integrated Ecosystem Restoration (Preferred Alternative). TIGs may develop additional project selection criteria that further the goals established in this PDARP/PEIS. The TIGs will review cost estimates<sup>5</sup> for each project so that the costs of the project and the consistency with programmatic goals can be considered and compared with other project alternatives. The Trustees may access their respective administrative funding for initial project identification. Funding for continued development of restoration projects (or for strategic frameworks discussed below) for inclusion in a restoration plan may be taken from allocations for the respective TIG Restoration Type to which that project applies, upon consensus of the Trustees in that TIG, as determined by the decision-making process described in Section 7.2. Particularly for complex planning efforts, the TIGs will consider whether an interim status update on the Council website is useful to keep the public apprised of the projects and alternatives anticipated to be included in an upcoming draft restoration plan. Each TIG determines when their respective projects are ready to be proposed and released in a draft restoration plan.
- **Payment schedule and frequency of restoration plans.** The frequency of restoration plans may vary by TIG. Each TIG may specify a restoration plan frequency in its specific procedures or may choose for a flexible planning schedule that brings forward proposed projects individually or in groups. A series of payments will be distributed to each TIG over the course of 15 years, proportional to the total amount allocated to each Restoration Area (see Chapter 5, Section 5.10). For example, a 15-year disbursement schedule in the Open Ocean TIG results in approximately \$80 million per year for implementation, administration, and monitoring for this TIG's Restoration Types. As such, TIGs have differing amounts of total restoration dollars available annually. Considering its respective payment schedule, each TIG can determine a project planning and funding schedule that most appropriately benefits the Restoration Types under the TIGs purview. Generally, it is anticipated that each TIG develop at least one restoration plan every 3 years, although this frequency is at the discretion of the TIGs. The restoration plans may include a varying number of specific restoration projects and may be developed jointly with other TIGs.

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<sup>5</sup> Including, and where applicable, engineering and design, compliance and permitting, monitoring, land rights, construction, oversight, long-term maintenance and stewardship, contingency, etc.

- **Project phases.** The TIGs may propose to phase restoration projects. For example, a TIG may propose to fund a project’s initial engineering and design phase in order to develop the information necessary to fully consider the construction phase of that project in a future restoration plan. TIGs will encourage Individual Trustee Agencies to seek technical assistance from environmental regulatory agencies early in planning.
- **Draft restoration plans.** TIGs prepare draft restoration plans that document and provide sufficiently detailed information on the proposed project(s), or groups of projects, and alternatives to those projects. The draft plans also do the following:
  - Explain the consistency between the proposed plan and the PDARP/PEIS. For example, draft plans include information on the funding status by Restoration Type, the project screening process, the Restoration Type(s) goals each project contributes to, and how the planning and implementation considerations identified in Chapter 5, Restoring Natural Resources, and Appendix 5.D, Restoration Approaches and OPA Evaluation, were considered during project development.
  - Provide sufficient implementation detail for analysis under OPA, the National Environmental Policy Act (NEPA), and other environmental regulations, as appropriate to the project phase, including draft monitoring plans. TIGs strive to promote consistency in monitoring across similar project types by evaluating monitoring plans against a minimum standard of common performance criteria.
  - Generally describe whether the projects in that plan relate to any longer-term vision of that TIG or strategic framework for particular resources. Where relevant, the plans may describe the relation of the preferred project alternatives to projects proposed and/or being implemented under other Gulf restoration programs.
  - Describe the federal environmental compliance required for proposed projects (e.g., Endangered Species Act [ESA] consultations and Clean Water Act permits; see Chapter 6, Environmental Consequences and Compliance with Other Laws, for more detail), how those requirements will be met, and the compliance status (e.g., initiated or completed) at the release of the draft (and final) restoration plan. State and local environmental compliance coordination may also be identified. Where feasible, the TIGs may initiate compliance coordination early in the planning process to inform restoration decisions. The TIGs will ensure there is no irreversible or irretrievable commitment of resources to a project that has the effect of foreclosing alternative measures to restore and/or protect trust resources. When proposing projects to restore for ESA-listed species (e.g., sea turtles or sturgeon), the plans will describe consistency with ESA recovery plans and recovery goals for those species, if available, such that conservation programs are supported.
- **Corresponding NEPA analysis.** TIGs will integrate into draft and final restoration plans the appropriate level of NEPA analysis tiered from this PEIS (Chapter 6, Environmental Consequences and Compliance with Other Laws, provides additional detail on tiering). NEPA analyses must clearly state whether they are tiered Environmental Assessments or tiered

Environmental Impact Statements. For a tiered NEPA analysis, the Trustees must analyze the affected environment and environmental impacts with a focus on project-specific issues not addressed in this PEIS, and identify how the best practices appended to Chapter 6 were considered in developing projects. Lead and cooperating agencies must also be identified, including any cooperating agencies invited to participate. The details of the NEPA analysis will be commensurate with the project phase being considered.

- **Public engagement and public comment on draft restoration plans.** TIGs will provide an opportunity for public review and comment on each draft restoration plan and integrated NEPA analysis. Draft restoration plans are released and the public comment period noticed through the *Federal Register*, as well as by other means or public venues as deemed appropriate by the TIG (e.g., state registers). Generally, the intent of the TIGs is to engage the public at public meetings held on draft restoration plans.
- **Final restoration plans and corresponding NEPA analyses.** Following the consideration of public comments, the TIGs revise restoration plans and corresponding NEPA analyses, as appropriate. Final restoration plans clearly identify the projects that a TIG selects for implementation, after taking into consideration all public comments as well as the final environmental analyses under the NEPA process. Monitoring plans will be complete for final restoration plans and can be updated as appropriate during project implementation. Final restoration plans also identify the best practices applicable to the implementation of each selected project and any outstanding environmental compliance needs or other contingencies that must be resolved prior to project implementation. Final restoration plans will be made available on the Trustee Council website and in the administrative record.
- **Modifications to funding within Restoration Areas.** Any change to funding that is significant enough to constitute a modification of the PDARP/PEIS, within its respective Restoration Area, will be communicated to the Trustee Council. By agreement of the TIG, changes to the amount of funding to be spent on a Restoration Type within a Restoration Area may be made after the TIG proposes a revised restoration plan, subject to public review and comment.
  - Changes of less than \$50,000 to the amount of funding to be spent on a Restoration Type within a Restoration Area are not changes to the restoration plan and would not require public review, comment, or court approval before the change is put into effect; however, public notice of such a change is required.
  - Modifications to shift funding designated for one restoration goal to another restoration goal will be made only with the consensus of the Trustees in the TIGs affected and only with court approval, through a motion to the court with a description for the basis of the change.
- **Strategic restoration planning.** TIGs may prepare strategic frameworks to focus and sequence priorities within a Restoration Area or to provide additional vision of how to meet Restoration Type goals set forth in the PDARP. Strategic frameworks may provide context for prioritization, sequencing, and selection of specific projects within project-specific restoration plans. Strategic frameworks help the Trustees consider resources at the ecosystem level, while implementing

restoration at the local level. These frameworks would support the adaptive management framework described below in Section 7.5, Monitoring and Adaptive Management (e.g., modification of restoration approaches [Appendix 5.D, Restoration Approaches and OPA Evaluation] or update best practices [Appendix 6.A] to provide more protection for listed species and designated critical habitat). Strategic frameworks may be particularly relevant for Gulf-wide resource-level planning led by the Regionwide TIG for living coastal and marine resources, sea turtles, marine mammals, birds, and oysters and may also be developed for other Restoration Types allocated to the Regionwide and Open Ocean TIGs. Strategic frameworks may be updated based on new knowledge obtained by Trustee efforts or the broader science community and updates to relevant species recovery or management plans prepared under other statutes. Where applicable, this planning would be coordinated with existing entities charged with managing protected and managed resources, such as ESA technical recovery teams and the appropriate NOAA or USFWS offices. Strategic restoration planning can also create streamlining efficiencies for regulatory compliance, such as ESA consultation.

### 7.3.2 Individual Trustee Agencies

Individual Trustee Agencies identify candidate restoration projects; develop project details, including costs and alternatives; describe implementation methodologies; evaluate expected resource benefits; and develop project-specific monitoring plans. These project-specific details will be provided to the TIG to support their restoration planning and project decision responsibilities.

Many of the Individual Trustee Agencies have conducted extensive regional restoration planning, and the OPA NRDA regulations allow for consideration of such plans in selecting projects, provided the OPA regulations are followed. The Individual Trustee Agencies can assist the TIG in drawing from these plans, provided they are relevant and consistent with implementing the goals of this PDARP/PEIS.

### 7.3.3 Trustee Council

The Trustee Council retains and performs certain restoration planning administrative functions that serve to promote consistency in processes under this PDARP/PEIS, allow for appropriate aggregation of information across TIGs, and support program-wide reporting to the public.

The Trustee Council will continue using existing project reporting tools, and/or update the tools to adapt to changing technology, that enable tracking restoration planning progress (see Section 7.7, Public Engagement and Restoration Tracking). The Trustee Council will coordinate with the TIGs to aggregate both restoration planning and specific project information for regular public reporting, as determined in Trustee Council SOP. The Trustee Council may re-examine the restoration program approximately every 5 years to track its status towards meeting the established restoration goals, including the Monitoring, Adaptive Management, and Administrative Oversight goal, and to determine any updates needed based on newly emerged science and/or restoration procedures and Trustees' experience managing and implementing this restoration program.

The Trustee Council and TIGs share responsibility to coordinate with other restoration programs, including other *Deepwater Horizon* restoration programs. Coordination among programs will promote

successful implementation of this PDARP/PEIS and optimize ecosystem recovery within the Gulf. The Trustee Council may consider the restoration actions of these other programs and facilitate the TIGs identifying synergies, leveraging opportunities, and evaluating cumulative effects, as well as reducing potential redundancy when selecting projects under this PDARP/PEIS. Furthermore, these programs will each produce significant monitoring data that are critical to informing restoration decisions and improving adaptive management. Data sharing among programs is encouraged, and the Trustee Council will make information for projects selected under this PDARP/PEIS available to the public, as well as to the scientific community and other restoration programs.

## 7.4 Restoration Implementation

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Restoration implementation will be consistent with final restoration plans and established SOP and will be in compliance with all applicable federal, state, and local laws. Project-specific restoration implementation responsibilities of the TIGs, the Individual Trustee Agencies, and the Trustee Council are described in this section. The Individual Trustee Agencies designated as Implementing Trustees are the primary restoration implementation entities, responsible for all implementation tasks such as contracting to complete implementation phases, conducting project-specific monitoring and adaptive management, and maintaining projects in the long term. TIGs track whether projects are implemented consistent with final restoration plans and applicable MOUs and SOP and coordinate with both the Implementing Trustees and the Trustee Council. The Trustee Council coordinates with each TIG to track and report the aggregated implementation status of the restoration program to the public and ensures that implementation is consistent with the commitments described in this and future restoration plans. Additional details on the distribution of restoration implementation responsibilities are provided in the subsections below.

### 7.4.1 Trustee Implementation Groups

TIGs will ensure that implementation of projects for each Restoration Type is in accordance with Trustee Council and TIG MOUs and SOP. TIGs will identify Implementing Trustees for each selected restoration project and follow Trustee Council SOP to ensure that consistent project tracking and reporting approaches are used by Implementing Trustees. When multiple Individual Trustee Agencies are cooperatively implementing projects, or when complex projects are selected, the TIGs may request that project management plans and/or project-specific MOUs be completed by the Implementing Trustee(s). Project management plans may include items such as Trustee coordination, detailed project budgets and schedules, implementation approaches, project phasing (if applicable), risk assessment, and contingency planning. As requested by the TIG, these plans may be reviewed by the TIG and agreed upon prior to the release of project funds. Project-specific MOUs may be used to identify which Individual Trustee Agency is responsible for each project phase, including long-term management and oversight.

Throughout project implementation, TIGs review project information and monitoring data provided by the Implementing Trustee(s) to consider whether the project is performing as planned. In the event that project modifications are identified during implementation, TIGs must coordinate with Implementing Trustees to determine if those changes warrant any revised restoration planning or environmental evaluation and identify if a project needs to be terminated. Further, TIGs will develop procedures to select another project in the event of project termination. TIGs may also review corrective actions proposed by the Implementing Trustee(s) to promote consistency in actions applied to restoration approaches. TIG coordination across projects may be funded with administrative oversight and comprehensive planning funds allocated to each respective TIG.

TIGs summarize progress toward completing the engineering and design, construction, monitoring and adaptive management, and long-term maintenance project phases and provide this information to the Trustee Council in accordance with the Trustee Council SOP.

## 7.4.2 Individual Trustee Agencies

Project implementation is accomplished by Individual Trustee Agencies that are identified by each TIG as the Implementing Trustee or Trustees. Project-specific administration and oversight costs for project management will be included in project implementation budgets. Project implementation is generally completed and reported in the following phases, when applicable: engineering and design, construction, monitoring, and long-term maintenance, each of which is addressed below:

- **Engineering and design.** Engineering and design may be completed by the Implementing Trustee, when appropriate, or through the use of contractors. Where signed and sealed engineer or survey documentation is required, the Implementing Trustee(s) will ensure that the engineer or surveyor signing work products is licensed to practice in the state where the project is being implemented. Designs will not be finalized until the Implementing Trustee determines that the design is in compliance with all regulatory requirements (e.g., federal, state, and local permitting requirements) and consultations (e.g., ESA-listed and other protected species). On request, the Implementing Trustee(s) will furnish engineering and design materials to the TIG. When the engineering and design phase is complete, the Implementing Trustee(s) notifies the TIG that the project is moving into the construction phase.
- **Construction.** During construction, Implementing Trustees monitor construction activities as required by regulatory permits and consultations to avoid environmental impacts to habitats and species. When the construction phase is complete, the Implementing Trustee(s) notifies the TIG that the project is moving into the monitoring phase, reports on the outcomes of construction, and provides as-built materials, as requested by the TIG.
- **Monitoring.** Project-specific monitoring and associated adaptive management/corrective actions will be conducted by the Implementing Trustee(s) before, during, and/or after construction and/or implementation. Monitoring will use project funds and be conducted in accordance with final project monitoring plans. Project monitoring will be conducted in accordance with the monitoring and adaptive management SOP developed by the Trustee Council. Monitoring data will be used by the Implementing Trustee(s) to track whether projects are trending towards the project's established performance criteria or whether adaptive management, maintenance, or corrective actions are needed. If these corrective actions require additional or modified environmental reviews, the Implementing Trustee(s) will notify the TIG and a determination will be made on whether any public notification is required by law.
- **Long-term maintenance.** The Implementing Trustee(s) will ensure that appropriate long-term maintenance activities likely to be required for each project are identified, and that appropriate budgets and agreements are established to maintain each project over its intended lifespan. Upon discretion of the Implementing Trustee(s), third parties may be identified as long-term stewards of completed projects, and project funds may be allocated for their involvement.
- **Project modifications.** If a project modification is necessary during the engineering and design or construction phases of the project, the Implementing Trustee(s) will inform the TIG, document whether the project modification materially affects the project's selection, and

determine, in coordination with the TIG, whether any updates to regulatory permits and/or consultations may be required. If changes to environmental compliance require additional public input, the TIG will give the public a reasonable opportunity to review and comment on the proposed project change prior to final approval of the modification by the TIG.

- **Project termination.** If a project must be terminated during the engineering and design or construction phases, the remaining funds that would have been spent on that project will remain dedicated to the same Restoration Type and returned to the NRDAR TIG subaccount (see Section 7.6, Financial Management), unless otherwise specified by the TIG. Use of remaining funds for another project will require additional restoration planning.
- **Project completion/closeout.** A project is complete after all activities and expenditures have been accomplished for that project per the final restoration plan, including monitoring, long-term maintenance, and final reports. The Implementing Trustee(s) will notify the TIG when a project is complete and identify whether any project funds remain (excess funds<sup>6</sup>). Excess funds will be returned to the TIG's NRDAR subaccount, unless otherwise specified by the TIG, and will remain dedicated to the same Restoration Type as that associated with the completed project. A TIG must agree by consensus to apply excess funds to another project(s) in accordance with the project selection criteria described above (Section 7.3, Restoration Planning).

### 7.4.3 Trustee Council

The Trustee Council tracks and reports to the public on the aggregate status of restoration program implementation and ensures that implementation is consistent with the commitments described in this and future restoration plans. Project tracking and reporting will follow the requirements established within the Trustee Council SOP, and are further discussed in Section 7.7, Public Engagement and Restoration Tracking.

### 7.4.4 Relationship to Early Restoration Framework Agreement

Chapter 5 (Appendix 5.B) describes the status of Early Restoration projects selected for implementation under the Early Restoration Framework Agreement. As of the Final PDARP/PEIS release date, the Trustees have finalized five Early Restoration Plans, providing funding for the implementation of a total of 65 Early Restoration projects. Funding for implementation of all Early Restoration projects has or is being made available to the Trustees identified in those plans or agreements as responsible for their implementation (the Implementing Trustees), consistent with prior agreements among BP and the Trustees. Remaining Early Restoration funds will be allocated to appropriate TIGs as reflected in Chapter 5, Section 5.10, Summary of Preferred Alternative and Funding Allocations, Table 5.10-1.

Agreed-upon Early Restoration projects will continue in accordance with the Trustees' prior decisions and any agreements entered into by or among the Implementing Trustee(s). These restoration projects will become part of the general portfolio of Trustee-approved restoration projects under the PDARP/PEIS for purposes of financial management, restoration progress reporting, and tracking and will

<sup>6</sup> Early Restoration excess funds are discussed below.

be subject to SOP and other existing procedures for evaluating and identifying material project changes, as approved by the Trustee Council. Upon settlement, the Early Restoration project stipulations with BP will be void as to undertakings between BP and the Trustees. This is provided, however, that the Trustees use the amounts paid or committed by BP under each project stipulation for the project(s) and in the manner specified in the stipulation and the corresponding Early Restoration plan adopted by the Trustees. Decisions, however, concerning any project modification(s), the selection and implementation of any replacement project(s), and the use of any unexpended Early Restoration project funds will be made by the appropriate TIG for that project.

## 7.5 Monitoring and Adaptive Management

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The Trustees identify specific funding for the monitoring and adaptive management component of the restoration goals, as described in Chapter 5, Restoring Natural Resources. Monitoring and adaptive management supports all restoration activities under this PDARP/PEIS by tracking and evaluating restoration progress toward goals, determining the need for corrective actions, addressing key uncertainties, and ensuring compliance with appropriate regulations (see Appendix 5.E, Monitoring and Adaptive Management Framework, for details). Through monitoring and adaptive management, decisions are continuously informed by evolving restoration data and information. The adaptive management process incorporates monitoring of restoration progress, consideration of uncertainties, and opportunities for the Trustees to adapt restoration activities to ensure restoration success (Pastorok et al. 1997; Thom et al. 2005; Williams 2011; Williams et al. 2007).

The Trustees recognize that the best available science to use for planning restoration activities evolves as the body of science originating from this program, as well as other science, monitoring, and restoration programs in the Gulf of Mexico, continues to grow. As a result, the adaptive management process for this restoration plan incorporates monitoring and other targeted scientific support (e.g., modeling and analysis of existing data, and engagement of internal and external scientific experts) to address uncertainties and inform corrective actions. Details on the distribution of monitoring and adaptive management responsibilities are provided in the subsections below.

### 7.5.1 Trustee Implementation Groups

The TIGs provide several project- and resource-level monitoring and adaptive management functions, including monitoring data aggregation and tracking progress toward restoration objectives and goals.

#### 7.5.1.1 Project-Specific Monitoring and Adaptive Management

TIGs coordinate with Implementing Trustees to support consistency and compatibility of monitoring plans and data management, in accordance with the Trustee Council SOP (and respective TIG SOP, if applicable) and aggregate Implementing Trustee’s monitoring data by Restoration Type for reporting to the Trustee Council. According to the OPA NRDA regulations (15 CFR § 990.55), a project-specific monitoring plan includes “a description of monitoring for documenting restoration effectiveness, including performance criteria that will be used to determine the success of restoration or need for interim corrective action.” The Trustees are committed to this required level of project monitoring and may choose to conduct additional monitoring. TIG responsibilities will include the following:

- **Review and provide feedback for monitoring and adaptive management plans and efforts.** TIGs review project monitoring and adaptive management plans for content, for compliance with regulatory requirements, and to determine their readiness for inclusion in restoration plans.
- **Coordinate data management and reporting.** TIGs track project monitoring data to ensure that data, monitoring reports, and other monitoring information are consistent and compatible with the SOP and are linked to a central repository (see Section 7.7, Public Engagement and Restoration Tracking). They then report this monitoring information to the Trustee Council.

- **Assist in identifying and developing corrective actions.** TIGs will coordinate and support the identification and development of corrective actions, particularly for projects with similar restoration objectives.

### 7.5.1.2 Resource-Level Monitoring and Adaptive Management

TIGs will coordinate with each other and with individual federal and state Trustees to identify resource-level monitoring priorities. This coordination will support consistency among restoration efforts, as well as with the Trustee Council SOP and TIG SOP. It will also promote efficiency of resource-level and/or cross-resource-level monitoring and adaptive management activities, as appropriate. Resource-level (i.e., for a Restoration Type; see monitoring sections of Chapter 5, Sections 5.5.2 through 5.5.14, and as defined in Appendix 5.E, Monitoring and Adaptive Management Framework) and/or cross-resource-level (i.e., applicable to multiple Restoration Types) monitoring and adaptive management include tracking and enabling aggregation and evaluation of restoration progress, addressing key uncertainties about a resource and its responsiveness to restoration actions, and performing strategic planning for restoration of injured resources. Resource- and cross-resource-level adaptive management will be supported by targeted monitoring and scientific support, as appropriate. TIG responsibilities include the following:

- **Evaluate and aggregate progress of multiple projects.** TIGs evaluate and aggregate monitoring data from projects with similar objectives, as appropriate, to document progress toward meeting Restoration Type and Programmatic Goals (see Chapter 5, Restoring Natural Resources, for more details).
- **Identify needs and set priorities for targeted resource-level monitoring and scientific support.** TIGs identify the need and priorities to most efficiently conduct resource-level and/or cross-resource-level monitoring and scientific support. TIGs define the objectives and scope for resource-level and/or cross-resource-level monitoring and scientific support, identify the Implementing Trustee(s), authorize funding, and include monitoring and scientific support activities in restoration plans.
- **Consider strategic planning to guide restoration of injured resources.** Particularly within the Regionwide TIG, but not exclusively, TIGs may develop strategic plans to guide monitoring and adaptive management for an injured resource. TIGs may share monitoring data aggregation and analysis responsibilities with each other, especially when Restoration Types overlap geographic areas, to help assess the combined effects of restoration projects and to improve the efficiency and overall effectiveness of restoration evaluation.

### 7.5.2 Individual Trustee Agencies

Individual Trustee Agencies write monitoring and adaptive management plans and conduct monitoring activities, including project-specific maintenance, adaptive management, and corrective actions, consistent with the Trustee Council SOP and TIG SOP. When designated as Implementing Trustees, Individual Trustee Agencies' project-level responsibilities include the following:

- **Write monitoring and adaptive management plans.** Implementing Trustees develop monitoring plans for inclusion in restoration plans for all selected projects. Monitoring and adaptive

management plans include measurable objectives with associated performance standards to track progress toward restoration goals, methodologies and parameters for data collection, identification of key uncertainties, tracking of compliance with appropriate regulations, and a description of how the data collected will be used to determine the potential need for corrective actions.

- **Conduct (or contract) project-level monitoring and evaluation.** Implementing Trustees conduct project-specific monitoring (including data collection, data analysis, and synthesis), compare progress against project-specific performance standards, evaluate each project's performance toward restoration objectives, and identify the need for and propose corrective actions to the TIGs. Individual Trustee Agencies enter or upload project-specific monitoring information, including objectives, performance standards, and collected data into the central repository (described below in Section 7.7, Public Engagement and Restoration Tracking).

Resource-level monitoring and adaptive management responsibilities of Individual Trustee Agencies at the direction of the TIGs may include the following:

- **Identify and recommend resource-level monitoring needs.** Individual Trustee Agencies may identify and propose resource-level and/or cross-resource-level monitoring activities to the TIGs.
- **Conduct resource-level monitoring and scientific support.** Individual Trustee Agencies, when designated by the TIGs, conduct resource-level and/or cross-resource-level monitoring and scientific support activities (as defined in Appendix 5.E, Monitoring and Adaptive Management Framework) and link data, analyses, reports, and other scientific products to the central repository.

### 7.5.3 Trustee Council

The Trustee Council promotes consistency in monitoring and adaptive management activities across TIGs and Restoration Types through development of SOP. It also aggregates monitoring information across TIGs to track restoration progress of each Restoration Area. The Trustee Council will designate support staff to participate on a cross-TIG Monitoring and Adaptive Management working group to support the Trustee Council's monitoring and adaptive management responsibilities. This working group may also be supported by a designated science coordinator. Trustee Council monitoring and adaptive management responsibilities include activities such as:

- **Develop and maintain a monitoring and adaptive management SOP.** Monitoring and adaptive management SOP will be components of the Trustee Council SOP and will ensure monitoring data can be accessed and evaluated to track resource-level restoration progress. Consistent monitoring plans and data management procedures facilitate consistency in data collection and reporting, data aggregation for Restoration Types, reporting to the public, coordination with other restoration partners, and use of data by the scientific community.

- **Summarize and communicate monitoring information.** The Trustee Council aggregates both monitoring information and results of analyses provided by each TIG, and communicates their collective progress towards meeting the programmatic and Restoration Type goals (see Chapter 5, Restoring Natural Resources) to the public.
- **Provide data management infrastructure.** The Trustee Council, working with the TIGs and Individual Trustee Agencies, supports the provision and/or development and maintenance of data infrastructure (e.g., the DIVER Restoration Management Portal; see Section 7.7, Public Engagement and Restoration Tracking) for monitoring and adaptive management. This portal includes a central repository for aggregation of monitoring information.
- **Coordinate with other science and monitoring programs in the Gulf of Mexico.** The Trustee Council coordinates with the RESTORE Council and other appropriate restoration programs and/or partners to identify synergies across programs and ensure efficiencies among the programs are leveraged, where applicable. The Trustee Council may coordinate with other restoration and science programs when developing the monitoring and adaptive management SOP.
- **Detect emerging unknown conditions.** The Trustee Council identifies, with input from the TIGs, irregularities in restoration data and/or information from other restoration and science programs that may signal the existence of emerging unknown conditions that may need to be considered in future restoration decision-making. Decisions on utilizing funds under the Unknown Conditions TIG will be informed by monitoring data gathered across TIGs and by review of any available scientific and supporting information that documents unforeseen conditions. The Trustees will develop specific procedures in the future to guide Trustees' decisions on use of the Unknown Conditions allocation, and these will then be made part of the Trustee Council SOP. Unknown Conditions funds would not be accessed until such time as those procedures are developed.
- **Perform program review.** Trustee Council support staff may direct peer review, by restoration and/or academic professionals, of any monitoring, analysis, and/or other products developed by the Trustees and guide the subsequent flow of this information to and from the TIGs and Individual Trustee Agencies.

## 7.6 Financial Management

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The Trustee Council, TIGs, and Individual Trustee Agencies have responsibility for overseeing and accounting for the use of natural resource damage (NRD) monies for restoration activities consistent with the PDARP/PEIS, Trustee Council SOP, and other governing documents.

### 7.6.1 Trustee Implementation Groups

TIGs review Individual Trustee Agency accounting policies and procedures for holding and tracking disbursed funds, review actual expenditures disbursed for restoration activities, and report to the Trustee Council on the use of funds throughout the TIG.

In selecting and implementing projects and using administrative and oversight funds, each TIG will conform, at a minimum, to the SOP set by the Trustee Council, and each TIG will establish a system for managing all funds deposited in its specific DOI NRDAR Fund subaccount. A general framework to develop an administrative accounting process will include the following:

- **Distribution of funds.** NRD monies will be deposited into the DOI NRDAR Fund. Subaccounts for each TIG will be established to fund the work in that Restoration Area, and further subaccounts may be established by each TIG, as appropriate, and in coordination with DOI. Disbursements from these subaccounts will be made by DOI on receipt of a written request, in the form of a formal resolution, from the TIG. The process for requesting funding from the DOI NRDAR Fund will be contained in the Trustee Council SOP.
- **Use of funds.** Funds will be used for restoration activities that are consistent with the PDARP/PEIS, Trustee Council SOP, and TIG SOP, when applicable. Funds can be used for direct project implementation costs and indirect costs to support TIG activities related to project planning and implementation, including monitoring/adaptive management and administrative oversight.
- **Administrative accounting process.** At a minimum, annual financial reports will be generated by each TIG. The reports will track all funds disbursed to and expended by the TIGs, according to Restoration Types, and will include all project and administrative disbursements, interest earned, expenditures, and account balances. The reports will be submitted to the Trustee Council and made publicly available. The annual reporting period will be set according to the Trustee Council fiscal year (January to December). These annual reports will be compiled by each TIG and be self-certified (formal audits are discussed below).
- **Regular audits.** Financial audits will be conducted on a regular basis (e.g., at least every 2 to 3 years) to ensure public trust and accountability regarding the use of *Deepwater Horizon* NRDA funds. The Trustee Council SOP will specify the minimum internal controls and documentation measures required. Financial audits will be conducted by an independent financial auditor following the most recent Generally Accepted Government Auditing Standards available during the fiscal year in which the audit is conducted. All final financial audit reports will be provided to the Trustee Council.

- **Use of interest earned on restoration funds.** Interest earned on TIG NRDAR subaccounts may be used at the discretion of the TIGs for restoration within the jurisdiction of each TIG, including for TIG planning, operation, and administration, or for any other responsibilities described in Trustee Council and/or TIG SOP. Any use of such funds for projects requires restoration planning.

## 7.6.2 Individual Trustee Agencies

Individual Trustee Agencies, acting as Implementing Trustees, are responsible for tracking project-level receipts and expenditures throughout project implementation, including long-term maintenance, until project completion/closeout. Individual Trustee Agencies execute contracts to complete projects, enter into cooperative agreements (or other appropriate partnership arrangements) with local governments and other third parties, and ensure that project funds are expended by contractors and partners on appropriate project-related expenses. All contracting and/or partnering procedures obligating TIG funds will be executed in accordance with applicable federal and/or state acquisition regulations where project implementation occurs,<sup>6</sup> including internationally, when applicable.

## 7.6.3 Trustee Council

The Trustee Council will establish financial SOP as a component of the Trustee Council SOP, as well as other processes to guide financial documentation, tracking, and reporting of the Trustee Council, each TIG, and each Individual Trustee Agency. In doing so, the Trustee Council will promote public transparency in the expenditure of funds and consistency in financial reporting. All funds received and expended, including interest on received funds, will be subject to the financial SOP. The Trustee Council will coordinate with the TIGs to aggregate the financial status of the restoration program and report that status to the public on a regular basis.

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<sup>6</sup> Acquisition regulations of the Implementing Trustee(s) will be followed (e.g., a project implemented by a Louisiana Trustee would follow Louisiana acquisition regulations).

## 7.7 Public Engagement and Restoration Tracking

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As stewards of public trust resources under OPA, the Trustees engage and inform the public and maintain an open and documented process for implementing restoration under this PDARP/PEIS. To effectively act on behalf of the public, the Trustees maintain transparency by establishing public engagement and reporting policies.

### 7.7.1 Public Engagement

Opportunities for public engagement will be provided throughout the implementation of this restoration program. Public meetings will be held to provide information to, and to receive comment from, the public on restoration activities. The Trustees will publicly notice certain program milestones as part of effective restoration planning and implementation, exchange restoration ideas or concerns, cultivate a broad understanding of restoration, and increase the public's awareness of the process.

The Trustee Council will hold at least one public meeting per year, unless a TIG planning cycle calls for a different frequency, in which each TIG will provide an update on the status of its restoration planning, implementation, and monitoring/adaptive management, and where there will be opportunity for public input. In addition, as described in Section 7.3 each TIG<sup>7</sup> will hold at least one public meeting per year to discuss the status of its restoration planning, upcoming restoration planning (including the Restoration Type[s] that TIG will focus on for a specified timeframe), and where there will be an opportunity for public input. TIGs may also coordinate with specific communities when developing specific restoration projects.

In addition to public meetings, the Trustee Council will maintain and update its current public website<sup>8</sup> containing information on restoration activities. The website will be updated to provide public access to restoration information and updates from the Trustee Council, TIGs, and Individual Trustee Agencies in one central location. Information also may be available on individual Trustee's websites. Information posted on the Trustee Council's website will include, but will not be limited to, the following:

- Draft and final restoration plans.
- Project and resource monitoring information.
- Informational fact sheets.
- Project details, status reports, and other activity tracking information.
- Restoration progress updates and reports.
- A library of supporting documents.
- Notices and information regarding upcoming outreach/public participation activities.
- Trustee contact information.
- Links to TIG and individual Trustee websites.
- Link(s) to the Administrative Records(s).

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<sup>7</sup> The Unknown Conditions and Adaptive Management TIG would not hold annual meetings until its work begins in future years.

<sup>8</sup> <http://www.gulfspillrestoration.noaa.gov/>

Notices for public meetings, opportunities for public review of restoration plans, and other public participation events are provided in the *Federal Register*, when required, and by the Trustee Council's website.

### 7.7.2 Administrative Record

As provided in 15 CFR § 990.45 and § 990.61, the Trustees will maintain the Administrative Record(s) for restoration planning and restoration implementation. Each TIG will develop and maintain Administrative Record material for its Restoration Area. The Trustee Council will establish consistent Administrative Record procedures and aggregate the Administrative Record materials collected and maintained by the TIGs in a central location (e.g., via a web portal). The Administrative Record for restoration planning generally includes 1) draft and final restoration plans, notices, public comments, and signed NEPA and environmental compliance documentation; 2) relevant information used to form the basis for Trustee decisions related to restoration; and 3) agreements, not otherwise privileged, among the participating Trustees, Trustee Council, and TIGs, including resolutions and implementation decision documents. The Administrative Record for restoration implementation generally includes all restoration implementation decisions, actions, and expenditures, including any modifications made to the final restoration plan. The Administrative Record for this PDARP/PEIS can be found at <http://www.doi.gov/deepwaterhorizon/adminrecord/index.cfm>.

### 7.7.3 Restoration Tracking and Reporting

The Trustee Council will share with the public regular reports of project progress, performance, and financial accounting of their actions. The basic reporting requirements for each TIG will be further defined within the Trustee Council SOP, including procedures for reporting project status, financial information, environmental compliance, and project monitoring activities. Additional metrics and SOP applicable to reporting requirements may be developed by the TIGs.

Given the complexity and volume of projects likely to be implemented under this PDARP/PEIS, the Trustee Council will use and adapt its existing central reporting platform, the DIVER Restoration Management Portal, to facilitate consistent and efficient aggregation of information and project reporting across the TIGs. This existing portal enables a cost-effective approach for the Trustee Council to provide aggregate restoration reporting to the public, because it supports consistent information collection and is designed to connect to a public web interface that publishes submitted data. This functionality reduces the administrative and financial burden of manually generating reports and converting them into publicly accessible and easily transferable information. The Restoration Management Portal is part of the broader DIVER platform, which is a data warehouse and query application that integrates datasets across data holdings. The DIVER platform also provides for ease in sharing project, financial, and scientific information with the other *Deepwater Horizon* restoration programs and other restoration partners. The DIVER Restoration Management Portal offers data management options for each Trustee; additionally, the Trustees may maintain records on other platforms.

The DIVER Restoration Management Portal facilitates consistent project progress reporting, as well as financial information, which is necessary for the Trustee Council to compile aggregate reports. These

aggregate reports are essential both for reflecting the collective project outcomes of the full body of restoration work conducted by the Trustees to the public and for informing adaptive management of this program. Further, aggregate financial reports track the collective disbursements and expenditures of the TIGs and provide financial information material for conducting the independent financial audits discussed in Section 7.6, Financial Management. The DIVER Restoration Management Portal includes the following:

- Project idea submissions.
- Administrative and financial disbursements and expenditures.
- Restoration project tracking information.
- Document and data storage.
- Environmental compliance tracking information.
- Adaptive management and monitoring data.
- Restoration project reports to the public.

## 7.8 References

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