

APPLICATION FOR A GRANT FROM THE TEXAS WATER DEVELOPMENT BOARD

I. General Information

a. Legal Name of Applicant

Texas AgriLife Extension (“TAE”) of the Texas A&M University System, on behalf of the Edwards Aquifer Recovery Implementation Program (“EARIP”).

The 80th Texas Legislature adopted Senate Bill 3 in 2007, requiring the Edwards Aquifer Authority (“EAA”) in cooperation with the United States Fish and Wildlife Service (“FWS”) and stakeholders to establish the EARIP, overseen by a Steering Committee comprised of representatives of stakeholders and charged with accomplishing certain required program activities. *See* Act of May 28, 2007§ 1.26A. Senate Bill 3 further directed that Texas A&M University (“TAMU”) will, among other things, provide assistance to the EARIP. TAMU has designated the TAE, acting through its Institute of Renewable Natural Resources (“IRNR”), as the arm of TAMU responsible for performing the TAMU responsibilities related to Senate Bill 3 and the EARIP. The Steering Committee for the EARIP has requested TAE to serve as the contracting agent for this Grant.

b. Legal Name of Each Participant

The EARIP is a collaborative, consensus-based stakeholder process to protect and contribute to the recovery of the federally listed species associated with the San Marcos and Comal Springs, while also protecting the Edwards Aquifer as a water supply source. The EARIP consists of a diverse group of regional stakeholders. The stakeholders that have executed a Memorandum of Agreement with the FWS regarding participation in the EARIP include: Aquifer Guardian in Urban Areas, Alamo Cement Company, Bexar County, Bexar Metropolitan Water District, Carol G. Patterson, City of Garden Ridge, City of New Braunfels, City of San Marcos, City of Victoria, Comal County, CPS Energy, Dow Chemical, East Medina Special Utility District, EAA, Gilleland Farms, Greater Edwards Aquifer Alliance (“GEAA”), Greater San Antonio Chamber of Commerce, Guadalupe Basin Coalition, Guadalupe-Blanco River Authority, Guadalupe County Farm Bureau, John M. Donahue, Ph.D., Larry Hoffman, Mary Q. Kelly, Nueces River Authority, New Braunfels Utilities, Preserve Lake Dunlap Association, Regional Clean Air and Water Association, San Antonio River Authority, San Antonio Water System, San Marcos River Foundation, South Central Texas Water Advisory Committee, South Texas Farm and Ranch Club, Texas Bass Federation, Texas Commission on Environmental Quality (“TCEQ”), Texas Department of Agriculture (“TDA”), Texas Living Waters Project, Texas Parks and Wildlife Department (“TPWD”), Texas Water Development Board (“TWDB”), and Texas Wildlife Association.

c. The applicant’s official representative with respect to this grant is:

Robert L. Gulley, Ph.D.
Edwards Aquifer Recovery Implementation Program
Texas A&M University Institute of Renewable Natural Resources
2632 Broadway, South Building, Suite 301
San Antonio, Texas 78215
210-222-0711 (W)
210-222-0343 (F)
RLGulley@ag.tamu.edu

d. The application is not in response to a Request for Proposals in the Texas Register but is in response to directive of the 81st Legislature.

e. Brief Description of the Proposal

The 81st Legislature directed the TWDB to allocate out of the Water Assistance Fund No. 480 up to \$1,692,500 for grants and studies related to the Edwards Aquifer Recovery Implementation Program. Rider 22, page VI-55, Chapter 1424 (S.B. 1), Acts of the 81th Legislature, Regular Session, 2009 (the General Appropriations Act). The Legislature intended that this allocation include money for the non-federal share of a Section 6 Habitat Conservation Planning Assistance grant (“Section 6 grant”), the project management contributions of the TPWD, TDA, and TCEQ (\$25,000 for each agency for the biennium), the cost of peer review of scientific work as well any other non-project management costs necessary for the timely completion of the program document. This proposal requests funding from the TWDB for: (1) the non-federal share of the Section 6 grant; and (2) the project management contributions of the three State agencies.¹

The Section 6 grant is a \$1,417,500 cost-share grant with the Federal government paying 75 percent of the total costs (\$1,063,125). The total of the non-federal share of the Section 6 grant is \$354,375. The items covered by the Section 6 grant for which this requests funding for the non-federal share include: (1) the cost of a contractor to assist in the development and prepare the program document; (2) the costs of a facilitator to facilitate in the decision-making process that will be used to develop the program document; and (3) five percent overhead for GEAA for the costs of serving as the contracting agent with TPWD on the grant. The total request for the Section 6 grant items is **\$354,375** including the cost of grant administration.

The project management costs for the EARIP include the salary, fringe benefits, travel for the Project Manager, office rent, 20 percent of the cost of an assistant for the Project

¹ This request does not include money for the peer review of the work of the Expert Science Subcommittee or the studies of Dr. Hardy or any other necessary work not specifically described in our discussions with the Legislature. It is anticipated that a request for specific scientific support necessary to the decision-making process will be submitted no later than October 1, 2009. It is further anticipated that a request to amend this proposal to include the peer review support will be made when that work is complete and a proposal has been obtained for the work.

Manager, and routine office expenses. These costs have been shared by the stakeholders. TCEQ, TPWD and TDA have been paying \$25,000 per year as their share of the costs although previously the Legislature did not include a specific appropriation to cover these contributions. The requested grant includes the project management contributions of the TPWD, TDA, and TCEQ for the biennium. The contribution for each of the three agencies is \$25,000 per year or a total of **\$150,000** for the biennium including the cost of grant administration.

The total amount of funding requested by this grant is **\$504,375**.

f. Location of the project

The full geographic proposed project directly involves the region within the jurisdiction of the EAA. The geographic scope of the project may be enlarged as part of the decision-making process.

g. Description of the plans for implementing the project results

Senate Bill 3 requires the EAA, TCEQ, TPWD, TDA, TWDB, and other stakeholders to prepare a program document by September 2012 that provides recommendations for withdrawal adjustments during critical periods to ensure that federally-listed, threatened, and endangered species associated with the Edwards Aquifer and associated springs will be protected, and measures to mitigate the impacts of its action on the federally-listed species. That plan will include an implementing agreement setting out the specific obligations of those stakeholders who agree to implement the plan. It also will contain an adaptive management program to monitor and evaluate uncertainties associated with the assumptions underlying the plan and identify measures that will be implemented based on the monitoring and evaluation.

h. Total proposed project cost: \$1,567,500.

i. Total grant funds requested from the Texas Water Development Board: \$504,375.

j. Applicant cash contribution

To date, the Stakeholders have contributed over \$760,000 to support the EARIP. *See* Attachment 1. The stakeholders will continue to pay the project management costs of the EARIP which include the salary, travel and office of the program manager. The estimated project management costs for the remainder of the EARIP exceed \$500,000

k. Identify the applicant in-kind contribution including source and description of in-kind services.

TPWD has and will continue to provide, at no cost, numerous scientists to work on technical issues related to the project. Dr. Robert Mace of the TWDB serves as the Chair of the

EARIP's Expert Science Subcommittee. The EAA has and will continue to provide hydrologic modeling expertise without cost to the EARIP.

I. Is the applicant an individual member of the Texas Water Development Board, a Board staff member, or a member of their immediate families.

The applicant is not an individual member of the TWDB, a Board staff member, or a member of their immediate families. However, the TWDB was designated by Senate Bill 3 as a member of the Steering Committee for the EARIP and is participating in the EARIP through its representative, Weir Labatt.

II. Project Information

a. Explanation of why this project is needed.

The Edwards Aquifer is a unique groundwater resource, extending 180 miles from Brackettville in Kinney County to Kyle in Hays County. While it is the primary source of drinking water for over 2 million people in south central Texas and serves the domestic, agricultural, industrial, and recreational needs of the area, it is also the sole-source of water for a unique system of aquatic life, including at least eight federally listed threatened and endangered species. The Edwards Aquifer is the source of the only two great springs remaining in Texas - the San Marcos and the Comal. These springs are home to the fountain darter, San Marcos salamander, San Marcos gambusia (believed to be extirpated), Texas blind salamander, Peck's cave amphipod, Comal Springs dryopid and riffle beetles and Texas wild rice. Comal and San Marcos Springs feed tributaries to the Guadalupe River.

In 1992, the Sierra Club filed a lawsuit under the Federal Endangered Species Act ("ESA") that resulted in the creation of the EAA. The Texas Legislature directed the EAA to regulate pumping from the aquifer, implement critical period management restrictions, and pursue measures to ensure minimum continuous springflows of the Comal and San Marcos Springs are maintained to protect endangered and threatened species to the extent required by federal law. Competing water needs, however, still provoke tensions within the region.

As a result, in late 2006, FWS brought together stakeholders from throughout the region to participate in a unique collaborative process (*i.e.*, the EARIP) to protect Federally-listed species which balancing the needs of all those who rely on the waters of the Edwards. This process is referred to as a "recovery implementation program." In May 2007, in S.B. 3, the Texas Legislature directed the EAA and certain other state and municipal water agencies to participate in the EARIP.

Senate Bill 3 directs EAA, TCEQ, TPWD, TDA, TWDB, and other stakeholders to "jointly prepare a program document that may be in the form of a habitat conservation plan used in issuance of an incidental take permit. The program document must provide recommendations

for withdrawal adjustments during critical periods to ensure that federally-listed species associated with the Edwards Aquifer and associated springs will be protected at all times including throughout a repeat of the drought of record. The program document must be “approved and executed” by EAA, the TCEQ, TPWD, TDA, TWDB, and the FWS not later than September 1, 2012. On July 13, 2009, the EARIP reached a consensus that the program document shall include an application for an Incidental Take Permit (“ITP”), Habitat Conservation Plan (“HCP”), and draft Environmental Impact Statement.

The EARIP is in the process of retaining a technical consultant to undertake the actual preparation of the program document and to assist the stakeholders in developing the actions to be covered by the ITP. A decision on the program document contractor is scheduled to be made on September 10, 2009.

The decision-making process with respect to the development of the program document will be open, inclusive, and transparent. The EARIP is in the process of retaining Collaborative Processes LLC to facilitate the decision-making process during meetings of the EARIP. In September, the EARIP will begin addressing the issues necessary to develop a program document. The Steering Committee, working with the EARIP stakeholders, will resolve federal Endangered Species Act (“ESA”) issues such as the geographic scope of the HCP, the duration of the ITP, and the species to be covered. Subsequently, the EARIP will develop specific goals and objectives for the program document and identify the actions to be covered by the program document.

The requested grant will allow the EARIP to develop and prepare the program document required by Senate Bill 3. Successful completion of the program document should protect and contribute to the recovery of the federally listed species associated with the San Marcos and Comal Springs, while protecting the Edwards Aquifer as a water supply source.

b. A detailed scope of work describing tasks and a time schedule for each.

This request is for funding to develop and prepare the program document. This proposal requests funding for three tasks: (1) development and preparation of the program document; (2) facilitation of the decision-making process for the development of the program document; and (3) project management.² The three tasks are discussed below and the Task and Expense Budgets are attached as Attachment 2.

² The proposal requests money only to cover the contributions of TPWD, TCEQ and TDA towards project management costs. The other stakeholders will cover the remainder of the project management costs.

1. Description of Tasks

TASK 1: DEVELOPMENT AND PREPARATION OF THE PROGRAM DOCUMENT

The EARIP is in the process of retaining a technical consultant to undertake the actual preparation of the program document and to assist the stakeholders in developing the actions to be covered by the ITP. A decision on the program document contractor is scheduled to be made on September 10, 2009. In response to the EARIP's Request for Proposals, each of the four proposals currently under consideration addressed the five subtasks that must be completed by the selected contractor:

Subtask 1: Preparation of a Plan for Developing the Program Documents

Within 60 days of the execution of a contract, the selected Contractor shall submit to the EARIP Program Manager a step-by-step plan for developing the program document and for integrating the plan into the EARIP's decision-making process.

Subtask 2: Interface with the EARIP

The selected contractor will attend, as appropriate, the meetings of the EARIP and Science Subcommittee and provide advice to the EARIP regarding the development of the program document. Information developed through the EARIP decision-making process will be used to prepare the program document. It is anticipated that the EARIP will have identified the covered actions and covered species for the ITP by June 30, 2010.

Subtask 3: Preparation of the Program Document

The selected Contractor shall complete the preparation of program document no later than June 30, 2011. The program document shall include the Incidental Take Permit, Habitat Conservation Plan, and draft Environmental Impact Statement. Drafts of these documents must be submitted for review by the EARIP no later than April 30, 2011. These Documents must comply with the requirements of the ESA and its implementing regulations, the National Environmental Policy Act ("NEPA") and its implementing regulations, and FWS Guidance on HCPs.

Subtask 4: NEPA Scoping Process

The selected Contractor will prepare the NEPA scoping document and any requisite notices. The selected Contractor shall attend and participate in public meetings regarding that document.

Subtask 5: Interface with the United States Fish and Wildlife Service

The selected contractor may from time-to-time to attend, with the applicant, meetings with FWS to discuss issues related to the development and preparation of the program. The selected Contractor will to the extent necessary implement any changes or assist in the preparation of any responses to comments required by FWS for approval of the program document.

We have not received budgets from the contractor candidates. The EARIP will request a task-by-task budget from the highest ranked candidate and attempt to negotiate a contract. If a contract cannot be promptly negotiated, the EARIP may request a budget from the next ranked candidate and attempt to negotiate a contract with that firm.

We believe from reviewing the proposals that this task will cost \$1,260,000 including 5 percent overhead. Final Subtask and Expense Category Budgets will be submitted as soon as they are received from the selected contractor but before a contract is executed with TWDB. The contractor will not start work until the contract with the TWDB has been executed.

TASK 2: FACILITATION OF THE STAKEHOLDER DECISION-MAKING PROCESS FOR DEVELOPMENT OF THE PROGRAM DOCUMENT

Collaborative Processes LLC (“Collaborative”) will facilitate the decision-making process for the EARIP’s development of the program document. Collaborative will use two subcontractors to assist in facilitating the decision-making process, Consensus Building Institute (“CBI”) and Center for Natural Resources and Environmental Policy (“Center”). The EARIP is finalizing the contract with Collaborative Processes LLC for its services.

The following describes the specific subtasks that Collaborative will perform in the decision-making process.

Subtask 1: Development of Project Scoping, Situation Assessment and Work Plan

Within 60 days of the execution of this Contract, Collaborative shall prepare and submit to the Program Manager a situation assessment that provides a neutral assessment of the decision-making issues and a menu of options about how to address these various issues, and to explore how people want to be involved in the development of the program document. Collaborative shall meet with the EARIP Participants to discuss the menu. After the meeting, Collaborative shall prepare and submit to the Program Manager a situation assessment and a work plan and schedule for the completion of Subtask 2. It is estimated that Collaborative will spend up to 163 person hours on this Task.

Subtask 2: Facilitation of the EARIP’s Development of the Program Document

Collaborative shall prepare for and conduct facilitated sessions to assist the EARIP in the development of goals and objectives for the program document and the development of activities to be covered by the Incidental Take Permit (“Covered Activities”). Following each session, Collaborative shall promptly prepare and send to the Program Manager a summary of the facilitated session. Subtask 2 has three specific elements: Subtask 2a: Facilitate Development of Goals and Objectives; Subtask 2b: Facilitate the Evaluation of Technical Studies and Subtask 2c: Facilitate the Development of Covered Activities, including resolution of ESA issues.

Subtask 2a will include attendance at meetings and other communications with the Steering Committee members to build agreement on the goals and scope of the EARIP including geographic scope and intended outcomes. It is estimated that Collaborative will spend up to 88 person-hours on this Subtask.

Subtask 2b will include meetings and other communications to integrate technical studies (Science Subcommittee, Hardy work, USGS decision making, and other needed technical input) into the Steering Committee decision-making. It is estimated that Collaborative will spend up to 129 person-hours on this Subtask.

Subtask 2c include facilitation of meetings and other communications that, within the agreed upon geographic scope, develop options for activities and projects which will advance the goals and objectives identified in Subtask 2.a. This may include facilitating activity groups and subgroups. It is estimated that Collaborative will spend up to 454 person-hours on this Subtask.

TASK 3: PROJECT MANAGEMENT

The project management costs for the EARIP include the salary, fringe benefits, travel for the Project Manager, 20 percent of the salary and fringe of an assistant for the Project Manager, office rent, routine office expenses and five percent overhead. TAE subcontracts some of the program management task to the San Antonio Water System that contracts with USGS to manage the Science Subcommittee. The EARIP will subcontract for accounting and auditing services beginning in 2010 as part of the project management task.

The estimated State agency share of the project management budget for 2010-11 is set out in Attachment 2.

2. Time Schedule

The following outlines the timeline for the specific tasks described above.

Task 1: Program Document	October 2009 thru August 2012
Task 2: Facilitation	September 2009 thru June 2010

b. A description of suggested project-monitoring procedures

This project will be managed by the Program Manager for the EARIP. He will review and approve payment of all invoices which will be submitted quarterly. The costs on each invoice will be broken by expense category and will be accompanied by a progress report showing the progress made for that quarter for each task. The Project Manager also will meet with contractors working on the project on a regular basis to monitor costs and progress on the work. The Project Manager will make regular reports to the EARIP on the project.

Progress on the project and budget will be tracked using Microsoft Project 2007 and Microsoft Excel software.

c. Qualifications and experience of project staff that are directly related to the project

The proposals setting out the qualifications for Collaborative Processes LLC and the Project Manager are attached as Attachments 3 and 4. Copies of the qualifications of the Program Document contractor will be submitted as soon as the contractor is selected.

III. Written Assurances

The proposed water research does not duplicate previously completed or on-going research; implementation of research results will be diligently pursued; identification and involvement of potential users will be provided; and if a grant is awarded, will provide written evidence that local matching funds and in-kind services are available for the proposed research.

Dated: September 2, 2009

Dr. Edward G. Smith
Director
Texas AgriLife Extension

ATTACHMENT 1

Individual Contributions to the EARIP:

San Antonio Water System	\$133,000
Texas Water Development Board	\$127,470
Edwards Aquifer Authority	\$94,300
Guadalupe-Blanco River Authority	\$94,300
San Antonio River Authority	\$94,300
Texas Parks and Wildlife Department	\$50,000
Texas Commission on Environmental Quality	\$50,000
Texas Department of Agriculture	\$50,000
Bexar County	\$10,000
Bexar Metropolitan Water District	\$10,000
CPS Energy	\$10,000
City of Victoria	\$10,000
Nueces River Authority	\$10,000
Dow Chemical	\$10,000
City of San Marcos	\$ 5,000
New Braunfels Utilities	\$ 5,000
Guadalupe Basin Coalition	\$ 5,000
Alamo Cement	\$ 2,500
City of San Marcos	\$ 2,500
San Marcos River Foundation	\$ 1,000
Aquifer Guardians in Urban Areas	\$ 100
Greater Edwards Aquifer Alliance	\$ 100
National Wildlife Foundation	\$ 334
Sierra Club	\$ 333
Environmental Defense Fund	\$ 333
South Texas Farm and Ranch Club	\$ 250
East Medina County	\$ 200
Yancy Water Supply Corp	\$ 200
Trinity University	\$ 100
Regional Clean Air	\$ 100
TOTAL	\$776,420