

**AGREEMENT IN PRINCIPLE  
BETWEEN  
THE UNITED STATES DEPARTMENT OF ENERGY  
NATIONAL NUCLEAR SECURITY ADMINISTRATION  
PANTEX SITE OFFICE  
AND  
THE STATE OF TEXAS**

**A. INTRODUCTION**

This Agreement In Principle (hereinafter called "Agreement" or "AIP"), is effective on October 1, 2016, and is by and between the UNITED STATES OF AMERICA (hereafter called the "Government"), acting through the U.S. DEPARTMENT OF ENERGY, NATIONAL NUCLEAR SECURITY ADMINISTRATION (NNSA), NNSA PRODUCTION OFFICE (hereafter called "NPO"), and the STATE OF TEXAS (hereafter called the "State"), acting through the State Energy Conservation Office (hereafter called "SECO").

The NPO intends to enter into a new grant instrument with the State of Texas for the purpose of implementing this Agreement.

The NPO intends to provide technical and financial support to the State agencies responsible for expedited review of environmental documents, assisted confirmation sampling, participation in technical and Pantex-related meetings, and emergency preparedness planning and emergency response related to Pantex in the Emergency Planning Zone (EPZ) surrounding the Pantex Plant located near Amarillo, Texas, as set forth in this Agreement.

This Agreement and the corresponding Grant will reflect the understanding and commitments between the parties regarding the NPO's provision to the State of additional technical and financial support for State activities in expedited review of environmental documents, assisted confirmation sampling, participation in technical and Pantex-related meetings, and emergency preparedness planning, and to advise and assist the NPO in assuring that the activities at the Pantex Plant do not adversely impact public health, safety, and the environment.

This Agreement is designed to ensure protection of public health, safety, and the environment through existing programs and through a program of emergency preparedness planning and assisted confirmatory monitoring by Texas officials.

**B. PROGRAM GUIDELINES AND RESPONSIBILITIES**

In order to achieve the objectives of the Agreement, the parties have agreed that:

1. The purpose of this Agreement is to advise and assist the NPO in assuring that activities at the Pantex Plant do not adversely impact public health, safety, and the environment by promoting cooperative efforts between the NPO, the State, and local governments. The parties to this Agreement further understand that the oversight activities authorized by this Agreement are intended to supplement activities conducted under applicable environmental laws and regulations, but not to support specific State regulatory, permitting, and legally-required environmental oversight activities, such as issuance of regulatory permits, the review of NPO regulatory submissions when such review serves primarily as the basis for State action under regulatory programs, required regulatory inspections, required monitoring, issuance of regulatory notices of violation and other citations, nor to support the activities of any other oversight or advisory board. Instead, the Agreement is intended to support the non-regulatory activities of the State, including participation in technical and Pantex-related meetings and to perform assisted confirmation sampling of discharges, emissions, or biological parameters as necessary to assess the effectiveness of the Pantex Plant's commitment to public health, safety, and the environment. This Agreement recognizes the continued need for the State to have access to the Pantex Plant and to exchange relevant technical information with the NPO to support the environmental assessment and monitoring, and emergency management efforts by the State and local governments. The parties to this Agreement understand that the Agreement does not represent an extension or enlargement of any regulatory authority that Texas has under applicable laws. Specific purposes include:
  - a. Achieving expedited review of environmental documents;
  - b. Participating in technical and Pantex-related meetings;
  - c. Conducting enhanced environmental confirmatory monitoring and independent oversight at and around the Pantex Plant; and
  - d. Assisting the NPO, the State, and local governments in implementing an effective and coordinated emergency management program.
2. The parties recognize that the responsibilities and obligations provided in the Interagency Agreement (IA) between themselves and Region 6 of the U.S. Environmental Protection Agency (EPA) pursuant to Section 120 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986, are separate from the responsibilities and obligations contained in this Agreement. The State's IA-related costs will be covered in the IA.
3. The NPO agrees to pursue the initiatives described in this Agreement in support of the State activities related to the State action items outlined in the Grant. The State likewise agrees to pursue the initiatives described in this Agreement and in the Grant. The general objective of the State Action Items is to conduct environmental monitoring, provide independent validation of environmental data, and pursue joint emergency planning among the Pantex Plant emergency planners, local governments (local political subdivisions within the designated Pantex EPZ) and State emergency agencies. In accordance with the Texas Disaster Act of 1975, as amended, and consistent with the Executive Order of the Governor Relating to Emergency Management, local governments, the Governor's Office, and cognizant State agencies have specific responsibilities for emergency planning and response. Joint emergency

planning under this Agreement and the corresponding Grant should be consistent with the Texas Disaster Act and the Executive Order of the Governor and should meet the Texas Division of Emergency Management (TDEM) and Federal planning standards and criteria as set forth by the Department of Energy (DOE) and the Department Homeland Security and its agencies, as applicable to DOE facilities.

4. The NPO agrees to clarify and provide written explanation to the State of the “need-to-know” security information requirements specified in DOE, NNSA, and other federal security requirements governing classified and sensitive unclassified information (e.g., 10 CFR Parts 1016 and 1017, Executive Order 12356, and DOE Order 470.4B, Safeguards and Security Program that apply to access to certain types of information or areas at the Pantex Plant. In carrying out the provisions of this Agreement, parties will comply with applicable security laws and regulations, Privacy Act, and Freedom of Information Act (FOIA) requirements, and trade secret, patent, and related confidentiality requirements. Information designated by the NPO as “classified” in accordance with applicable laws, regulations, or executive orders or which otherwise is entitled to confidentiality under applicable laws, regulations, or orders shall not be released to the State unless authorized by the NPO Manager or designee pursuant to applicable laws, regulations, or executive orders. Nothing in the Agreement shall affect the rights either party may have under the FOIA or other applicable laws and regulations.
5. Where required by existing laws or regulations, or it is determined that the State has a “need-to-know”, and the NPO has determined, pursuant to applicable laws and regulations, that sensitive unclassified information or documents (categorized as Official Use Only) are entitled to confidentiality, the State will be provided access to view only, at the discretion of the NPO, but not copies of, such information or documents until it provides the NPO with written assurance that the State will maintain the confidentiality of such information or documents, at which time copies may be provided to the State. Information provided by either party under this Agreement shall be, unless otherwise agreed by the parties and consistent with applicable laws and regulations, agency information representing the parties’ considered position on the issues addressed therein. Copies of documents may be provided to the State when they contain the statement below. This statement has been mutually recognized and agreed to by the NPO and the State as being sufficiently protective.

“CONFIDENTIAL [Per Tex. Gov’t Code 418.175 – 418.182]

DOE Designation – OFFICIAL USE ONLY

Contains information that may be exempt from public disclosure under the Texas Public Information Act (PIA), Tex. Government Code Ch. 552, or Freedom of Information Act (FOIA), 5 U.S.C. § 552. All requests for disclosure to the public must be referred to the originator of this information. A preliminary public disclosure determination will be made by the Texas Attorney General and/or the originator before disclosure to the public.” Information designated by the NPO as “Unclassified Controlled Nuclear Information (UCNI)” in accordance with applicable laws, regulations, or executive orders or which otherwise is entitled to confidentiality under applicable laws, regulations, or orders shall not be released to the State unless authorized by the NPO Manager or designee pursuant to applicable laws, regulations, or executive orders.

6. The State agrees that the use of funds authorized by the corresponding Grant and consistent with the objectives of this Agreement is for services, personnel, and equipment that are directly related to AIP program activities. The State shall not use Grant funds to support activities not related to the AIP program. To the extent that personnel, equipment, or services are used for both AIP and non-AIP activities, the State shall allocate its costs and charge to the corresponding Grant only that portion of the cost of the personnel, equipment, or services that is used to support AIP program activities. If Grant funds are used to support emergency management services or equipment that will also be used to support other State and local community programs not solely related to AIP activities, or programs supported by other entities, the State shall allocate its costs and charge to the Grant only that portion of the cost of their services, equipment, or equipment maintenance used to support AIP program activities. Neither this Agreement, nor the Grant, circumvents or diminishes the authority of the State to fully carry out its statutory and regulatory responsibilities under state and federal law or the right of the NNSA to raise any defenses available under law in the case of any enforcement action brought by the State or others, whether in an administrative or a judicial proceeding.
7. The NPO agrees to provide funding resources to the State through financial assistance to support emergency management planning, the State's expedited review of environmental documents, participation in technical and Pantex-related meetings, and assisted confirmation sampling of air, groundwater, surface water, soils, and biological parameters at and in the vicinity of the Pantex Plant. The State's evaluation of the environmental parameters at and in the vicinity of the Plant include reporting requirements outlined in Attachment 3 of the Grant. The NPO support for emergency management planning and environmental restoration is outlined in Appendix A of this Agreement.
8. The NPO agrees, in good faith, to use its best efforts to meet its commitments to fund the Grant. The NPO and the State will jointly assess the Grant's level of funding for the five-year term and on a year-to-year basis. The annual funding level review will be based on the NPO budget for that year, the State's timely submittal of an annual budget, and consideration of actual expenditures and carryover from the previous program year. The State's obligations under the Grant are subject to the availability of funds. No provision herein shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341. In addition, any financial support provided by NPO must be in accordance with applicable financial assistance rules. Any funds provided hereunder are federal funds to be transferred to, and administered exclusively by, the State through the SECO, in accordance with the terms of the Grant. Subject to applicable security, classification, and other confidentiality laws and regulations, nothing in this Agreement shall be construed to circumvent, hinder, or prevent either of the parties in furtherance of their statutory duties, rights, and obligations.
9. Each individual State Agency/Office/Research Organization receiving funding under the Grant and requiring access to the Pantex Plant shall either provide to the NPO a health and safety plan or an annual validation statement for specific projects at the Pantex Plant.
10. The State shall submit an electronic version of the quarterly performance report that summarizes the results of its accomplishments relative to the objectives established for that program quarter. Quarterly performance reports shall be submitted within forty-five (45) days

after the end of the quarter. Performance reports shall contain brief information on the following:

- a. A project narrative in sufficient detail to describe the program objectives addressed in the project description for that period.
- b. A description of the accomplishments, significant changes from the intentions, and significant issues for each program objective accomplished for that quarter to include training and travel.
- c. A description of program area total expenditures for each major program activity and a comparison of actual cumulative expenditures to budgeted expenditures. Significant variances shall be addressed in detail.
- d. A projection of key events, milestones, and open items from the existing quarter that will be completed during the next quarter.

### C. ADMINISTRATION

1. The parties designate the following official points of contact who are authorized to receive all official notification hereunder.

For the State:

State Energy Conservation Office  
LBJ State Office Building  
111 E. 17<sup>th</sup> Street, Room 314  
Austin, TX 78711-1440

Attn: Director of Pantex Programs

For NPO:

National Nuclear Security Administration  
Pantex Site Office  
P. O. Box 30030  
Amarillo, TX 79120-0030

Attn: NPO Contracting Officer's Technical Representative

2. This Agreement shall only be amended or terminated by the written mutual agreement of both parties consistent with the applicable laws and regulations. This agreement shall become effective October 1, 2016. It shall remain in effect for a 5-year term from the effective date and supersedes the Agreement in Principle executed on July 13, 2011.
3. This Agreement is voluntarily entered into between the United States Department of Energy, National Nuclear Security Administration Production Office under the authority of 42 U.S.C. § 7101 et seq., and the State of Texas under the authority of the Office of the Governor.

IN WITNESS THEREOF, the parties hereto have executed this Agreement on the respective dates indicated.

**UNITED STATES OF AMERICA**

**THE STATE OF TEXAS:**

**THE U.S. DEPARTMENT OF ENERGY,  
NATIONAL NUCLEAR SECURITY  
ADMINISTRATION:**

*Line Given for Mike Reissig*

Mike Reissig  
Deputy Comptroller

*Geoffrey Beausoleil*

Geoffrey Beausoleil  
Manager, NNSA Production Office

Date: 7-22-16

Date: 6/30/2016

\_\_\_\_\_  
Greg Abbott  
Governor  
*Executed for the State of Texas in accordance with  
Article IV, Section 10, of the Texas Constitution*

Date: \_\_\_\_\_

**Appendix A**  
**NPO SUPPORT**

**TASK ONE. GENERAL**

1. Based on mutual agreement between NPO, State government and local government, provide appropriate security clearances to designated State and local employees with a “need-to-know”. NPO shall use its best efforts to accelerate the completion of background investigations for granting and maintaining security clearances to designated State and local government employees. Security clearances shall be paid for by federal funding.
2. NPO will work jointly with the State to develop and implement procedures for the dissemination of information to the public, to include electronic means to share information during events and exercises.
3. The NPO agrees, in good faith, to use its best efforts to obtain timely funding to meet the financial commitments under the Grant.
4. Should issues arise at the Pantex Plant that could affect public health, safety, or the environment, the NPO and the State through the Official Points-of-Contact (POC) will commence discussions to resolve such issues or to recommend amendments to the Grant, as appropriate.
5. The NPO agrees to establish and furnish an office at the Pantex Plant including necessary telecommunications for the exclusive use of the State for the purpose of enhancing coordination between the NPO and the State.
6. Provide State and local personnel with need-to-know information and escorted access to Pantex Plant facilities on an “as needed” basis, as agreed upon by both parties. Some information and access may require appropriate security clearances.

**TASK TWO. ENVIRONMENTAL SUPPORT**

1. Provide the current Pantex Environmental Monitoring Plan or equivalent document to the State for information, and provide updates, as appropriate.
2. Provide Pantex environmental data to the State as required to support participation in technical meetings.
3. Provide Pantex environmental documents as required to the State for expedited review.
4. Provide documentation pertaining to delisting under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) to the State for information, and provide updates, as appropriate.
5. Allow the State to split samples, whenever possible, in all environmental monitoring activities.

### TASK THREE. EMERGENCY MANAGEMENT

1. Prior to finalizing changes/revisions to Pantex emergency planning documents that affect off-site agencies, Pantex emergency management representatives will seek input from the State and local governments, as appropriate.

Pantex emergency management representatives will provide an annual documents review schedule for Pantex emergency planning documents containing the subject matter listed in Appendix B and utilize the AIP meetings to review the documents and explain any changes/revisions.

Copies of unclassified Pantex emergency planning documents will be provided to State and local governments. For those documents that are classified or are otherwise sensitive in nature, Pantex emergency management representatives will provide to AIP personnel who have the proper security clearance and a "need-to-know", an opportunity to view those documents at the Pantex Plant.

2. Maintain current copies of State and local plans related to a radiological and/or hazardous material incident.
3. In coordination with State and local governments, design, schedule, conduct and evaluate periodic joint emergency exercises and drills in accordance with DOE Order 151.1C, Comprehensive Emergency Management System.

Exercise and drill planning must be collaborative and organized well in advance so that off-site facilities such as the Joint Information Center (JIC) and the Reception Center can be reserved for use during the exercise or drill, as needed.

Engage with off-site emergency management officials in an annual workshop to schedule drills and exercises. Maintain a five-year joint exercise and drill schedule with both Pantex and Y-12 activities, and update it annually.

Conduct a full-scale radiological exercise with off-site consequences to include the use of the JIC and the Reception Center, at least once every three years.

Participate in joint exercises and drills to the extent possible. Utilize a Web EOC, or its equivalent, so its use with the offsite emergency operations centers (EOCs) and the JIC can be exercised and evaluated.

Prior to completion of the final joint exercise/drill report, solicit comments from State and local governments.

4. Maintain the offsite notification procedures to ensure that accurate, timely information, necessary to protect public health and safety, is transmitted to the appropriate off-site agencies. Make every reasonable effort to ensure the timeliness of required notifications to off-site agencies within the specified time limits in DOE Order 151.1C.



5. Conduct monthly notification, warning system, and communications testing with State and local governments. In coordination with State and local officials, evaluate the timeliness, accuracy, and effectiveness of those activities.
6. The Plant's emergency management representatives shall develop, and test on a monthly basis, the communications connectivity with the lead State off-site radiological agency to assure timely and accurate transmittal of information necessary to protect public health and safety.
7. Meet, as needed, with State and local governments to review and resolve emergency management issues and coordinate emergency management activities, to include recovery from a radiological incident.
8. In the event of an incident (radiological/HAZMAT), DOE/NNSA response assets are available to support off-site officials, within resource availability. The Pantex Plant will coordinate with off-site officials to provide information on the availability and capabilities of DOE/NNSA emergency response assets and how to access and utilize these federal assets.
9. Based upon the availability of federal funds, NPO agrees to evaluate the State's recommendations and priorities for requirements not forecasted by the State.
10. Provide the State with Pantex Plant-generated quarterly meeting report and presentational material to include in the State's Quarterly Report.
11. Provide support for establishment and maintenance of public warning systems in the Pantex Plant 10-mile Emergency Planning Zone (EPZ). This will include coordination of testing and activation protocols with local governments and the National Oceanic Atmospheric Administration, National Weather Service.
12. Provide support for direction and control facilities, mobile command platforms, and communication/data systems used by State and local governments in response to an incident at the Pantex Plant.
13. Coordinate with State and local governments an emergency public information program to include coordination of emergency preparedness information and inclusion of State and local governments in operation of a Joint Information Center (JIC).
14. Provide off-site liaisons at each of the off-site emergency operations centers (EOCs) during exercises and incidents at the Pantex Plant, as appropriate, to assist with communications between Pantex and off-site agencies. Communication can be facilitated by alternate means, such as by a Web-based information system.
15. Provide training to State and local governments on Pantex Plant-related hazards and response protocols, as requested by State and local governments.
16. Coordinate appropriate Memoranda of Understanding (MOU), Memoranda of Agreement (MOA), or other agreements with State and local governments for emergency response assets and capabilities that may be needed to support emergency operations at the Pantex Plant.

17. In accordance with applicable federal guidelines and DOE Orders administered under the Management and Operating (M&O) Contract, the Pantex Plant will implement and maintain compliance with the National Incident Management System (NIMS) requirements.
18. In the event of an Operational Emergency at the Pantex Plant, ensure a timely, clear, accurate and effective information exchange occurs between the Pantex Plant and State and local governments. This includes providing initial briefings and ongoing information sufficient for the protection of public health, safety and security, coordination of response, Emergency Operations Center (EOC) interfaces, public information activities, and logistical support.

## Appendix B

## PANTEX EMERGENCY PLANNING DOCUMENTS

	SUBJECT MATTER
*	Pantex Plant Comprehensive Emergency Management Plan
	Emergency Public Information Plan
*	Pantex Plant Emergency Planning Hazards Survey(s)
*	Pantex Plant Emergency Planning Hazards Assessment(s)
*	Pantex Plant Emergency Action Level(s)
	Ten-Mile Radius Emergency Planning Zone Map
	Response to an Operational Emergency
	Technical Planning Basis Process
	Training and Drills Process
	Exercise Process
	Off-Site Response Interface Process
	Emergency Radiation Treatment Facility
	Categorization and Classification Process
	Notifications and Communications
	Consequence Assessment Process
	Field Monitoring
	Protective Actions and Reentry Process
	Emergency Public Information Process
	Termination and Recovery Process
	Pantex Plant Emergency Notification Form
	Operations Center Emergency Response Checklist
	Outdoor Warning System Inspection Checklist

\*May contain UCNI need-to-know information and must be reviewed on-site at Pantex Plant.

## Mary Morales

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**From:** DeAnn Walker <DeAnn.Walker@gov.texas.gov>  
**Sent:** Monday, July 25, 2016 11:19 AM  
**To:** Roger Mulder  
**Cc:** Dub Taylor; Denise Brooks; Mary Morales; Coleman, Jerrie (Jerrie.Coleman@npo.doe.gov)  
**Subject:** RE: Texas Agreement in Principle

Thank you for looking into this. I will leave it to your group to get the necessary signature.

DeAnn Walker  
Senior Policy Advisor  
Office of Governor Greg Abbott  
512-463-5318  
[Deann.walker@gov.texas.gov](mailto:Deann.walker@gov.texas.gov)



GOVERNOR GREG ABBOTT

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**From:** Roger Mulder [<mailto:Roger.Mulder@cpa.texas.gov>]  
**Sent:** Monday, July 25, 2016 10:59 AM  
**To:** DeAnn Walker <[DeAnn.Walker@gov.texas.gov](mailto:DeAnn.Walker@gov.texas.gov)>  
**Cc:** Dub Taylor <[Dub.Taylor@cpa.texas.gov](mailto:Dub.Taylor@cpa.texas.gov)>; Denise Brooks <[Denise.Brooks@cpa.texas.gov](mailto:Denise.Brooks@cpa.texas.gov)>; Mary Morales <[Mary.Morales@cpa.texas.gov](mailto:Mary.Morales@cpa.texas.gov)>; Coleman, Jerrie ([Jerrie.Coleman@npo.doe.gov](mailto:Jerrie.Coleman@npo.doe.gov)) <[Jerrie.Coleman@npo.doe.gov](mailto:Jerrie.Coleman@npo.doe.gov)>  
**Subject:** FW: Texas Agreement in Principle

See message below from DOE. The new five year Agreement in Principle is acceptable without the Governor's signature. Thank you.

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**From:** Coleman, Jerrie [<mailto:Jerrie.Coleman@npo.doe.gov>]  
**Sent:** Monday, July 25, 2016 10:53 AM  
**To:** Roger Mulder  
**Cc:** Warner, Larry; Walsh, Patricia  
**Subject:** RE: Texas Agreement in Principle

Hello Roger,

As a follow-up to our telephone conversation this morning regarding the level of signature e.g. Governor of Texas, require for the Agreement in Principle (AIP) between Texas and NPO. Our attorney, Mr. Warner, confirmed that federal regulations do not require a Governor's signature for AIPs.

Thank you for your continue support of Pantex and if there are any other questions, please do not hesitate to call me.

*Jerrie Coleman, REP*

National Nuclear Security Administration Production Office

806-477-3387 (phone)

806-677-4128 (Blackberry)

806-358-5920 (Pager)

806-477-6972 (fax)

[jerrie.coleman@npo.doe.gov](mailto:jerrie.coleman@npo.doe.gov)



## Mary Morales

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**From:** Roger Mulder  
**Sent:** Friday, July 22, 2016 8:57 AM  
**To:** Coleman, Jerrie (Jerrie.Coleman@npo.doe.gov)  
**Cc:** Denise Brooks; Mary Morales; Dub Taylor; Eddy Trevino  
**Subject:** FW: AIP Agreement - status

Jerrie, see below. The question is whether there is a requirement for the Governor to sign, or will you accept the signature from our office. Let me know. Thanks

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**From:** DeAnn Walker [<mailto:DeAnn.Walker@gov.texas.gov>]  
**Sent:** Thursday, July 21, 2016 4:49 PM  
**To:** Dub Taylor  
**Cc:** Roger Mulder; Eddy Trevino  
**Subject:** RE: AIP Agreement - status

I have been advised that without a Federal requirement for the Governor to sign the document that it is highly unlikely that he will sign the agreement. In the past, I have not been provided with a Federal requirement for his signature. If you know of such a requirement, please advise me to the specific cite. Otherwise, it is best for the agreement to be signed by Mr. Reissig.

Thank you.

DeAnn Walker  
Senior Policy Advisor  
Office of Governor Greg Abbott  
512-463-5318  
[Deann.walker@gov.texas.gov](mailto:Deann.walker@gov.texas.gov)



GOVERNOR GREG ABBOTT

**From:** Dub Taylor [<mailto:Dub.Taylor@cpa.texas.gov>]  
**Sent:** Thursday, July 21, 2016 11:42 AM  
**To:** DeAnn Walker <[DeAnn.Walker@gov.texas.gov](mailto:DeAnn.Walker@gov.texas.gov)>  
**Cc:** Roger Mulder <[Roger.Mulder@cpa.texas.gov](mailto:Roger.Mulder@cpa.texas.gov)>; Eddy Trevino <[Eddy.Trevino@cpa.texas.gov](mailto:Eddy.Trevino@cpa.texas.gov)>  
**Subject:** AIP Agreement - status

We have the new Pantex/AIP agreement from US DOE, and are routing it internally for the Deputy Comptroller to sign. I'm on vacation next week, so Roger may drop it off to you in my absence.

Dub Taylor  
Director, State Energy Conservation Office

Texas Comptroller of Public Accounts  
LBJ State Office Building  
111 East 17th Street, Suite 314  
Austin, Texas 78701  
phone: (512) 463-8352  
[seco.cpa.texas.gov](http://seco.cpa.texas.gov)

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