



Audit Report



OIG-18-036

RESTORE ACT

NOAA's Administration of the Science Program Met RESTORE Act Requirements

February 1, 2018

Office of
Inspector General

Department of the Treasury

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Abbreviations

GMD	Grants Management Division
NCCOS	National Centers for Coastal Ocean Science
NOAA	National Oceanic and Atmospheric Administration
RESTORE Act	Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012
Science Plan	Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology Program Science Plan
Science Program	Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology Program
Trust Fund	Gulf Coast Restoration Trust Fund
Uniform Guidance	Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
USFWS	United States Fish and Wildlife Service

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*The Department of the Treasury
Office of Inspector General*

February 1, 2018

Timothy Gallaudet, Ph.D.
Assistant Secretary of Commerce for Oceans and Atmosphere and
Acting Under Secretary of Commerce for Oceans and Atmosphere

This report presents the results of our audit of the National Oceanic and Atmospheric Administration's (NOAA) management of the Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology Program (Science Program). We performed this audit as part of our ongoing oversight of programs authorized by the *Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012* (RESTORE Act).¹ The objective of our audit was to assess whether NOAA is administering the Science Program in accordance with the RESTORE Act and applicable laws, regulations, and program policies and procedures. Appendix 1 provides more detail on our audit objective, scope, and methodology.

Results in Brief

We concluded that NOAA is administering the Science Program in accordance with the RESTORE Act, Treasury's RESTORE Act regulations, 2 CFR 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance), and applicable program policies and procedures. Specifically, NOAA has incorporated the provisions of Section 1604 of the RESTORE Act into its management of the Science Program and has comprehensive and well-documented internal policies and procedures to guide personnel administering grants. As such, we make no recommendations in this report.

¹ Pub. L. 112-141, 126 Stat. 588-607 (July 6, 2012).

In a written response, NOAA management stated that it reviewed the report and did not have any substantive comments. Management's response, in its entirety, appears in appendix 2 of this report.

Background

RESTORE Act

Signed into law on July 6, 2012, the RESTORE Act established the Gulf Coast Restoration Trust Fund (Trust Fund) in response to the Deepwater Horizon oil spill that occurred in April 2010. Section 1604 of the RESTORE Act authorized NOAA, in consultation with the United States Fish and Wildlife Service (USFWS), to establish the Science Program to carry out research, observation, and marine and estuarine monitoring to support the long-term sustainability of the ecosystem, fish stocks, and fish habitat, as well as the recreational, commercial, and charter fishing industry in the Gulf of Mexico.

The RESTORE Act stipulates that NOAA and USFWS shall consult with the Regional Gulf of Mexico Fishery Management Council and the Gulf States Marine Fisheries Commission in carrying out the Science Program. Priority shall be given to integrated, long-term projects that build on, or are coordinated with, related research activities and that address current or anticipated marine ecosystem, fishery, or wildlife management information needs. In carrying out the Science Program, NOAA, in consultation with the USFWS, shall seek to avoid duplication of other research and monitoring activities. Additionally, NOAA, in consultation with USFWS, shall develop a plan for the coordination of projects and activities between the Science Program and other existing Federal and State science and technology programs in the States of Alabama, Florida, Louisiana, Mississippi, and Texas, as well as between each of the Centers of Excellence established by the RESTORE Act.

The Science Program was allocated 2.5 percent of all Trust Fund receipts plus 25 percent of all Trust Fund investment interest earned. No more than 3 percent of allocated funds may be used for

administrative expenses. Furthermore, funds may not be used: (1) for any existing or planned research led by NOAA, unless agreed to in writing by the grant recipient; (2) for implementing existing regulations or initiating new regulations promulgated or proposed by NOAA; or (3) for developing or approving a new limited access privilege program. For more information on Trust Fund distribution and uses, see appendix 3.

Science Program

The Science Program is housed within the National Centers for Coastal Ocean Science (NCCOS) of NOAA. The Science Program's Director reports to the NCCOS Director, and program personnel receive guidance from an Executive Oversight Board comprised of senior executives from NOAA's line offices and the USFWS. NOAA's Science Advisory Board, which receives input from the Restoration Science Program Advisory Working Group,² provides additional advisory guidance to the Science Program on various topics.

The Science Program's Director is based in the Gulf of Mexico region. This enables direct coordination and partnering with the academic, resource management, governance, and other stakeholder communities essential to the success of the Science Program. The Associate Director, based at NOAA headquarters in Silver Spring, Maryland, is responsible for the administration of the Science Program and funding competitions by directly interfacing with the rest of NOAA.

NCCOS provides in-kind support for basic administrative functions, including travel processing, financial management and execution, human resource functions, website and publication/graphics support, and grant management support for the Science Program. The NCCOS Director oversees most of the functional support areas (information technology, finance, and grants) for the Science Program. The Grants Management Division (GMD), within NOAA's

² Effective August 11, 2017, the Restoration Science Program Advisory Working Group was discontinued based on the shared opinion of the Science Advisory Board chair, working group co-chairs and members, Science Program management, and the NOAA Administrator that the Science Program has other mechanisms in place to gain external advice and much of the original charge to the working group has been met through other means.

Acquisition and Grants Office, provides grant support for the Science Program. The GMD utilizes Grants Online, a fully operational end-to-end grants management software application to manage all aspects of the grant life cycle.

In September 2015, 11 grants totaling approximately \$2.7 million were awarded to 7 research teams under the Science Program. Each research team is to address one or more of the Science Program's short-term priorities, which focus on assessing ecosystem modeling, evaluating indicators for ecosystem conditions, and assessing and developing recommendations for ecosystem monitoring and observation needs in the Gulf of Mexico. The grants awarded range in size from \$309,000 to \$400,000 with a period of performance of 2 years.

In June 2016, the second Federal funding opportunity for the Science Program was announced with a focus on living coastal and marine resources and their habitats through two priorities:

- research directed at comprehensive understanding of living coastal and marine resources, food-web dynamics, habitat utilization, protected areas, and carbon flow; and
- decision-support tools to assist resource managers with management decisions to sustain habitats, living coastal and marine resources, and wildlife.

In June 2017, approximately \$16.7 million was awarded to 15 teams comprised of researchers and resource managers. Each award was to support each team's proposed project under one of the two priorities with performance periods of up to 3 years.

Audit Results

We concluded that NOAA is administering the Science Program in accordance with the RESTORE Act, Treasury's RESTORE Act regulations, the Uniform Guidance, and applicable program policies and procedures. Specifically, NOAA has incorporated the provisions of Section 1604 of the RESTORE Act into its management of the Science Program and has comprehensive and well-documented

internal policies and procedures to guide personnel administering grants.

Program Management

NOAA has appropriately incorporated the provisions of the RESTORE Act into the administration of the Science Program. That is, NOAA consulted and coordinated with required partners, which demonstrated an understanding of the act's requirements. Moreover, NOAA explicitly details its efforts to comply with the act in the *Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology Program Science Plan* (Science Plan), in funding announcements, and in information available to the public on the NOAA RESTORE Act Science Program website.³ For both the Science Plan and the Science Program's website, NOAA uses legislative language taken directly from the RESTORE Act to communicate its responsibilities and its intent to continue to cooperate and consult with partners, conduct research according to the priorities identified, and coordinate with other programs.

NOAA determined the long-term research priorities for the Gulf of Mexico ecosystem using the RESTORE Act requirements for the Science Program.⁴ These priorities were refined by their connection to an identified management or restoration need and linkage to the Science Program's mission and goal. NOAA also worked to ensure that it did not duplicate the priorities of another Gulf of Mexico science program. Finally, NOAA, in compliance with legislative requirements, gave highest consideration to Science Program

³ <https://restoreactscienceprogram.noaa.gov/>

⁴ The Science Plan lists 10 long-term priorities: (1) Comprehensive understanding of ecosystem services, resilience, and vulnerabilities of coupled social and ecological systems; (2) Construct management-ready and accessible ecosystem models; (3) Improve monitoring, modeling, and forecasting of climate change and weather effects on the sustainability and resiliency of the ecosystem; (4) Comprehensive understanding of freshwater, sediment, and nutrient flows and impacts on coastal ecology and habitats; (5) Comprehensive understanding of living coastal and marine resources, food web dynamics, habitat utilization, protected areas, and carbon flow; (6) Develop long-term trend and variability information on the status and health of the ecosystem, including humans; (7) Develop, identify, and validate system-wide indicators of environmental and socioeconomic conditions; (8) Develop decision-support tools to assist resource managers with management decisions planned to sustain habitats, living coastal and marine resources, and wildlife; (9) Network and integrate existing and planned data and information from monitoring programs; and (10) Develop and implement advanced technologies to improve monitoring.

projects that build on, or are coordinated with, related research activities and that address current or anticipated marine ecosystem, fishery, or wildlife management information needs.

After consulting with USFWS, NOAA developed and published the Science Plan, which addresses how NOAA must work with various partners to comply with the RESTORE Act coordination mandate. The Science Program leads the Gulf Restoration Science Programs Ad Hoc Coordination Forum⁵—a body focused on coordination and integration among entities funded through Deepwater Horizon-related penalty funds. The purpose of this forum is to ensure that the Science Program's activities complement and augment activities undertaken by these other forum members:

- Gulf Coast Ecosystem Restoration Council
- Gulf Environmental Benefit Fund
- Gulf of Mexico Research Initiative
- National Academies Gulf Research Program
- National Fish and Wildlife Foundation
- North American Wetlands Conservation Act Fund
- National Resource Damage Assessment Representatives

The RESTORE Act specifies that (1) funds may not be used for existing work within NOAA, and (2) in carrying out the Science Program, NOAA and the USFWS shall seek to avoid duplication of other research and monitoring activities. Science Program officials told us that the Science Program relies upon internal controls, annual operating plans, and departmental budgets as tools to ensure RESTORE Act funds are not used for other NOAA programs. Furthermore, in an effort to avoid duplication of other Gulf Coast research and monitoring activities, the Science Program utilizes research information from the Ad Hoc Coordination Forum and the Gulf of Mexico Alliance Deepwater Horizon Project Tracker.⁶

⁵ Effective May 4, 2016, the forum's name was changed to the Gulf of Mexico Restoration and Science Programs Coordination Forum.

⁶ The Deepwater Horizon Project Tracker is a centralized directory of projects funded as a result of the Deepwater Horizon oil spill. It provides the most comprehensive picture of the location, type, cost, funding sources, and scope of Gulf of Mexico oil-spill-related recovery, restoration, and research projects.

Under the RESTORE Act and the Department of the Treasury, *Regulations for the Gulf Coast Restoration Trust Fund Final Rule*,⁷ no more than 3 percent of funds received by NOAA for the Science Program may be used on administrative expenses. NOAA tracks administrative activities using unique Science Program project and task codes in its financial management system, the Commerce Business System. From October 1, 2015, through June 30, 2016, NOAA spent less than 1 percent of Science Program funds on administrative expenses, well below the RESTORE Act's 3 percent cap.

Grants Administration

In our testing of projects awarded under the Science Program's initial funding opportunity, we found no instances of noncompliance with the Uniform Guidance Subpart C, *Pre-Federal Award Requirements and Contents of Federal Awards* and NOAA's internal policies and procedures. Through a competitive award process, Science Program staff performed a preliminary review of Letters of Intent⁸ from interested parties. Letters of Intent were evaluated according to priorities detailed in the funding opportunity announcement, and applicants were provided feedback detailing whether a full proposal was "encouraged, encouraged with modifications, or discouraged." Applicants were allowed to submit full proposals whether or not they were encouraged. A panel of independent peer reviewers, representing both academic and resource management communities,⁹ were then used to evaluate the final proposals and develop recommendations. Prior to recommending awards, the Science Program staff completed the "Program Officer Checklist" to document essential information regarding the award before sending authorized selections to GMD.

⁷ The Final Rule (31 CFR Part 34) became effective on February 12, 2016.

⁸ Applicants were required to submit a Letter of Intent outlining their ideas. The purpose of the letter was to allow Science Program personnel to review and provide information on the fit of each applicant's proposed project topic to the scope of the related federal funding opportunity, in advance of proposers preparing a full application.

⁹ Peer review panelists provided expertise in the following areas of study: ecology, fisheries and resource management, climate and extreme impacts, ecosystem modeling, social behavioral and economic sciences, coastal restoration and hazard mitigation, ecosystem monitoring, oceanography and geology.

Once awards were determined by Science Program officials, GMD personnel performed pre-award reviews to properly assess risk associated with potential grantees to identify warning signals, particularly those associated with an organization's ability to carry out the Science Program's goals, objectives, and priorities. GMD personnel followed a required checklist for each award, and a review confirmed supervisory oversight and approval by grants personnel.

We reviewed GMD's post-award monitoring and closeout processes using the Grants Online system. Grants Online interfaces with Treasury's Bureau of the Fiscal Service through the Automated Standard Application for Payments system. There are two sides of Grants Online which comprise grants management and program management. System users have limited access defined by their roles. GMD maintains the official files in Grants Online, monitors the administrative and financial aspects of the grant, and resolves any audit findings. We walked through the grants monitoring process with GMD personnel who demonstrated knowledge of the Uniform Guidance and internal grant policy requirements. Grants Online also has the capacity to provide read-only access for auditors. Accordingly, we requested access from GMD to verify the receipt of financial reports from awardees and GMD's monitoring activities. From the program management side of Grants Online, Science Program staff are responsible for monitoring the scientific and technical aspects of the grant to ensure that terms and conditions are being fulfilled. We confirmed this through a review of project tracking spreadsheets.

Although no awards had been closed under the Science Program, we walked through GMD's closeout process for a NOAA award in Grants Online. Records confirmed that the NOAA award file was locked from further activity and the final financial reports and the de-obligation request for unused funds were completed. We compared the completed actions against the closeout actions required by Uniform Guidance and applicable policies and procedures, including instructions for collecting required closeout reports, determining property disposition, and determining settlement of accounts between grant recipients and NOAA. Our testing of projects and review of related records uncovered no instances of non-compliance with the Uniform Guidance Subpart D,

Post Federal Award Requirements and NOAA's policies and procedures.

Conclusion

Based on our testing of NOAA's Science Program management and grants administration, we concluded that NOAA is administering the Science Program in accordance with the RESTORE Act, Treasury's RESTORE Act regulations, Uniform Guidance, and applicable policies and procedures.

* * * * *

We appreciate the cooperation and courtesies extended to our staff during the audit. Major contributors to this report are listed in appendix 4. For a distribution list for this report, see appendix 5. If you have any questions, please contact me at (202) 927-8782.

/s/

Cecilia K. Howland
Director, Gulf Coast Restoration Audits

As part of our oversight of programs, projects, and activities authorized by the *Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012* (RESTORE Act), we initiated an audit of the National Oceanic and Atmospheric Administration's (NOAA) management of the Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology Program (Science Program). The objective of our audit was to assess whether NOAA is administering the Science Program in accordance with the RESTORE Act and applicable laws, regulations, and program policies and procedures.

To meet our audit objective, we performed the following steps.

- We reviewed applicable laws and regulations, including:
 - RESTORE Act, Pub. L. 112-141, July 6, 2012;
 - Office of Management and Budget, 2 CFR 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, effective December 26, 2014; and
 - Department of the Treasury, *Regulations for the Gulf Coast Restoration Trust Fund Final Rule*, 31 CFR Part 34, February 12, 2016.
- We reviewed NOAA's RESTORE Act Science Program website and available program guidance—including the RESTORE Act Science Program Science Plan, released in May 2015—as well as these NOAA and other applicable policies and procedures:
 - "NOAA Grants Management Procedures Cycle Memo," January 2014;
 - "NOAA RESTORE Act Science Program Post-Award Management Roles and Responsibilities," August 2015;
 - Grants Management Division Alert #2016-02, "Closeout Procedures," October 29, 2015;

- Grants Management Division Alert #2016-10, "Procedures for Compliance and Review of Single Audits for Applicants of Federal Financial Assistance," February 2, 2016;
- Grants Management Division Alert #2016-18, "Due Diligence in Review of Risk of Applicants," March 24, 2016;
- *National Centers for Coastal Ocean Science, Center for Sponsored Coastal Ocean Research, Competitive Grants Procedures Manual*, August 2015; and
- *Department of Commerce Grants and Cooperative Agreements Manual*, March 1, 2013.

We reviewed these other key documents:

- U.S. Department of Commerce Office of Inspector General, *Office of the Secretary: Top Management Challenges Facing the Department of Commerce, Final Report No. OIG-16-002*, October 6, 2015;
- Completed grant applications for projects awarded from the Science Program's initial funding opportunity (FFO-2015, announced on December 17, 2014);
- Science Program and grant documents obtained from "Grants Online;" and
- NOAA's second Federal funding opportunity (FFO-2017, announced on June 1, 2016).

We interviewed the following key NOAA officials and Grants Management Division staff:

- Associate Director, RESTORE Act Science Program;
- Director, National Centers for Coastal Ocean Science (NCCOS);
- Grants Coordinator, NCCOS;
- Branch Chief, NOAA; and
- Grants Specialists, NOAA.

From the universe of 11 grants in the first funding opportunity, totaling \$2.7 million and funding 7 projects, we

selected a non-statistical sample of 3 projects comprising 5 grants totaling \$1.1 million. The selection was based on high dollar amounts and projects with grants to multiple entities. We tested this selection based on the review of the policies and procedures in place. Our sample was selected for the purpose of testing compliance with pre-award and post-award requirements of the Uniform Guidance and NOAA's applicable policies and procedures and not for the purpose of projecting results to the universe of specific awards or concluding on the overall effectiveness of the Science Program. We did not test any awards from the second funding opportunity.

We conducted our audit February 2016 through August 2016 at NOAA's office in Silver Spring, MD, and our office in Washington, DC.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix 2
Management Response



UNITED STATES DEPARTMENT OF COMMERCE
The Deputy Under Secretary for Operations
Washington, D.C. 20230

JAN 19 2013

Cecilia K. Howland
Director, Gulf Coast Restoration Audits
U.S. Department of the Treasury
Office of the Inspector General
875 15th Street, NW
Washington, DC 20005

Dear Ms. Howland:

Thank you for the opportunity to review and comment on the Treasury Office of Inspector General's draft audit report entitled, *NOAA's Administration of the Science Program Met RESTORE Act Requirements*. The Department of Commerce's National Oceanic and Atmospheric Administration (NOAA) has reviewed the report and does not have any substantive comments. We appreciate the thorough review by your office and its conclusion that NOAA has comprehensive and well-documented internal policies and procedures to guide personnel administering grants within the Science Program.

If you have any questions, please contact Mack Cato, Director, Audit, Internal Control, and Information Management Office at 301-628-0949.

Sincerely,

A handwritten signature in blue ink, appearing to read "B. Friedman".

Benjamin Friedman
Deputy Under Secretary for
Operations



The *Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012* (RESTORE Act) established the Gulf Coast Restoration Trust Fund (Trust Fund) within the Department of the Treasury (Treasury) to provide funds for environmental and economic restoration of the Gulf Coast region that was damaged by the 2010 Deepwater Horizon oil spill. Deposits into the Trust Fund will comprise 80 percent of all civil and administrative penalties related to Deepwater Horizon paid under the *Federal Water Pollution Control Act* (Clean Water Act) after July 6, 2012.

Fund Sources

Approximately \$5.3 billion has been designated for the Trust Fund resulting from settlement agreements between the U.S. Department of Justice and the following parties:

- approximately \$4.4 billion plus interest from BP Exploration & Production Inc.¹⁰
- approximately \$800 million plus interest from the Transocean defendants¹¹
- approximately \$127 million plus interest from Anadarko Petroleum Corporation¹²

RESTORE Act Components

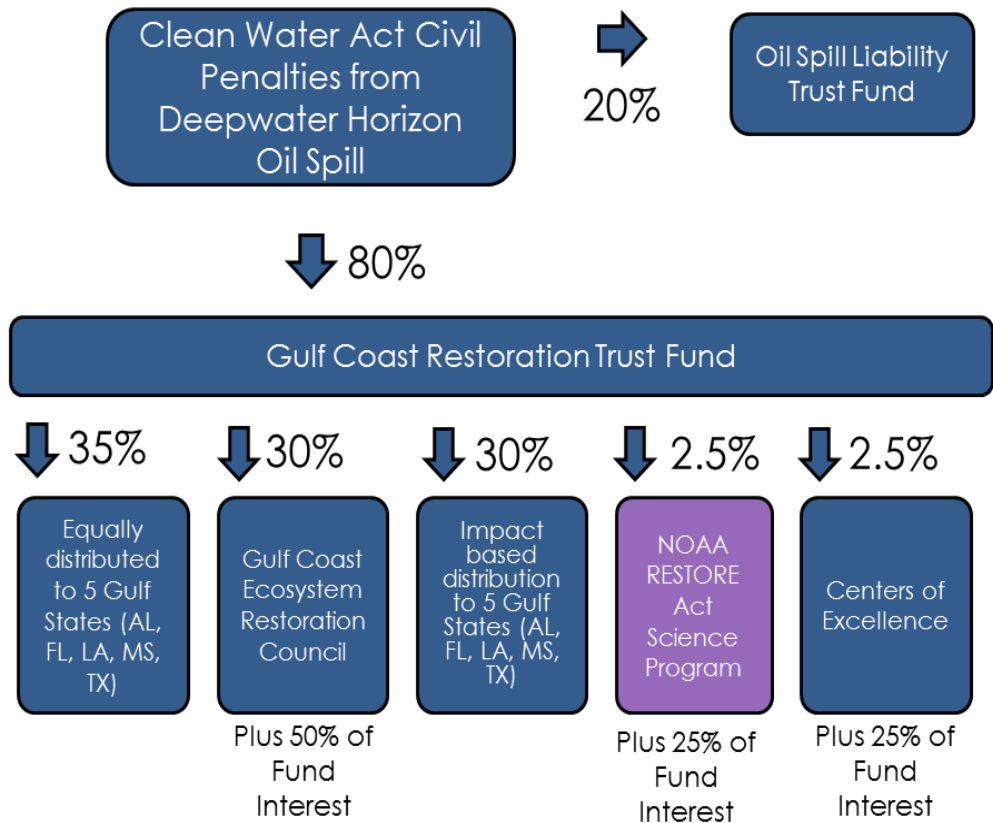
The RESTORE Act allocates monies from the Trust Fund to five components as shown in Figure 1.

¹⁰ A \$20.8 billion civil settlement between the Department of Justice and BP Exploration & Production Inc. was approved on April 4, 2016. Of this amount, \$4.4 billion will be deposited into the Trust Fund over 15 years. BP made the first Clean Water Act penalty payment to the Department of Justice on April 3, 2017, and 80 percent of that payment, or approximately \$303 million, was deposited in the Gulf Coast Restoration Trust Fund on April 10, 2017.

¹¹ On February 19, 2013, the civil settlement between the Department of Justice and Transocean defendants (Transocean Deepwater Inc., Transocean Offshore Deepwater Drilling Inc., Transocean Holdings LLC, and Triton Asset Leasing GmbH) was approved. Among other things in the settlement, the Transocean defendants paid a \$1 billion civil penalty plus interest in three installments. Of this amount, \$800 million plus interest was transferred to the Trust Fund; the final amount was deposited in the Trust Fund in February 2015.

¹² On December 16, 2015, the civil settlement between the Department of Justice and Anadarko Petroleum Corporation was approved. Anadarko agreed to civil penalties of \$159.5 million. Of this amount, approximately \$127 million was deposited in the Trust Fund in March 2016.

Figure 1. Gulf Coast Trust Fund Allocation



Source: NOAA, "Funding for the RESTORE Act Science Program," <https://restoreactscienceprogram.noaa.gov/about/funding>, accessed June 26, 2017.

Availability for NOAA's Science Program

As of December 31, 2017, the Trust Fund had received more than \$1.2 billion from BP Exploration and Production Inc., the Transocean defendants, and Anadarko Petroleum. Of that amount, approximately \$33.5 million has been made available to NOAA under the Gulf Coast Ecosystem Restoration Science, Observation,

Monitoring, and Technology Program (Science Program) it administers.¹³

¹³ Current Trust Fund allocations, including funds available and funds obligated or transferred by RESTORE Act component are publicly available on the U.S. Treasury Restore Act homepage: <https://www.treasury.gov/services/restore-act/Pages/home.aspx>

Appendix 4
Major Contributors to This Report

Cecilia Howland, Director
Jeffrey Hawkins, Manager
Dionne Smith, Auditor-in-Charge
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