



Audit Report



OIG-16-009

RESTORE ACT

Louisiana Made Progress Establishing a Center of Excellence

November 12, 2015

Office of
Inspector General

Department of the Treasury

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Abbreviations and Acronyms

| | |
|----------------------|---|
| Center of Excellence | Centers of Excellence Research Grants Program |
| CPRA | Coastal Protection and Restoration Authority |
| RESTORE Act | Resources and Ecosystems Sustainability, Tourist Opportunities and Revived Economies of the Gulf States Act of 2012 |
| RFP | Request for Proposals |
| The Water Institute | The Water Institute of the Gulf |
| Treasury | Department of the Treasury |
| Trust Fund | Gulf Coast Restoration Trust Fund |

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*The Department of the Treasury
Office of Inspector General*

November 12, 2015

David A. Lebryk
Fiscal Assistant Secretary

This report presents the results of our audit of the State of Louisiana's progress to establish a Centers of Excellence Research Grants Program (Center of Excellence) authorized by the requirements set forth in the *Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012* (RESTORE Act).¹ We performed this audit as part of our ongoing oversight of programs, projects, and activities to be funded under the RESTORE Act. Our audit objective was to assess the Coastal Protection and Restoration Authority's (CPRA) progress in establishing Louisiana's Center of Excellence for conducting research in the Gulf Coast region in accordance with Section 1605 of the RESTORE Act. Appendix 1 provides more detail about our audit objective, scope, and methodology.

In brief, we found that CPRA made progress in establishing Louisiana's Center of Excellence in accordance with the requirements set forth in the RESTORE Act, Louisiana procurement laws, and the Department of the Treasury's (Treasury) regulations² and grant application guidelines.³ Specifically, CPRA (1) competitively selected The Water Institute of the Gulf (The

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

² On August 15, 2014, Treasury published the Interim Final Rule and the Preamble for 31 CFR Part 34, Department of the Treasury Regulations for the Gulf Coast Restoration Trust Fund. The Interim Final Rule became effective on October 14, 2014.

³ Treasury's application requirements and process are detailed in the "Centers of Excellence Research Grants Program Guidelines and Application to Receive Federal Financial Assistance."

Water Institute)⁴ in February 2014 to serve as the Center of Excellence, (2) published draft policies for administering Center of Excellence grants in March 2015, and (3) planned for completing the remaining steps necessary to make application to Treasury for Federal financial assistance. We make no recommendations in this report.

As part of our reporting process, we provided CPRA an opportunity to comment on a draft of this report. In a written response, CPRA's Chief Financial Officer expressed commitment to ensuring that CPRA follows all Federal grant requirements as Louisiana proceeds to establish its Center of Excellence. See appendix 2 for CPRA's response in its entirety.

In a written response, Treasury management committed to evaluating CPRA's grant application and confirming that the selection process and resulting selection address the requirements of the RESTORE Act and Treasury regulations. Management further noted that pursuant to its grants management procedures, Treasury disburses funds only after a grantee satisfies all criteria. Treasury management's response is provided as appendix 3.

Background

The RESTORE Act established the Gulf Coast Restoration Trust Fund (Trust Fund) within 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 be comprised of 80 percent of all civil and administrative penalties paid after July 6, 2012, under the Federal Water Pollution Control Act.⁵ As of February 2015, the Trust Fund had received approximately \$816 million as a result of the Federal government's settlement with the Transocean

⁴ The Water Institute is a not-for-profit, independent research institute, dedicated to advancing the understanding of coastal, deltaic, river and water resource systems, both within the Gulf Coast and around the world. Their mission is to support the practical application of innovative science and engineering, providing solutions that benefit society.

⁵ Pub. L. 92-500 (as amended)

defendants.⁶ In July 2015, BP Exploration & Production Inc. agreed to settle with the Federal government and the Gulf Coast States for \$18.7 billion, of which approximately \$5.5 billion plus interest relates to civil and administrative penalties under the Federal Water Pollution Control Act. Of this amount, \$4.4 billion is expected to be deposited into the Trust Fund over 15 years. On October 5, 2015, the Department of Justice published the settlement in a proposed consent decree for a 60 day comment period ending on December 4, 2015. After considering comments, the Federal government and the Gulf Coast States will determine whether to seek court approval of the consent decree.

The RESTORE Act allocates money in the Trust Fund to the following 5 components: (1) 35 percent will be made available to the Gulf Coast States (Alabama, Florida, Louisiana, Mississippi, and Texas) in equal shares under the Direct Component; (2) 30 percent plus 50 percent of interest earned on the Trust Fund will be made available for grants under the Comprehensive Plan Component; (3) 30 percent will be made available for grants under the Spill Impact Component; (4) 2.5 percent plus 25 percent of interest earned on the Trust Fund will be made available to the Science Program Component; and (5) 2.5 percent plus 25 percent of interest earned on the Trust Fund will be made available to the Centers of Excellence Component. Treasury's Office of the Fiscal Assistant Secretary is responsible for administering the Direct Component and the Centers of Excellence Component. The Gulf Coast Ecosystem Restoration Council is responsible for administering the Comprehensive Plan Component and the Spill Impact Component. The National Oceanic and Atmospheric Administration is responsible for administering the Science Program Component.

Under Sections 1603 and 1605 of the RESTORE Act, 2.5 percent of funds plus interest earned on the Trust Fund will be made available to the Gulf Coast States in equal shares to establish Centers of Excellence for the purpose of conducting research in the

⁶ 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. Of this amount, \$800 million plus interest was deposited into the Trust Fund.

Gulf Coast region. Each Center of Excellence must focus on science, technology, and monitoring in at least one of the following disciplines: (1) coastal and deltaic sustainability, restoration and protection, including solutions and technology that allow citizens to live in a safe and sustainable manner in a coastal delta in the Gulf Coast region; (2) coastal fisheries and wildlife ecosystem research and monitoring in the Gulf Coast region; (3) offshore energy development, including research and technology to improve the sustainable and safe development of energy resources in the Gulf of Mexico; (4) sustainable and resilient growth, economic and commercial development in the Gulf Coast region; and (5) comprehensive observation, monitoring, and mapping of the Gulf of Mexico.

The duties of each Gulf Coast State must be carried out by the applicable Gulf Coast State entity or task force, as defined in the act. In the case of Louisiana, the RESTORE Act names CPRA as the State entity with this responsibility.

Audit Results

We found that CPRA made progress in establishing Louisiana's Center of Excellence in accordance with the requirements set forth in the RESTORE Act, Louisiana procurement laws, and Treasury's regulations and grant application guidelines. Specifically, CPRA (1) competitively selected The Water Institute in February 2014 to serve as the Center of Excellence, (2) published draft policies for administering Center of Excellence grants in March 2015, and (3) planned for completing the remaining steps necessary to make application to Treasury for Federal financial assistance.

Competitive Selection of The Water Institute

Section 1605 of the RESTORE Act specifies that the Gulf Coast States use the amounts made available from the Trust Fund to award competitive grants to nongovernmental entities and consortia in the Gulf Coast region, including public and private institutions of higher education, for the establishment of Centers of Excellence. In the absence of Treasury regulations defining the competitive process, CPRA followed existing State of Louisiana

procurement laws⁷ to select The Water Institute. CPRA published a request for proposals (RFP) on October 18, 2013, seeking an entity to serve as the State's Center of Excellence.⁸ The RFP advised bidders that research would focus on the five disciplines of science and technology stipulated for Centers of Excellence in Section 1605 of the RESTORE Act as well as issues pertinent to Louisiana with emphasis on advancing the Louisiana Coastal Master Plan.⁹

Louisiana procurement laws require adequate public notice of RFPs with proposed actions greater than \$50,000. CPRA met this requirement by advertising the RFP in "The Advocate," the official journal of the State; providing written notice of the RFP to applicable parties; and posting the RFP on the Louisiana Division of Administration's website. CPRA's Center of Excellence RFP complied with other State procurement and contracting requirements including defining: (1) the relative importance of price and other evaluation factors, (2) tasks to be performed under the contract, (3) criteria to evaluate the proposals, and (4) timeframes for work completion. Included in the RFP's schedule of events was an interim deadline for public comments and inquiries, which ended on December 2, 2013. Proposals were accepted through January 6, 2014, thus fulfilling the public notice period required by State statute.¹⁰

To adhere to Louisiana laws prohibiting conflicts of interest in procurement actions, CPRA imposed a period of no-contact between applicants and CPRA representatives involved in the Center of Excellence selection from the time the RFP was issued until the selection was announced.

CPRA officials told us that they anticipated there would be multiple responses to the RFP; however, the only proposal received for the Center of Excellence was from The Water Institute. The Water

⁷ La. R.S. § 39:1503, "Requests for Proposals"

⁸ Louisiana's RFP was issued on October 18, 2013, and the deadline for receipt of comments and written inquiries was December 2, 2013; a period of 45 days. The deadline for receipt of proposals was January 6, 2014; a period in excess of 30 days after the public comment period ended.

⁹ Louisiana's Comprehensive Master Plan for a Sustainable Coast (known as the Louisiana Coastal Master Plan), is published by CPRA and can be found at <http://www.coastalmasterplan.la.gov/>.

¹⁰ La. R.S. § 39:1503 requires that the RFP be available for public comment for a period no less than 30 days before the last day that proposals will be accepted.

Institute's proposal was evaluated on the following criteria: (1) technical and administrative approach; (2) experience and capacity; and (3) cost. On February 20, 2014, CPRA notified The Water Institute of its selection as Louisiana's Center of Excellence.

It was not until the RESTORE Act regulations were published in August 2014 that detailed procedures and clarifying information regarding the Centers of Excellence were available and CPRA officials confirmed that their competitive selection of The Water Institute met Treasury's requirements. Among other things, the regulations stipulate that when applying for funding, the State must describe the competitive process used to select one or more Centers of Excellence. Specifically, the State must demonstrate that rules and policies for selecting a Center, including the competitive process, were published for public review and comment for a minimum of 45 days, and adopted after consideration of meaningful input from the public. This stipulation for public review and comment on the competitive process does not apply to a process required by State law or regulation, as in the case of Louisiana.

Policies for Administering Center of Excellence Grants

The Treasury regulations stipulate that a State must describe its rules and policies for administering Center of Excellence grant subawards and publish those policies for public comment for a minimum of 45 days.

After Treasury's regulations became effective in October 2014, CPRA officials spoke with Treasury officials about the Louisiana Center of Excellence selection process. CPRA officials determined that in addition to the competitive selection of the center, they needed to provide Louisiana's Center of Excellence grants management rules and policies as part of the application for funding. In March 2015, CPRA published *Draft Internal Agency Policies for Administering Grants Governing the State of Louisiana's Center of Excellence under the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act* to give the required opportunity for public review and feedback on the grants management process.

Next Steps

CPRA representatives shared with us that once the public comment period ends,¹¹ they will review the comments, update the policies accordingly, and submit Louisiana's Center of Excellence grant application to Treasury. Once Treasury approves the application and awards funds to the State, CPRA representatives plan to make a subaward to The Water Institute to establish the Center of Excellence.

Coastal Protection and Restoration Authority Response

In a written response, CPRA's Chief Financial Officer expressed commitment to ensuring that CPRA follows all Federal grant requirements as Louisiana proceeds to establish its Center of Excellence. See appendix 2 for CPRA's response in its entirety.

Treasury Management Response

In a written response, Treasury management committed to evaluating CPRA's grant application and confirming that the selection process and resulting selection address the requirements of the RESTORE Act and Treasury regulations. Management further noted that pursuant to its grants management procedures, Treasury disburses funds only after a grantee satisfies all criteria. See appendix 3 for management's response in its entirety.

¹¹ Public comments on CPRA's draft internal agency policies for administering grants governing the State of Louisiana's Center of Excellence were accepted through April 17, 2015.

* * * * *

We appreciate the courtesies and cooperation extended by your staff as we inquired about these matters. Major contributors to this report are listed in appendix 4. A distribution list for this report is provided as appendix 5. If you have any questions, you may contact me at (202) 927-5762 or Cecilia Howland, Audit Manager, at (202) 927-8782.

/s/

Deborah L. Harker
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 State of Louisiana's progress to establish a Center of Excellence Research Grants Program (Center of Excellence) on March 7, 2014. The objective of our audit was to assess the Coastal Protection and Restoration Authority of Louisiana's (CPRA) progress in establishing a Center of Excellence for conducting research in the Gulf Coast region in accordance with Section 1605 of the RESTORE Act.

To accomplish our objective, we conducted fieldwork at CPRA and The Water Institute of the Gulf's (The Water Institute) offices in Baton Rouge, Louisiana, and at our office in Washington, D.C. We performed our fieldwork between March 2014 and March 2015 which comprised the following steps.

- We reviewed applicable Federal laws, regulations, and procedures related to the establishment of the Center of Excellence, including:
 - RESTORE Act requirements;
 - Department of the Treasury (Treasury) Interim Final Rule for RESTORE Act and Preamble, and 31 CFR Part 34, effective October 14, 2014; and
 - Treasury RESTORE Act Centers of Excellence Research Grants Program Guidelines and Application to Receive Federal Financial Assistance, August 2014.

- We reviewed CPRA's website and documents, including:
 - CPRA Request for Proposal (RFP) #2503-14-08, *RESTORE Act Center of Excellence*;
 - Notice of CPRA's RFP published in multiple newspapers;
 - CPRA Proposal Review Committee evaluation;
 - CPRA's Center of Excellence Award Letter to The Water Institute; and
 - CPRA's *Draft Internal Agency Policies for Administering Grants Governing the State of Louisiana's Center of Excellence under the*

Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act (Restore Act); and The Water Institute of the Gulf proposal.

- We reviewed the State of Louisiana’s website, including procurement and contracting laws, guidance, and documents, including:
 - La. R.S. § 39:1503, *Requests for Proposals*;
 - Louisiana Division of Administration’s Office of Contractual Review’s *Procedures for Submitting Contracts Awarded through the Request for Proposals (RFP) Process*;
 - Louisiana Division of Administration’s Office of Contractual Review’s Prequalified Offerers List; and
 - Louisiana Division of Administration’s Procurement and Contract Network website.

- We interviewed key personnel responsible for establishing the Louisiana Center of Excellence, including:
 - CPRA – Chairperson; Legal Advisor; Special Advisor; Executive Director; and Chief Financial Officer; and
 - The Water Institute – President and Chief Executive Officer; Assistant Vice President Grants and Contracts; Chief Financial Officer and Director of Operations; Director of Planning, Coordination and Outreach; and Director of Policy Research and General Counsel.

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
Coastal Protection and Restoration Authority Response



State of Louisiana

BOBBY JINDAL
GOVERNOR

July 29, 2015

Deborah L. Harker, Director
Gulf Coast Restoration Audits
Department of the Treasury,
Office of Inspector General
Washington, D.C. 20220

RE: Draft Audit Report – Establishment of the Louisiana Center of Excellence

Dear Ms. Harker:

On behalf of the Coastal Protection and Restoration Authority (CPRA), I am writing in response to the discussion draft audit report of the State of Louisiana's progress to establish a Center of Excellence Research Grants Program (Center of Excellence) authorized by the requirements set forth in the *Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012* (RESTORE Act). The report concluded that CPRA has made progress in establishing Louisiana's Center of Excellence in accordance with the requirements set forth in the RESTORE Act, Louisiana's procurement laws, and Treasury's regulations and grant guidelines.

We are pleased to see that you found CPRA's selection of Louisiana's Center of Excellence in compliance and that you have no recommendations regarding the selection process. As we proceed with establishing the Center of Excellence and providing funds for the research opportunities, CPRA is committed to following all federal grant requirements. We are very close to completing our application and we look forward to establishing this program.

It was a pleasure to work with you and your team, and we appreciate the time and effort you all spent to conduct this audit. We value the experience of the audit process and view it as an opportunity to discover ways to improve our business processes. Please let us know if you should need anything further from our agency.

Sincerely,

Janice A. Lansing
Chief Financial Officer

c: Chip Kline, Chairman, CPRA Board
Kyle Graham, Executive Director, CPRA

Executive Division

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Appendix 3
Treasury Management Response



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

ASSISTANT SECRETARY

September 17, 2015

Ms. Deborah L. Harker
Director, Gulf Coast Restoration Audits
Office of the Inspector General
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Ms. Harker:

This letter responds to the draft audit report (Report) titled *Louisiana Has Made Progress in Establishing a Center of Excellence, OIG-15-xxx*. Treasury appreciates your office's work over the course of the audit.

As the Report notes, section 1605 of the RESTORE Act requires a competitive process for selecting Centers of Excellence. In the Report, your office observes that the Coastal Protection and Restoration Authority of Louisiana (CPRA) made progress in establishing its Louisiana Center of Excellence in accordance with the RESTORE Act, Louisiana procurement laws, and Treasury's regulations and grant application guidelines.

During Treasury's review of CPRA's grant application to fund its Center of Excellence, Treasury will evaluate the application to confirm, among other things, that the selection process and resulting selection address the requirements of the RESTORE Act and Treasury regulations. Pursuant to Treasury's grants management procedures, Treasury disburses funds only after Treasury concludes that the grantee satisfies all criteria.

We continue to work with the eligible entities for Centers of Excellence grants so that they become familiar with the requirements of the RESTORE Act, the Treasury regulations, and programmatic terms and conditions.

Sincerely,

A handwritten signature in black ink, appearing to read "DLB", written over a horizontal line.

David A. Lebryk
Fiscal Assistant Secretary

Appendix 4
Major Contributors to This Report

Cecilia K. Howland, Audit Manager
Michael A. Levin, Auditor
Dionne L. Smith, Auditor
Justin D. Summers, Referencer

Department of the Treasury

Deputy Secretary
Under Secretary for Domestic Finance
Fiscal Assistant Secretary
Deputy Assistant Secretary, Fiscal Operations and Policy
Office of the Deputy Chief Financial Officer, Risk and Control
Group
Office of Strategic Planning and Performance Management

Office of Management and Budget

OIG Budget Examiner

State of Louisiana

Chairperson, Coastal Protection and Restoration Authority
Legislative Auditor



Treasury OIG Website

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Gulf Coast Restoration Hotline – Call toll free: 1-855-584.GULF (4853)

Email: Hotline@oig.treas.gov

Submit a complaint using our online form:

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