



# Audit Report



OIG-19-036

GULF COAST RESTORATION

Treasury's Review of Multiyear Implementation Plans for  
Direct Component Funding

May 22, 2019

Office of  
Inspector General

Department of the Treasury

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## Abbreviations

Clean Water Act	<i>Federal Water Pollution Control Act</i>
Direct Component Guidance	<i>RESTORE Act Direct Component Guidance and Application to Receive Federal Financial Assistance</i>
FAQs	<i>RESTORE Act Frequently Asked Questions Relating to the Direct Component Program</i>
Final Rule	<i>Department of the Treasury Regulations for the Gulf Coast Restoration Trust Fund Final Rule</i>
MYIP	Multiyear Implementation Plan
OGCR	Office of Gulf Coast Restoration
RESTORE Act	<i>Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012</i>
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*

May 22, 2019

David A. Lebryk  
Fiscal Assistant Secretary

This report presents the results of our audit of the Department of the Treasury's (Treasury) assessment of Multiyear Implementation Plans (MYIP) for Direct Component funding under the *Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012* (RESTORE Act).<sup>1</sup> We performed this audit as part of our ongoing oversight of programs, projects, and activities authorized by the RESTORE Act. The objective of our audit was to assess Treasury's review process for ensuring that MYIPs included only eligible activities and that the plans complied with requirements of the RESTORE Act, other applicable Federal laws, regulations, and Treasury program policies, procedures, and guidelines. The scope of our audit comprised Treasury's review of MYIPs for the period March 2015 through August 2016. We made a non-statistical selection and reviewed 3 MYIPs from a universe of 14 MYIPs that were representative of each type of RESTORE Act Direct Component recipient (i.e., Gulf Coast State, Florida county, and Louisiana parish) for the purpose of assessing the design of Treasury's review process. Appendix 1 provides more detail of our audit objective, scope, and methodology.

## Results in Brief

In brief, we found that Treasury's process to review MYIPs was designed to ensure that only eligible activities were included and that the plans complied with all Federal requirements prior to

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

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acceptance. That is, the plans complied with requirements of the RESTORE Act, the *Department of the Treasury Regulations for the Gulf Coast Restoration Trust Fund Final Rule* (Final Rule),<sup>2</sup> and policies and procedures contained in Treasury's *RESTORE Act Direct Component Guidance and Application to Receive Federal Financial Assistance* (Direct Component Guidance), as well as guidance provided in the *RESTORE Act Frequently Asked Questions Relating to the Direct Component Program* (FAQs), *RESTORE Act Program Awards Policy*, and *RESTORE Act Direct Component Multiyear Plan and Application Review Procedures*. Accordingly, we make no recommendations in this report.

As part of our reporting process, we provided Treasury management an opportunity to comment on a draft of this report. In a written response, Treasury management acknowledged and concurred with the report's conclusions. Treasury management's response, in its entirety, is included as appendix 2.

## 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* (Clean Water Act).<sup>3</sup>

Treasury is responsible for the administration of two of the five components of the Trust Fund: the Direct Component and the Centers of Excellence Research Grants Program. Under the Direct Component, 35 percent of the Trust Fund will be made available to the Gulf Coast States (Alabama, Florida,<sup>4</sup> Louisiana,<sup>5</sup> Mississippi,

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<sup>2</sup> The Final Rule (31 CFR Part 34) became effective on February 12, 2016.

<sup>3</sup> 33 U.S.C. § 1251 *et seq.*

<sup>4</sup> For the State of Florida, the funds will go directly to the impacted Florida counties, with 75 percent of funding going directly to the 8 disproportionately affected counties impacted by the Deepwater Horizon oil spill and 25 percent going directly to the 15 non-disproportionately impacted counties.

<sup>5</sup> For the State of Louisiana, 70 percent of the funds will be provided to the State and 30 percent will be provided to 20 eligible coastal parishes based on a formula described in the RESTORE Act.

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and Texas) in equal shares in the form of grants for the purpose of economic and ecological restoration. See appendix 3 for more detail on all Trust Fund components.

Direct Component funds can be spent on: (a) restoration and protection of the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast region; (b) mitigation of damage to fish, wildlife, and natural resources; (c) implementation of a Federally approved marine, coastal, or comprehensive conservation management plan, including fisheries monitoring; (d) workforce development and job creation; (e) improvements to or on state parks located in coastal areas affected by the Deepwater Horizon oil spill; (f) infrastructure projects benefitting the economy or ecological resources, including port infrastructure; (g) coastal flood protection and related infrastructure; (h) promotion of tourism in the Gulf Coast region, including promotion of recreational fishing; (i) promotion of the consumption of seafood harvested from the Gulf Coast region; (j) planning assistance; and (k) administrative costs.

Each Direct Component eligible entity<sup>6</sup> must submit an MYIP to Treasury for review and acceptance before submitting an application for funding, unless it is applying for planning assistance funds to develop its MYIP. An MYIP prioritizes eligible activities and provides details of planned activities to be funded by the Direct Component. A complete MYIP must include (1) a narrative describing each proposed eligible activity, (2) a matrix summarizing all proposed eligible activities, and (3) a map showing the locations where work will be performed. For each proposed eligible activity, the applicant must describe the following:

- the need, purpose, and objectives of the activity;

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<sup>6</sup> The States of Texas, Louisiana, Mississippi, and Alabama; the Coastal Zone parishes of Ascension, Assumption, Calcasieu, Cameron, Iberia, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Terrebonne, Tangipahoa, and Vermilion in the State of Louisiana; and disproportionately affected counties of Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Wakulla, and Walton, and non- disproportionately impacted counties of Charlotte, Citrus, Collier, Dixie, Hernando, Hillsborough, Jefferson, Lee, Levy, Manatee, Monroe, Pasco, Pinellas, Sarasota, and Taylor, all in the State of Florida.

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- how the activity is eligible and meets all funding requirements;
  - the location of the activity;
  - the budget for the activity;
  - the milestones and projected completion dates for the activity; and
  - the criteria the applicant will use to evaluate the success of each activity in helping to restore and protect the Gulf Coast region impacted by the Deepwater Horizon oil spill.

In accordance with the Final Rule, each entity under the Direct Component must make the MYIP available for public review and comment for a minimum of 45 days, and consider meaningful input from the public.

Staff within Treasury's Office of Gulf Coast Restoration (OGCR) review the MYIPs for completeness and conformity with the RESTORE Act, the Final Rule, and Treasury program policies, procedures, and guidelines. The Senior Awards Manager performs a second level review of the MYIPs before sending to the Multiyear Plan Review Team, consisting of senior management within OGCR to include the Program Director, Senior Awards Manager, and Senior Policy Analyst. The team reviews the MYIPs and makes a recommendation to accept or not to accept. Once the MYIPs are accepted, the applicant may submit grant applications to fund the included activities.

## **Audit Result**

### **Treasury's Review Process Ensured that MYIPs Included Only Eligible Activities and Complied with Applicable Federal Requirements**

We found that Treasury's process to review MYIPs was designed to ensure that only eligible activities were included and that the plans complied with all Federal requirements prior to acceptance. That is, the plans complied with requirements of the RESTORE Act, the Final Rule, and policies and procedures contained in Treasury's Direct Component Guidance, as well as guidance provided in the FAQs, *RESTORE Act Program Awards Policy*, and *RESTORE Act Direct Component Multiyear Plan and Application Review*

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*Procedures.* As of August 2016, OGCR staff reviewed and accepted all 14 MYIPs submitted by Direct Component recipients.<sup>7</sup>

OGCR staff developed a checklist to evaluate each MYIP for compliance with the applicable Federal requirements. That is, OGCR staff's review ensured that required documents were submitted; only eligible activities were included; and the public comment period was sufficient to obtain broad based participation.

### Required Documents

The Final Rule, the Direct Component Guidance, and the FAQs require that the following documents be submitted with each MYIP:

- a matrix with milestones, projected completion dates of each activity, a budget, and the location of activities;
- a map showing the locations where the work will be performed; and
- a narrative with the description of activities.

We verified that OGCR staff's review process ensured that all required documents were submitted with each MYIP.

### Eligible Activities

The RESTORE Act, the Final Rule, the Direct Component Guidance, and the FAQs set forth the eligibility requirements for each proposed activity. OGCR staff performed a qualitative review of each MYIP for the following:

- a description of how each proposed activity qualifies as at least one of the eligible activities;
- an acknowledgement that each activity described in the MYIP is reasonably identifiable with an eligible project type;
- a description of the relationship between the proposed activities and other activities funded;

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<sup>7</sup> The 14 accepted MYIPs included plans for the State of Mississippi, the State of Louisiana, five Florida counties (Pasco, Hernando, Pinellas, Charlotte and Monroe), and seven Louisiana parishes (Plaquemines, Tangipahoa, St. Tammany, Cameron, Livingston, Lafourche and Vermillion).

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- a description of how the entity prioritized the activities included in its MYIP matrix, and the criteria used to establish priorities; and
  - a map showing whether the proposed activity is within the Gulf Coast region.

We verified that OGCR staff's review process ensured that all activities included in the MYIPs were eligible.

### Public Comment

The Final Rule, the Direct Component Guidance, and the FAQs require that an MYIP "must be available for 45 days for public review and comment in a manner to obtain broad based participation and that each proposed activity must be approved after consideration of meaningful input from the public." OGCR staff performed a qualitative review of each MYIP for the following:

- a description, with substantiating documentation, of how the MYIP was made available for 45 days for public review and comment;
- a description of how each activity in the MYIP was adopted after consideration of all meaningful input from the public; and
- a summary of any public comments that were not reasonably addressed in the plan.

We verified that OGCR staff's review process ensured that the MYIPs met the 45 day public comment requirements.

### MYIP Acceptance Process

After the OGCR staff ensured that each MYIP satisfied all the applicable requirements, a review memorandum was prepared that described: (1) each MYIP's adherence to the Federal requirements; and (2) a recommendation to accept. The Senior Awards Manager performed a second level review prior to delivery of the MYIP to the Multiyear Plan Review Team. The Multiyear Plan Review Team then performed a final review and recommended that Treasury accept the MYIPs. The applicants were notified of acceptance by

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the OGCR Program Director. Subsequently, the accepted MYIPs were uploaded to Treasury's website.<sup>8</sup>

Although no MYIPs within the scope of this audit were found unacceptable, Treasury's review process includes steps in the case where an MYIP does not meet all Federal requirements. In this case, OGCR staff will request that an applicant either provide supplemental information to address the outstanding issues raised by the Multiyear Plan Review Team or submit a revised MYIP. After review of supplemental information or a revised MYIP, the Multiyear Plan Review Team makes a recommendation to accept or not accept. In case of non-acceptance, the Multiyear Plan Review Team will consult with the Director of Office of Grants and Asset Management and the Grants Attorney in the Office of General Counsel prior to sending a letter informing the applicant that the MYIP was not accepted and describe its deficiencies.

### Conclusion

In all, based on our review of Treasury's process and the three MYIPs selected for detailed review, we concluded that Treasury's process to review MYIPs was designed to ensure that only eligible activities were included and that the plans complied with all Federal requirements prior to acceptance.

\* \* \* \* \*

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) 927-8782 or Eleanor Kang, Audit Manager, at (202) 927-8127.

/s/

Cecilia K. Howland  
Director, Gulf Coast Restoration Audits

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<sup>8</sup> <https://www.treasury.gov/services/restore-act/Pages/Direct%20Component/Direct-Component.aspx>

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 audited the Department of the Treasury's (Treasury) assessment of Multiyear Implementation Plans (MYIP) for Direct Component funding. The objective of our audit was to assess Treasury's review process for ensuring that MYIPs included only eligible activities and that the plans complied with requirements of the RESTORE Act, other applicable Federal laws, regulations, and Treasury program policies, procedures, and guidelines.

The scope of our audit comprised Treasury's review of MYIPs for the period March 2015 through August 2016. We made a non-statistical selection and reviewed 3 MYIPs (the State of Mississippi; Hernando County, Florida; and Tangipahoa Parish, Louisiana) from a universe of 14 MYIPs that were representative of each type of RESTORE Act Direct Component recipient (i.e., Gulf Coast State, Florida county, and Louisiana parish). Our selection was made for the purpose of assessing the design of Treasury's MYIP review process for ensuring that MYIPs included only eligible activities and that the plans complied with the requirements of the RESTORE Act, other applicable Federal laws, regulations, and Treasury program policies, procedures, and guidelines and not for the purpose of concluding on the overall effectiveness of Treasury's MYIP review.

To meet our audit objective, we performed the following procedures:

- Reviewed applicable Federal laws, regulations, and Treasury's policies, procedures, and related guidelines as follows:
  - RESTORE Act, Pub. L. 112-141, July 6, 2012;
  - Treasury, *Regulations for the Gulf Coast Restoration Trust Fund Final Rule*, 31 CFR Part 34, February 12, 2016;
  - Treasury, "RESTORE Act Direct Component Guidance and Application to Receive Federal Financial Assistance," August 2014;

- Treasury, “RESTORE Act Frequently Asked Questions Relating to the Direct Component Program,” October 17, 2014, updated March 1, 2016, updated July 27, 2016, and updated May 2, 2017;
  - *RESTORE Act Program Awards Policy*, September 28, 2015 draft version and April 27, 2018 final version; and
  - *RESTORE Act Direct Component Multiyear Plan and Application Review Procedures*, Version 1.4, July 26, 2016.
- Reviewed documents related to Treasury’s process of review and acceptance of MYIPs:
    - *RESTORE Act Direct Component Multiyear Plan Narrative*, August 2014 and updated September 2016;
    - *RESTORE Act Direct Component Multiyear Plan Matrix*, August 2014 and updated September 2016;
    - review packages which include the applicant’s narrative, matrix, and map;
    - acceptance packages which include the applicant’s MYIP, signed review memo, review checklist, acceptance letter, and document for web posting;
    - review and acceptance packages for Hernando County, Tangipahoa Parish, and the State of Mississippi; and
    - correspondence relating to the review packages including, internal Office of Gulf Coast Restoration (OGCR) correspondence and correspondence with the entities who submitted the MYIP.
  - Conducted interviews with the following key OGCR personnel to gain an understanding of the review and acceptance of MYIPs:
    - Program Director;
    - Senior Policy Analyst; and
    - Senior Awards Manager.

We conducted fieldwork at the OGCR office and the Office of Inspector General in Washington, D. C. from August 2016 through May 2018.

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.



ASSISTANT SECRETARY

DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C.

MAY 14 2019

Ms. Cecilia K. Howland  
Director, Gulf Coast Restoration Audits  
Office of Inspector General  
Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

Dear Ms. Howland,

Thank you for the opportunity to review and comment on the Office of Inspector General's draft report (Report) relating to the audit of Treasury's Review of Multiyear Implementation Plans (MYIPs) for Direct Component Funding.

We are pleased that the Report concluded that the Department of the Treasury's process to review MYIPs was designed to ensure that only eligible activities were included and that the plans complied with all Federal requirements prior to acceptance. Treasury concurs with the Report's findings, and notes that the Report makes no recommendations.

We appreciate your work on the Report and value your feedback as the program moves forward.

Sincerely,

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

David A. Lebryk  
Fiscal Assistant Secretary

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.<sup>9</sup>
- approximately \$800 million plus interest from the Transocean defendants<sup>10</sup>
- approximately \$127 million plus interest from Anadarko Petroleum Corporation<sup>11</sup>

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<sup>9</sup> 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 Exploration & Production Inc. 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 into the Trust Fund on April 10, 2017. Subsequent annual payments of approximately \$152 million and approximately \$303 million were deposited into the Trust Fund on April 9, 2018 and on April 9, 2019 respectively.

<sup>10</sup> 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.

<sup>11</sup> 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.

### RESTORE Act Components

The RESTORE Act allocates monies from the Trust Fund into the following five components.

- Direct Component – Treasury Administered
  - 35 percent is to be equally divided among the five Gulf Coast States for ecosystem restoration, economic development, and tourism promotion accordingly:
    - Louisiana – 30 percent to the coastal parishes based on an allocation formula and 70 percent to the State
    - Florida – 75 percent to the counties most affected by the oil spill and 25 percent to the other counties based on an allocation formula
    - Mississippi – 100 percent to the Department of Environmental Equality
    - Alabama – 100 percent to the Alabama Gulf Coast Recovery Council
    - Texas – 100 percent to the Texas Governor’s Office
- Comprehensive Plan Component – Gulf Coast Ecosystem Restoration Council Administered
  - 30 percent plus 50 percent of interest earned from Trust Fund investments is to be used for restoration activities under the Comprehensive Plan
- Spill Impact Component – Gulf Coast Ecosystem Restoration Council Administered
  - 30 percent is to be divided among the five Gulf Coast States according to a formula to implement State Expenditure Plans, which require approval by the Council
- National Oceanic and Atmospheric Administration’s RESTORE Act Science Program – National Oceanic and Atmospheric Administration Administered
  - 2.5 percent plus 25 percent of interest earned from Trust Fund investments is to be used for a science, observation, monitoring, and technology program

- Centers of Excellence Research Grants Program – Treasury Administered
  - 2.5 percent plus 25 percent of interest earned from Trust Fund investments is to be used for research on the Gulf Coast region

#### Availability for Direct Component Awards

As of April 9, 2019, the Trust Fund had received more than \$1.7 billion in gross allocations, including related interest. Of that amount, approximately \$589 million has been made available for the Direct Component.<sup>12</sup>

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<sup>12</sup> 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

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Eleanor P. Kang, Audit Manager  
Usman Abbasi, Auditor-in-Charge  
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Rufus Etienne, Referencer

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