















Audit Report



OIG-18-042

RESTORE ACT Hernando County's Multiyear Implementation Plan Complied with Applicable Federal Requirements

March 20, 2018

Office of Inspector General

Department of the Treasury

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Audit Report

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Abbreviations

BOCC	Board of County Commissioners
Clean Water Act	Federal Water Pollution Control Act
Direct Component Guidance	RESTORE Act Direct Component Guidance and
	Application to Receive Federal Financial Assistance
Final Rule	Department of the Treasury, Regulations for the
	Gulf Coast Restoration Trust Fund Final Rule
Hernando County	Hernando County, Florida
MYIP	Multiyear Implementation Plan
RESTORE Act	Resources and Ecosystems Sustainability, Tourist
	Opportunities, and Revived Economies of the Gulf
	Coast States Act of 2012
Treasury	Department of the Treasury
Trust Fund	Gulf Coast Restoration Trust Fund

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OIG

Audit Report

The Department of the Treasury Office of Inspector General

March 20, 2018

David A. Lebryk Fiscal Assistant Secretary

This report presents the results of our audit of Hernando County, Florida's (Hernando County) development of its multiyear implementation plan (MYIP) under the Direct Component of 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 authorized by the RESTORE Act. The objective of this audit was to assess Hernando County's development of its MYIP to determine the plan's compliance with the RESTORE Act, other applicable Federal laws, regulations, and Department of the Treasury (Treasury) policies, procedures, and guidelines. Appendix 1 provides more detail of our audit objective, scope, and methodology.

In brief, we found that Hernando County developed its MYIP to comply with applicable Federal requirements stipulated in the RESTORE Act, the Department of the Treasury, *Regulations for the Gulf Coast Restoration Trust Fund Final Rule* (Final Rule)², and Treasury's policies, procedures, and *RESTORE Act Direct Component Guidance and Application to Receive Federal Financial Assistance* (Direct Component Guidance). Accordingly, we make no recommendations in this report.

As part of our reporting process, we provided Hernando County management an opportunity to comment on a draft of this report. In a written response, Hernando County management agreed with the report's results and with the report's accuracy, completeness, balance

¹ Pub. L. 112-141, 126 Stat. 588-607 (July 6, 2012) Section 1603. Gulf Coast Natural Resources Restoration and Economic Recovery. Under the Direct Component, 35 percent of the civil penalties deposited into the Gulf Coast Restoration Trust Fund are available in equal shares to the five Gulf Coast states (Alabama, Florida, Louisiana, Mississippi, and Texas).

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

and tone. Hernando County management's response, in its entirety, is included as appendix 2.

After incorporating Hernando County's management response into a draft of this report, we provided the draft to Treasury management for comment and written response. In its response, Treasury management concurred with the report's conclusion that Hernando County developed its MYIP to comply with applicable Federal requirements in the RESTORE Act, the Department of the Treasury *Regulations for the Gulf Coast Restoration Trust Fund Final Rule*, and Treasury's policies, procedures, and *RESTORE Act Direct Component Guidance and Application to Receive Federal Financial Assistance*. Treasury's management response, in its entirety, is provided as appendix 3.

Background

RESTORE Act

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).³

Under section 1603 of the RESTORE Act, 35 percent of the Trust Fund will be made available to the Gulf Coast States (i.e. Alabama, Florida, Louisiana, Mississippi, and Texas) in equal shares in the form of grants for the purpose of economic and ecological restoration under the Direct Component. For the State of Florida, the funds will go directly to the impacted Florida counties, with 75 percent of funding going directly to the eight disproportionately affected counties impacted by the Deepwater Horizon oil spill and 25 percent going

³ Pub. L. 92-500 (as amended).

directly to the 15 nondisproportionately impacted counties.⁴ See appendix 4 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 eligible entity⁵ under the Direct Component must submit an MYIP to Treasury for review and acceptance. An MYIP prioritizes eligible activities and provides details of planned activities to be funded by the

⁴ Disproportionately affected counties include counties located along the Florida Panhandle. This includes Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Wakulla, and Walton. Nondisproportionately impacted counties include Charlotte, Citrus, Collier, Dixie, Hernando, Hillsborough, Jefferson, Lee, Levy, Manatee, Monroe, Pasco, Pinellas, Sarasota, and Taylor, whose allocations consist of a weighted formula based on distance from Deepwater Horizon event, population, and sales tax collections.

⁵ 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.

Direct Component. For each activity, the MYIP must include a narrative demonstrating:

- the need for, purpose, and objectives of the activity;
- how the activity is eligible for funding and meets all requirements;
- location of the activity;
- budget for the activity;
- milestones and projected completion dates for the activity; and
- 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 Treasury's Final Rule, each eligible 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.

Treasury reviews the MYIP for completeness and conformity with the RESTORE Act and Treasury's Final Rule and program policies and procedures. If Treasury accepts the MYIP, the applicant may submit grant applications to fund the included activities.

Hernando County

Hernando County is located on the central-west coast of Florida. Due to its location, Hernando County was designated as one of Florida's nondisproportionately impacted counties eligible to receive its allocation of 25 percent of Florida's Direct Component allocation. As of December 31, 2017, approximately \$1 million was available to Hernando County.

Hernando County's organizational structure is comprised of elected officers that include the Sherriff, Supervisor of Elections, Property Appraiser, Tax Collector, Board of County Commissioners (BOCC), and Clerk of Courts. The BOCC is made up of five County Commissioners and is the chief legislative body of Hernando County. Each County Commissioner is elected to a four-year term by the voters at large and represents the geographical district of residence. The BOCC appoints a County Administrator, who serves as the chief administrative officer of Hernando County. The Clerk of the Circuit Court oversees an organization that performs a wide range of services for the Hernando County Government and judicial system including record keeping, information management, and financial management.

The Assistant County Administrator/Director of Public Works oversees Hernando County's activities funded by the RESTORE Act. However according to Hernando County's organizational structure, all decisions must be approved by the BOCC.

Audit Result

Hernando County's Multiyear Implementation Plan Complied with Applicable Federal Requirements

We found that Hernando County developed its MYIP to comply with applicable Federal requirements stipulated in the RESTORE Act and Treasury's Final Rule, policies, procedures, and Direct Component Guidance. We found no other Federal laws or regulations applicable to the development of Hernando County's MYIP. We reviewed Hernando County's project solicitation, project selection, public comment processes, and its MYIP.

Project Solicitation

In developing the MYIP, the County Administrator and the Assistant County Administrator/Director of Public Works conducted three project solicitations. The first was conducted in December 2012, at which time the County Administrator instructed all of the Hernando County department directors to commence the development of a project portfolio for RESTORE Act funding. In addition, the County Administrator invited the BOCC, civic groups and other Hernando County stakeholders to submit project ideas to be included in the project portfolio. The County Administrator presented the list of projects to the BOCC on December 18, 2012.

On September 30, 2013, the County Administrator began the second project solicitation and sent Direct Component project application forms and instructions to all Hernando County staff and citizen advisory groups. The list of projects received from the first two solicitations was subsequently aggregated and held, pending the approval of Treasury's Direct Component Guidance, which was finalized in August 2014.

On November 5, 2014, the Assistant County Administrator/Director of Public Works initiated the third and final project solicitation through a press release requesting project submissions from the public. Members of the public were invited to submit projects via a portal on the Hernando County website, which was open for a period of 30 days.

Over the course of the three solicitation periods, the County Administrator and the Assistant County Administrator/Director of Public Works received 35 projects of which 34 projects were from Hernando county employees and one project was submitted from a member of the public community. The project submitted by the public community member did not include all of the required information for a project submission, and therefore, was not included in the list of projects for consideration. The Assistant County Administrator/Director of Public Works stated that Hernando County will follow-up with the individual who submitted the project when the next round of project solicitations to update the MYIP is initiated. The next round would not be initiated until the first Direct Component funds are awarded. In August 2017, Hernando County was awarded \$175,000 for the first project in its MYIP, the Bayou Drive Repair and Restoration Project.

The County Administrator and the Assistant County Administrator/Director of Public Works provided guidance on eligibility criteria for projects during each of the solicitation phase. For the second and third solicitations, a project submission form was provided that required the submitter to determine the project's eligibility based on criteria from the RESTORE Act. This was to include estimated project costs, project milestones, and a project timeline. Project submissions were required to meet one of the following qualifying eligible activities:

- restoration/protection of natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast region;
- 2. mitigation of damage to fish, wildlife, and natural resources;

- implementation of a federally approved marine, coastal or comprehensive conservation management plan, including fisheries monitoring;
- 4. workforce development and job creation;
- 5. improvements to or on state parks located in coastal areas affected by the Deepwater Horizon oil spill;
- 6. infrastructure projects benefitting the economy or ecological resources, including port infrastructure;
- 7. coastal flood protection and related infrastructure;
- 8. promotion of tourism in the Gulf Coast region, including recreational fishing; or
- 9. promotion of the consumption of seafood harvested from the Gulf Coast region.

Project Selection

The Assistant County Administrator/Director of Public Works developed the project selection scoring criteria using the requirements set forth in the RESTORE Act and Pasco County's⁶ RESTORE Act Direct Component project selection criteria as an example. The requirements set forth in the RESTORE Act are reiterated in Treasury's Final Rule and the Direct Component Guidance against which we compared Hernando County's scoring criteria and found that they were consistent. Furthermore, Hernando County included matching funds and project timing as two additional scoring criteria outside of the RESTORE Act requirements. The scoring criteria was approved by the BOCC on October 28, 2014. Twenty-five eligible projects⁷ were scored on a scale from 0 to 5 points with 5 points assigned to projects with the most anticipated benefit in each category of the scoring criteria.

The Assistant County Administrator/Director of Public Works selected individuals from several Hernando County departments including Engineering, Utilities, Public Works, Finance, and Parks and Recreation to participate on the scoring committee. Scoring committee members were provided with a project submission packet, scoring sheets, and instructions on how to score projects. Each scoring committee member initially worked independently to score projects based on the

⁶ Pasco County is a nondisproportionately impacted Florida County also named in the RESTORE Act.

⁷ Nine of the 34 eligible projects proposed were not scored because they were either withdrawn by submitters or were eligible for funding through other sources.

criteria. Once committee members had completed their individual scores, the committee met as a group on December 15, 2014, for a final consensus on project ranking. The top three ranked projects (i.e. Bayou Drive Repair and Restoration, Hernando Beach Shallow Reef Project, and Linda Pedersen Park Improvements) were included in the MYIP for the first request.

Public Comment

Treasury's Final Rule requires plans to be "made available for public review and comment for a minimum of 45 days in a manner calculated to obtain broad-based participation from individuals, businesses, Indian tribes, and non-profit organizations." Treasury's Direct Component application guidance and FAQs reinforce this requirement.

On February 10, 2015, the BOCC approved the MYIP, and on the same day, Hernando County's Public Information Manager issued a media release announcing the 45-day public comment period. The public comment period was announced on media outlets including local televised news and local newspapers. Hernando County provided the public with three avenues to provide comments on the MYIP: (1) a public comment portal on its website, (2) opportunities at eight BOCC meetings, and (3) an email address for comment submissions. Public comments were tracked on an internal spreadsheet and monitored by Hernando County staff. A specific email address was created to ensure proper tracking and dissemination of comments to appropriate recipients within Hernando County. The public comment period ended on March 27, 2015.

During the public comment period, Hernando County received 18 comments via the email address posted on their website. Most notably, the National Wildlife Federation⁸ reviewed the draft MYIP and suggested changes to it and to the process to develop the plan going forward. Other conservation groups⁹ provided feedback as did interested Hernando County residents. Based on all feedback, the MYIP was modified to increase the project descriptions, add high level milestones, and include an explanation of how each project's success will be evaluated. In addition, Hernando County updated its RESTORE

⁸ The National Wildlife Federation is a recognized national conservation organization with members and supporters residing in Hernando County.

⁹ Audubon Florida, Ocean Conservancy, Florida Wildlife Federation, and the Nature Conservancy.

Act website to include the project scoring criteria, the scoring sheets, the MYIP, and supporting documents.

MYIP Compliance

Treasury's Direct Component Guidance required the MYIP to include the *RESTORE Act Direct Component Multiyear Plan Matrix*, *RESTORE ACT Direct Component Multiyear Plan Narrative* and maps of the locations of activities included in the plan. We found that Hernando County's MYIP included all of the required components per the Direct Component Guidance. Hernando County submitted its MYIP to Treasury on April 21, 2015, and Treasury accepted the MYIP on August 6, 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 5. A distribution list for this report is provided as appendix 6. If you have any questions, you may contact me at (202) 927-8782 or Eileen Kao, Audit Manager at (202) 927-8759.

/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 audited Hernando County, Florida's (Hernando County) development of its multiyear implementation plan (MYIP). The objective of our audit was to assess Hernando County's development of its MYIP to determine the plan's compliance with the RESTORE Act, other applicable Federal laws, regulations, and the Department of the Treasury (Treasury) program policies, procedures, and guidelines.

The scope of our audit comprised Hernando County's activities to develop its MYIP during the period July 6, 2012 through January 12, 2017. Activities included, but were not limited to Hernando County's project solicitation, project scoring, and project selection to be included in the MYIP. To meet our audit objective, we performed the following procedures.

- We reviewed applicable Federal laws, regulations, and Treasury's policies, procedures, and related guidelines as follows:
 - RESTORE Act, Pub. L. 112-141, July 6, 2012;
 - Department of the Treasury, Regulations for the Gulf Coast Restoration Trust Fund Final Rule, (31 CFR Part 34, effective February 12, 2016);
 - Department of the Treasury, RESTORE Act Direct Component Guidance and Application to Receive Federal Financial Assistance, August 2014;
 - Treasury's RESTORE Act Frequently Asked Questions Relating to the Direct Component Program, October 17, 2014; and
 - Treasury Office of Gulf Coast Restoration's RESTORE Act Multiyear Plan Review Checklist.
- We reviewed Hernando County's supporting documents and RESTORE Act website to determine compliance with applicable Federal requirements as follows:
 - Hernando County's RESTORE Act Multi-Year Implementation Plan;
 - Hernando County's RESTORE Act website;

- Board of County Commissioners (BOCC) public meeting agendas and minutes;
- Project submittal forms;
- Project portal submissions;
- Project description sheets;
- RESTORE Act Request for Project Consideration forms;
- Project scoring sheets;
- Public comments received on the MYIP and associated correspondence;
- RESTORE Act media release announcements; and
- Hernando County's Conflict of Interest Policy.
- We interviewed key Hernando County officials and staff responsible for developing the MYIP as follows:
 - Members of the BOCC;
 - County Administrator;
 - Assistant County Administrator/Assistant County Administrator/Director of Public Works;
 - Members of the scoring committee (County Engineer, Department of Public Works Finance Manager, Environmental Planner, Parks and Recreation Supervisor);
 - Public Information Manager; and
 - Department of Public Works staff.

We conducted field work at Hernando County administrative offices in Brooksville, Florida and at the Treasury Office of Inspector General office in Washington, District of Columbia between July 2016 and January 2017.

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 3 Treasury Management Response

DEPARTMENT OF THE TREASURY WASHINGTON, D.C. FEB 2 2 2018 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 audit report (report), Hernando County's Multiyear Implementation Plan Complied with Applicable Federal Requirements. We concur with the report's findings that Hernando County developed its Multiyear Implementation Plan to comply with applicable Federal requirements in the RESTORE Act, the Department of the Treasury Regulations for the Gulf Coast Restoration Trust Fund Final Rule, and Treasury's policies, procedures, and RESTORE Act Direct Component Guidance and Application to Receive Federal Financial Assistance. We appreciate your work on this report. Sincerely, 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.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 into the following five components.

o Direct Component – Treasury Administered

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.

- 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 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; and
 - 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; and
- 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 Hernando County

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 \$1.0 million had been made available to Hernando County under the Direct Component.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

Eleanor P. Kang, Audit Manager Eileen J. Kao, Audit Manager Usman Abbasi, Auditor-in-Charge Timothy F. Cargill, Referencer Appendix 6 Report Distribution

Department of the Treasury

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