



Audit Report



OIG-15-041

RESTORE ACT: Florida's Center of Excellence Was Not Selected through Competitive Award

July 30, 2015

Office of
Inspector General

Department of the Treasury

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Abbreviations and Acronyms

FIO	Florida Institute of Oceanography
RESTORE Act	Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012
Trust Fund	Gulf Coast Restoration Trust Fund
USF	University of South Florida

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*The Department of the Treasury
Office of Inspector General*

July 30, 2015

David A. Lebryk
Fiscal Assistant Secretary

This report presents the results of our audit of the State of Florida'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).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 Florida Institute of Oceanography's (FIO)² progress in establishing a 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 of our audit objective, scope, and methodology.

In brief, we found that Florida's Center of Excellence was not selected through competitive award as required by the RESTORE Act. Instead, acting on the belief that the RESTORE Act named FIO as Florida's Center of Excellence, FIO officials publicly announced FIO as the center in their June 2013 Annual Report to stakeholders. An FIO official told us that the belief that FIO would

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

² FIO is an Academic Infrastructure Support Organization established by the State University System of Florida Board of Governors. As defined, an Academic Infrastructure Support Organization provides underlying technology, equipment, facilities, services, and resources for academic programs and research in the State University System. FIO is comprised of 27 academic institutions and government agencies across the state of Florida, including the Florida Department of Environmental Protection and the Florida Fish and Wildlife Conservation Commission. Currently, the University of South Florida is the designated host institution for FIO and provides administrative and logistical support, including, but not limited to, office space, utilities, personnel services, and financial, legal, and accounting services.

be Florida's Center of Excellence was based on consultation with a State of Florida official and review of the Congressional Record.³ It was not until the Department of the Treasury (Treasury) issued RESTORE Act regulations⁴ in August 2014 that FIO officials determined that the organization's role was to serve as the State entity responsible for competitively awarding grants to establish Centers of Excellence rather than to serve as the Center of Excellence. As such, FIO officials concluded they would need to reconsider the announcement that FIO would serve as Florida's Center of Excellence. That said, we recommend that the Fiscal Assistant Secretary ensures that FIO selects its Centers of Excellence through a competitive process in accordance with the RESTORE Act, Treasury regulations, and conditions of award prior to disbursing funds to FIO for funding Centers of Excellence.

As part of our reporting process, we provided FIO an opportunity to comment on a draft of this report. In a written response, the Director of FIO did not agree with our finding and recommendation to the Fiscal Assistant Secretary. Specifically, the response noted that in the absence of Treasury regulations and guidance, FIO management was only trying to take reasonable steps to interpret the RESTORE Act in the face of an environmental disaster. The response noted that once Treasury regulations were issued, the Director concluded that FIO would serve as the State entity responsible for selecting the Centers of Excellence rather than be the Center of Excellence. As a result, in January 2015, FIO released its final "Rules & Policies" which provide a framework for a competitive process to select Florida's Centers of Excellence. See appendix 2 for the FIO response in its entirety.

We acknowledge FIO management's concern regarding the accuracy of the report's contents given the activities undertaken to comply with Treasury's regulations once issued. However, we would like to emphasize that our conclusions were based on the evidence gathered and assessed during fieldwork, which concluded in October 2014. Our report also recognizes the timely actions

³ "Restoring the Gulf of Mexico." Congressional Record 158:102 (July 10, 2012) p. S4810

⁴ 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.

taken by FIO subsequent to the conclusion of our fieldwork. We also note that even in the absence of Treasury regulations, the RESTORE Act stipulated that FIO is the State entity responsible for competitively awarding grants to establish Centers of Excellence. That said, FIO acknowledges the latter in its response; therefore, since events have overtaken the circumstances that were present during the time of our fieldwork, we are satisfied with FIO's response.

In a written response, Treasury management agreed with our recommendation and acknowledged FIO's response. Furthermore, management committed to evaluating FIO's grant application to establish Centers of Excellence and ensuring that the selection process and resulting selection address the requirements of the RESTORE Act and Treasury regulations. Management further stated that grant funds will not be disbursed until an applicant has met all required criteria, including an award through the competitive selection process. Treasury management's response meets the intent of our recommendation and is provided in 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 While the total amount that will eventually be deposited into the Trust Fund is unknown at this time, as of February 2015, the Trust Fund had received approximately \$816 million as a result of the government's settlement with the Transocean defendants.⁶ Litigation and

⁵ Pub. L. 92-500 (as amended)

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.

settlement discussions are ongoing with other defendants, most notably BP Exploration and Production Inc.

The RESTORE Act allocates money in the Trust Fund to five components, as follows: (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 Center of Excellence Component. Treasury's Office of the Fiscal Assistant Secretary is responsible for administering the Direct Component and the Center 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 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 Florida, FIO is the State entity with this responsibility.⁷

Finding

Florida's Center of Excellence Was Not Selected through Competitive Award

We found that FIO did not competitively award the State's Center of Excellence as required by the RESTORE Act. Section 1605 of the act specified 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. Instead, acting on the belief that the RESTORE Act named FIO as Florida's Center of Excellence, FIO officials publicly announced FIO as the center in their June 2013 Annual Report to stakeholders. An FIO official told us that the belief that FIO would be Florida's Center of Excellence was based on consultation with a State of Florida official and review of the Congressional Record. As a result, potential parties that were able and interested in being Florida's Center of Excellence did not have the opportunity to compete.

At the time of FIO's announcement in June 2013, Treasury had not yet published the RESTORE Act regulations to guide the Gulf Coast States in following a competitive award process. Nonetheless, FIO officials proceeded to announce FIO's status as Florida's Center of Excellence based on their interpretation of the RESTORE Act and information contained in the Congressional Record, *Restoring the Gulf of Mexico*, dated July 10, 2012, as well as conversations with a State of Florida official. Both the RESTORE Act and the Congressional Record stipulate that FIO is to carry out the Center of Excellence program in the State of Florida. FIO officials interpreted this as FIO being named Florida's Center of Excellence

⁷ The RESTORE Act states that this responsibility must be carried out by a consortium that is comprised of public and private research institutions within Florida and the Florida Department of Environmental Protection and the Florida Fish and Wildlife Conservation Commission. The only consortium that meets these requirements is FIO.

rather than the State entity responsible for awarding competitive grants to Centers 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. Among other things, the regulations specify that FIO is responsible for conducting a competitive grant award process to select the State's Centers of Excellence. Furthermore, 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 of Excellence, 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 will not apply to a process required by State law or regulation. In the case of Florida's Center of Excellence, FIO did not make its selection process available for public comment, nor did it use a process required by State law or regulation when announcing itself as the Center of Excellence.

Although FIO was publicly named as Florida's Center of Excellence, Treasury has not yet awarded Florida a grant for its Center of Excellence. It should be noted that it is not until a State applies to Treasury for funding that the State's selection of a Center of Excellence is reviewed by Treasury. Without final RESTORE Act regulations, Treasury was not in a position in June 2013 to accept funding applications or to acknowledge FIO's announcement as a Center of Excellence.

In June 2013, acting on the belief that FIO was the Center of Excellence, FIO officials and staff began drafting policies and procedures for accepting and evaluating grant proposals. FIO developed the *Florida Institute of Oceanography Plan of Action for Center of Excellence from RESTORE Funds*, outlining its plans for the research program. The plan included guidance on award eligibility and the content of proposals, an award timeline, and an overview of the peer review process. FIO began planning for staffing needs and the receipt and disbursement of RESTORE Act funds. In March 2014, the Director of FIO told us that he decided

to stop FIO's planning efforts and wait for the publication of the Treasury RESTORE Act regulations. After Treasury published the draft interim final rule In August 2014, the Director of FIO acknowledged that FIO's designation as Florida's Center of Excellence needed to be reconsidered and a process for selecting the Centers of Excellence should be established. In October 2014, in response to Treasury's regulations, FIO released rules and policies for the Florida Centers of Excellence, including the competitive process, for a 45 day public comment period. Subsequent to the completion of our fieldwork, the comment period closed and the final rules and policies were published in January 2015. In February 2015, FIO released their request for proposals for Centers of Excellence.

Florida Institute of Oceanography Response

In a written response, the Director of FIO did not agree with our finding and recommendation to the Fiscal Assistant Secretary. The response expressed concern that our finding is inaccurate and the recommendation is based on outdated information. Specifically, the response noted that in the absence of Treasury regulations and guidance, FIO management was only trying to take reasonable steps to interpret the RESTORE Act in the face of an environmental disaster. The response noted that once Treasury regulations were issued, the Director concluded that FIO would serve as the State entity responsible for selecting the Centers or Excellence rather than be the Center of Excellence. As a result, in January 2015, FIO released its final "Rules & Policies" which provide a framework for a competitive process to allow potential parties interested in serving as a Center of Excellence an opportunity to compete. See appendix 2 for the FIO response in its entirety.

OIG Comment

We acknowledge FIO management's concern regarding the accuracy of the report's contents given the activities undertaken to comply with Treasury's regulations once issued. However, we would like to emphasize that our conclusions were based on the evidence gathered and assessed during fieldwork, which concluded in October 2014. Our report also recognizes the timely actions taken by FIO subsequent to the conclusion of our fieldwork in order

to comply with the requirements of the RESTORE Act and Treasury regulations. Nevertheless, even in the absence of Treasury regulations, the RESTORE Act stipulated that FIO is the State entity responsible for competitively awarding grants to establish Centers of Excellence. That said, FIO acknowledges the latter in its response; therefore, since events have overtaken the circumstances that were present during the time of our fieldwork, we are satisfied with FIO's response.

Recommendation

We recommend that the Fiscal Assistant Secretary ensures that FIO selects its Centers of Excellence through a competitive process in accordance with the RESTORE Act, Treasury regulations, and conditions of award prior to disbursing grant funds to FIO for funding Centers of Excellence.

Management Response

In a written response, Treasury management agreed with our recommendation and acknowledged FIO's response. Furthermore, management committed to evaluating FIO's grant application to establish Centers of Excellence and ensuring that the selection process and resulting selection address the requirements of the RESTORE Act and Treasury regulations. Management further stated that grant funds will not be disbursed until an applicant has met all required criteria, including an award through the competitive selection process. See appendix 3 for management's response in its entirety.

OIG Comment

Management's response meets the intent of our recommendation.

* * * * *

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 Eileen Kao, Audit Manager, at (202) 927-8759.

/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 Florida Institute of Oceanography's (FIO) progress in establishing a Center of Excellence on March 20, 2014. The objective of our audit was to assess FIO's progress in establishing a Center of Excellence Research Grants Program (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 FIO's offices in St. Petersburg, Florida and the Department of the Treasury (Treasury) Office of Inspector General's offices in Washington, D.C., between March 2014 and October 2014 which comprised the following steps.

- We reviewed applicable Federal and Florida laws, regulations, and procedures relating to the establishment of Centers of Excellence, including:
 - RESTORE Act requirements;
 - Treasury Interim Final Rule for RESTORE Act and Preamble, 31 CFR Part 34, effective October 14, 2014;
 - Treasury RESTORE Act Centers of Excellence Research Grants Program Guidelines and Application to Receive Federal Financial Assistance, August 2014;
 - "Restoring the Gulf of Mexico." Congressional Record 158:102 (July 10, 2012) p. S4810; and
 - State University System of Florida Board of Governors Regulation 10.014, *Academic Infrastructure and Support Organizations*.

- We reviewed FIO and University of South Florida (USF) websites and key documents, including:
 - USF Administration of Sponsored Research Subagreements;
 - USF Purchasing - Competitive Solicitation Requirements;
 - *Florida Institute of Oceanography Plan of Action for Center of Excellence from RESTORE Funds*;

- FIO By-Laws;
 - Memorandum of Understanding-Academic Infrastructure Support Organization Proposal between FIO and USF; and
 - FIO Annual Report FY 2012/13 (July 1, 2012 – June 30, 2013).
- We interviewed key officials to gain and understanding of the Center of Excellence selection, including:
 - FIO – Director; Human Resources/Fiscal Manager; and
 - USF - Provost and Executive Vice President; Deputy General Counsel; Assistant Director - Research Financial Management; Assistant Vice President - USF Research and Innovation; and Executive Director- University Audit and Compliance.

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
Florida Institute of Oceanography Response



FLORIDA INSTITUTE OF OCEANOGRAPHY

830 First Street South
St. Petersburg, Florida 33701
Telephone: (727) 553-1100
Fax: (727) 553-1109



June 5, 2015

VIA EMAIL ONLY-harkerd@oig.treas.gov

Debbie Harker, CPA, MBA
Audit Director
U.S. Department of the Treasury
Office of the Inspector General
740 15th Street, N.E. Suite 600
Washington, D.C. 20220

Re: FIO Management Response to Draft Audit Report Dated May 8, 2015

Dear Ms. Harker,

This is the Florida Institute of Oceanography's ("FIO") Management Response to the Department of Treasury's Office of Inspector General's ("OIG") Draft Audit Report ("Report"), regarding FIO's progress in establishing a Center of Excellence for conducting research in the Gulf Coast region in accordance with Section 1605 under the Resources and Ecosystems Sustainability Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 ("RESTORE Act", or "Act").

FIO is concerned with OIG's finding which assessed that *"FIO did not competitively award the State's Center of Excellence as required by the RESTORE Act... [and] [a]s a result, potential parties that were able and interested in being Florida's Center of Excellence did not have the opportunity to compete."* This finding in the Report appears to be inaccurate and should not be held against FIO; as acknowledge by OIG, *"in 2013 the Treasury Department had not published the final RESTORE Act regulations to guide the Gulf Coast States, hence FIO proceeded based on the interpretation in the Congressional Record that stated FIO would serve as Florida's Center of Excellence."* FIO was only trying to take reasonable steps to interpret the Act in the face of an environmental disaster when there was no final guidance saying that FIO should do otherwise.

Subsequently to OIG's site visit in 2014, a series of information including the Treasury Department's interim final rule was released, which changed FIO's position to be the Gulf Coast Entity for the State of Florida rather than to serve as the Center of Excellence. In March 2014, the FIO Director ceased planning efforts pending the publication of the RESTORE Act regulations. Treasury published the interim final rule in August 2014. Given the new information in the interim final rule, FIO concluded that it would be the Gulf Coast Entity for the State of Florida and could not be the Center of Excellence for the State of Florida. With this knowledge, in January 2015, FIO reformulated its position and planning efforts to administer and coordinate activities among the Centers of Excellence Research Grants Program. FIO released its final Rules & Policies

FIO Mgmt Response to Draft Audit Report Dated May 8, 2015

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Florida Institute of Oceanography Response

(based on the RESTORE Act, Treasury Rulemaking and guidance and public comments) which provided an operational framework for a competitive process that allowed potential parties interested in the Centers of Excellence Research Grants Program an opportunity to compete.

FIO believes the recommendation found in the Report was formed based on outdated information from OIG's site visit in 2014. FIO provided a courtesy copy of the application to OIG for consideration, however, OIG's recommendation in the draft Report dated on May 8, 2015 appears bias toward FIO's efforts and processes to establish the Centers of Excellence Research Grants Program. Your statement that *"we recommend that the Fiscal Assistant Secretary ensures that FIO selects its Centers of Excellence through a competitive process in accordance with the RESTORE Act, Treasury regulations, and conditions of award prior to disbursing grant funds to FIO for funding Centers of Excellence"* should have considered and acknowledged the initiatives FIO took to reformulate the Rules & Policies (attached) to comply with final regulations as defined in the RESTORE Act.

FIO is not in concurrence with OIG's finding and recommendation to the Fiscal Assistant Secretary contained in the Report. As noted above, FIO has taken action to update the Centers of Excellence Research Grants Program planning procedures to comply with the release of the RESTORE Act and Treasury regulations. Earlier actions were simply intended to initiate the process based on our own interpretation of the Act and the Congressional Record in order to more timely fund critical research needs in the Gulf of Mexico.

Thank you for your opportunity to respond to the OIG Report. If you have any questions, I can be reached at (727) 553-3542.

Sincerely,

William T. Hogarth

William T. Hogarth, PhD.
Director, Florida Institute of Oceanography

Enclosure:
FIO Rules & Policies

cc: Gerard Solis, University Deputy General Counsel
Debra Gula, Executive Director, University Audit & Compliance



FLORIDA RESTORE ACT CENTERS OF EXCELLENCE RESEARCH GRANTS PROGRAM (CERGP)

FL CERGP RULES AND POLICIES

Prepared by the Florida Institute of Oceanography, Gulf Coast State Entity for Florida's RESTORE Act Centers of Excellence Research Grant Program (CERGP)

ABSTRACT

The Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act, P.L. 112-141), establishes a Gulf Coast Restoration Trust Fund in the Treasury of the United States. Eighty percent of the civil penalties paid after July 6, 2012, under the Federal Water Pollution Control Act (33 U.S.C. 1321) in connection with the 2010 *Deepwater Horizon* oil spill will be deposited into this Trust Fund. RESTORE Act programs include five components, including the *Centers of Excellence Research Grant Program (CERGP)* (RESTORE Act regulations, sub-part H, section §34.700), mandated to receive 2.5% of Trust Fund principal plus 25% of the interest accrued, divided equally among the five Gulf coast state entities (0.5% to Florida or ~\$4 million from the 2012 Transocean settlement). The Florida Institute of Oceanography (FIO) will host Florida's CERGP. The U.S. Treasury Department issued the final RESTORE Act Rulemaking in October 2014, including the requirement for all CERGP host entities to produce *Rules and Policies* after public scoping, conducted from Oct. 15 to Dec. 1 2014 for Florida's CERGP. These Rules and Policies are based on the RESTORE Act, Treasury Rulemaking and guidance, public comments and approval by the FL CERGP Management Team. They provide an operational framework for program implementation including subsequent Requests for Proposals (RFP).

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BACKGROUND AND PURPOSE

RESTORE Act

The Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act, P.L. 112-141), establishes a Gulf Coast Restoration Trust Fund in the Treasury of the United States. Eighty percent of the civil penalties paid after July 6, 2012, under the Federal Water Pollution Control Act (33 U.S.C. 1321) in connection with the 2010 *Deepwater Horizon* oil spill will be deposited into this Trust Fund. By 2015, the Trust Fund will include at least \$800,000,000 from the Transocean criminal settlement. More Trust Fund funding is expected following resolution of the civil trial for Clean Water Act penalties via future plea agreement or related settlement.

In August 2014, Treasury released the Interim Final Rulemaking for the RESTORE Act. The Final Rulemaking is due to be effective on Oct. 15, 2014. This Rulemaking is available with the original RESTORE Act legislation via [Treasury's RESTORE Act Web site](#). RESTORE Act programs include five components, including the *Centers of Excellence Research Grant Program* (CERGP) (RESTORE Act regulations, sub-part H, section §34.700), to receive 2.5% of Trust Fund principal plus 25% of the interest accrued, divided equally among the five Gulf coast state entities (0.5% to Florida or ~\$4 million from the Transocean settlement). The [Florida Institute of Oceanography \(FIO\)](#) is the Gulf coast state entity responsible for administering Florida's CERGP.

The RESTORE Act regulations and Treasury guidelines require that the FL CERGP seek to engage the broadest cross-section of participants with interest and expertise in science, technology, and monitoring (RESTORE Act regulations, sub-part H, section §34.704, also shown below) in *at least one* of the following eligible "**priority 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 of Mexico; and
5. Comprehensive observation, monitoring, and mapping of the Gulf of Mexico.

Each Gulf Coast State entity is responsible for developing their work plan, including which discipline(s) they will support and program rules and policies, with input from stakeholders.

Public Comments

Treasury's RESTORE Act Rulemaking interprets RESTORE Act requirements for all components supported by the Trust Fund that Treasury is required to administer, which

includes the Direct Component (bucket 1) and the CERGP (bucket 5). In September 2014, Treasury posted [guidance to the Gulf coast state entities](#) (listed in RESTORE Act regulations, sub-part H, section §34.702) responsible for administering their state's CERGP. [FIO](#), the designated Gulf coast state entity for Florida, is an Academic Infrastructure Support Organization established by the State of Florida Board of Governors to facilitate a diverse and collaborative statewide forum to address Florida's problems of concern in coastal oceanographic research and education. As required by the RESTORE Act Rulemaking and subsequent Treasury guidance, FIO provided the public with a **45 day public comment period on proposed "rules and policies, including the competitive selection process"** (RESTORE Act regulations, sub-part H, section §34.703). Based on this input, with consent from the CERGP Management Team, following are the FL CERGP *Rules and Policies*.

PROGRAM ADMINISTRATION

Organization & Governance

The FL CERGP will include the following organizational elements (**Figure 1**):

PROGRAM OFFICE: FIO will serve as the CERGP program office. The **FIO Director** will be ultimately responsible for program funds and performance, including: creation and approval of annual reports to Gulf Coast Ecosystem Restoration Council; creation and approval of Program Strategic Plan; creation and approval of Requests for Proposals (RFPs) for grants or contracts; transactions (e.g., audits) and liaison with Department of Treasury. The **Program Director** will report to the FIO Director and be responsible for tasks that the Gulf coast state entities must perform including: duties as defined in Treasury's [RESTORE Act Centers of Excellence Research Grants Program Guidelines and Application to Receive Federal Financial Assistance](#), section 7.0; coordination of competitive selection process for FL Center of Excellence grants; developing CE award terms and conditions and monitoring performance based on required deliverables and metrics; and coordination with other Gulf restoration programs as mandated by the guidelines and RESTORE Act [section 1604(f)]. The Program Director will also represent the Florida Centers of Excellence (CEs) on regional coordination activities (e.g., NOAA RESTORE Science Program advisory working group, group 1).

CENTERS OF EXCELLENCE (CE): The FL CERGP will establish Centers of Excellence (CE) via competitive grants or contracts to produce outputs and outcomes that address the eligible disciplines. All CE activities will be carried out in accordance with guidelines and requirements as defined in these Rules and Policies. Specific responsibilities of the

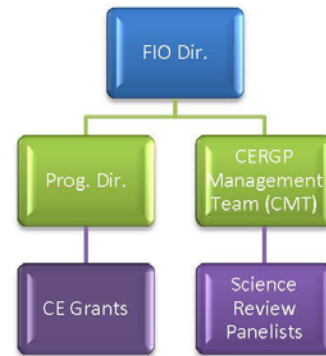


Figure 1. FL CERGP organization.

Principal Investigator and grantee institution will be further defined in Requests for Proposals (RFPs) and in subsequent award terms and conditions.

CERGP MANAGEMENT TEAM: The CMT will include the FIO Director and FIO Board of Visitors. CMT members will not be eligible to submit or participate on CERGP grant or contract proposals. Their tasks include:

- Review and approve CERGP *Rules and Policies* and Requests for Proposals (RFP)
- Review and approve Letters of Intent (LoI) and Final Proposals
- Review and approve program plans and reports, e.g., mandated annual report to the RESTORE Act Gulf Coast Ecosystem Restoration Council
- Participate in annual all-hands meeting with grantees and other state CERGP.

SCIENCE REVIEW PANEL: The SRP is an ad hoc team chosen and approved by the CMT responsible for technical review of grant proposals; the Panel will consist of science and technology experts not involved in any CERGP proposals, from in and outside Florida.

In addition to the FLCERGP program elements, the program will work to establish and nurture regional partnerships including, for example: other Gulf coast state entities and their CERGP; other RESTORE Act components (sections 1603 and 1604); National Fish and Wildlife Foundation Gulf Environmental Benefit Fund; National Academies of Science Gulf Research Program; Natural Resources Damage Assessment and Restoration Program; Gulf of Mexico Research Initiative; North American Wetlands Conservation Act, Gulf Program Fund; and other programs that may be funded by future litigation or settlements. Agreements may be utilized to define joint activities, similar to the [MOU that FIO now has in place with the US Coast Guard District 7](#) to support oil spill response activities off Florida. These partner agreements will not commit funding or resources, but serve to promote communications and potential for collaboration. Some partnerships are mandated by the RESTORE Act; FL CERGP is required to report to the RA sec. 1603 Gulf Ecosystem Restoration Council each year. The RA sec. 1604 NOAA RESTORE Act Science Program is required to coordinate with the CERGP, and will include their representatives on their [Science Advisory Working Group](#).

Eligible Activities

Based on public scoping and consent of the CMT, the Florida CERGP will focus on three of the five eligible disciplines:

- Coastal fisheries and wildlife ecosystem research and monitoring in the Gulf Coast Region;
- Comprehensive observation, monitoring, and mapping of the Gulf of Mexico; and
- Coastal sustainability, restoration and protection, including solutions and technology that allow citizens to live in a safe and sustainable manner.

Each Request for Proposals (RFP) may address one or more of these priority disciplines, including more specific priorities within these disciplines, based on funding available, public comments, and the CMT's assessment of current regional needs and gaps.

After indirect charge (10% of total funding), remaining funds will be invested in: program administration costs (11.7% of total funding); competitive grants to non-governmental

Appendix 2
Florida Institute of Oceanography Response

entities in the Gulf Coast Region, including public and private institutions of higher education (63% of total funding); and Florida and Gulf-wide collaborative activities (15.3% of total funding), for example, jointly funded ecosystem-scale restoration or rapid response programs.

As required by the RESTORE Act, CERGP-sponsored field efforts must be located in the Gulf Coast Region (as defined at 31 C.F.R. §34.2), which includes oceans and coasts off coastal counties that border the Gulf of Mexico, from 25 nm inland from the coastline to the offshore boundary of the Exclusive Economic Zone. For Florida's CERGP, emphasis will be placed on fieldwork in waters off Florida from Monroe County (Gulf-side only in the Florida Keys including Florida Bay) north to Escambia County (Figure 2).

FL CERGP grants must be led by a Florida-based (i.e. headquartered and primarily operating in Florida) public or private institution of higher education (lead PI from same) or other not-for-profit institution headquartered in Florida and primarily operating in Florida in the area of ocean research with an established infrastructure and history of successful grant management. Grants may include other partnering entities (institutions, organizations, agencies, companies) from in or outside Florida.

An individual may only be the lead Principal Investigator (PI) on one CERGP grant proposal, but may participate in others in any other capacity. Each PI and co-PI on invited Final Proposals will be required to submit a Conflict of Interest Disclosure form.



Figure 2. CERGP field projects must be conducted in the Gulf Coast Region, from 25 nm inland to the offshore edge of the EEZ; FL CERGP will prioritize but not limit fieldwork to waters off Monroe to Escambia Counties (Red line).

PROJECT ADMINISTRATION

Grants Selection Process

FIO will maintain a process (**Figure 3**) for evaluating CERGP grant proposals using best practices to ensure no conflicts of interest and a fair, transparent, quality and relevance-based competition, modeled after the National Science Foundation's related policies ([NSF Policies Manual, Chap. 5, Section 510](#)). Key elements of the process include:

- Request for Proposals (RFP): The initial RFP will be developed by the CMT based on public comments and be publicly available for at least 30 days. The RFP will be shared broadly using similar avenues as was used for public scoping of these Rules and Policies.
- Letters of Intent (LoI): Required prior to submission of all final proposals, Letters of Intent will be reviewed and ranked by the CMT, who will then make final decisions regarding invitations to submit final proposals. Formatting specifics will be included with each RFP.
- Final proposals: Final proposals will be due 60 days after invitation. Proposals will be reviewed and ranked by the SRP. The SRP will recommend a cut-off ranking for proposals worthy of support. The CMT will then make final award decisions from within this pool of highest ranking proposals based on the evaluation criteria below, available funding, and how the proposed activities integrate and complement all Gulf-wide restoration programs. Proposal formatting specifics will be included with and unique to each RFP.

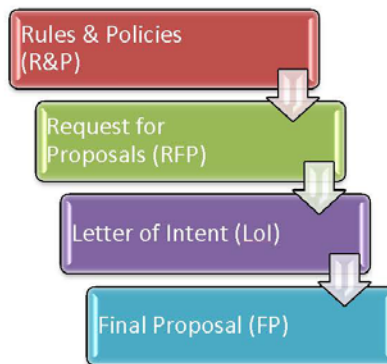


Figure 3. Proposal review process.

Assuming basic eligibility requirements are met, proposals will be evaluated based on the merit, qualifications and broader impact criteria (Table 1).

Appendix 2
 Florida Institute of Oceanography Response

Table 1. Review criteria for evaluating CERGP grant proposals.

Category (weight)	Criteria
Merit and Relevance (60%):	<ul style="list-style-type: none"> ✓ Measurable outcomes relevant to CERGP priorities, and Gulf-wide restoration. ✓ Quality and soundness of proposed research. ✓ Need for proposed outputs by ecosystem decision and policy-makers. ✓ Innovation of proposed activities, and for technology developments, clear pathway for transition to applications. ✓ Demonstrated use of "best available science" as defined by the Federal Water Pollution Control Act [33 U.S.C. 1321(a)(27)].
Qualifications and Collaboration (30%):	<ul style="list-style-type: none"> ✓ Expertise and track record of Principal Investigators (PI) in the proposed research. ✓ Realistic research timeline and availability of appropriate facilities for project duration. ✓ Demonstrated connection (coordination and/or collaboration) with other restoration program activities.
Broader Impacts (10%):	<ul style="list-style-type: none"> ✓ Support for formal education, which may include secondary school, college, and professional development activities. ✓ Education and training for under-represented groups in Florida coastal communities. ✓ Support for informal education (outreach) activities that engage and inform a broad cross-section of stakeholders in Gulf ecosystem restoration.

Property, Data Management, Records and Reporting

Intellectual property funded by a FL CERGP grant will abide with the responsible investigator's home entity. FIO, in consultation with PIs, may at any time use photos, data, results, and appropriate documentation to highlight and publicly share program accomplishments and outcomes.

Whenever possible, work conducted under CERGP grants is expected to result in publications in peer-reviewed (refereed) journals, or equivalent media.

All data and derived data products and metadata must be made publicly available within one year of data acquisition, before publication that relies on the data, or before the end of the grant, whichever is soonest. Data will be archived in a regional or national repository (FLCERGP agreement to be determined), which will promote integration with other oil spill response and restoration programs, and advancement of knowledge and utility to engineers, researchers, agencies and others.

Protocols for sample and measurement collection and processing, record-keeping, and data management must be consistent with [guidance documents](#) developed for Natural Resource Damage Assessment under the Oil Pollution Act of 1990 and the Damage Assessment Remediation and Restoration Program, NOAA, August 1996.

Grant recipients will be required: to submit quarterly progress reports with financial statements (in order to justify quarterly payments) and in specified format to be defined in grant terms and conditions; to participate in an annual CERGP all-hands meeting; and to participate in quarterly stakeholder webinars to highlight and share recent accomplishments.

Allowable Costs

Consistency and uniformity standards for allowable costs and audits of non-profit organizations expending federal awards, including their grant recipients, are defined in [Circular A-133](#) issued pursuant to the Single Audit Act of 1984 ([P.L. 98-502](#)), and the Single Audit Act Amendments of 1996 ([P.L. 104-156](#)). No cost sharing is required for CERP grants.

Appendix 3
Treasury Management Response



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

ASSISTANT SECRETARY

July 24, 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 *Florida's Center of Excellence Was Not Selected Through Competitive Award, OIG-15-xxx*. Treasury appreciates your office's work over the course of the audit and values your feedback on this issue. This letter provides Treasury's official comment and reply to the Report.

As the Report notes, section 1605 of the RESTORE Act requires a competitive process for selecting Centers of Excellence. In the Report, your office recommends that the Fiscal Assistant Secretary ensure that the Florida Institute of Oceanography (FIO) selects its Center(s) of Excellence through a competitive process in accordance with the RESTORE Act, Treasury regulations, and conditions of award prior to disbursing grant funds to FIO for funding Centers of Excellence.

In the written response from the Director of FIO, he explained that FIO released its final Rules & Policies for the Centers of Excellence Research Grant Program in January 2015, after a 45-day public review and comment period, conducted from October 15 to December 1, 2014. In February 2015, FIO released its request for proposals for Centers of Excellence; the selection of the center(s) is not yet complete. During Treasury's review of FIO's grant application to establish Center(s) 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, including that the state competitively selected its center(s).

We will 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 regulation, and programmatic terms and conditions.

Sincerely,

David A. Lebryk
Fiscal Assistant Secretary

Appendix 4
Major Contributors to this Report

Eileen J. Kao, Audit Manager
Marco T. Uribe, Auditor-in-Charge
Michael A. Levin, Auditor
Justin D. Summers, Referencer
Kevin A. Guishard, Referencer

Department of the Treasury

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

Office of Management and Budget

OIG Budget Examiner

State of Florida

Director, Florida Institute of Oceanography
Auditor General, State of Florida