



November 12, 2019

MEMORANDUM FOR: Arlene S. Porter
Director, Grants Management Division
National Oceanic Atmospheric Administration

Carol N. Rice

FROM: Carol N. Rice
Assistant Inspector General for Audit and Evaluation

SUBJECT: *Supplemental Memorandum on Report No. OIG-19-021-A,
Audit of NOAA Financial Assistance Awards to the
Gulf States Marine Fisheries Commission
Final Report No. OIG-20-007-A*

This final memorandum addresses the results of our attempt to audit \$5,030,452 that the Gulf States Marine Fisheries Commission (the Commission) paid to its subrecipient, the Gulf and South Atlantic Fisheries Foundation (GSAFF), under financial assistance award NAI0NMF4770481 from the National Oceanic Atmospheric Administration (NOAA). Our audit report OIG-19-021-A includes the results of three other subrecipients' claimed costs and other objectives audited under award NAI0NMF4770481.

Background and Audit Objectives

Following the Deepwater Horizon oil spill, the Commission received award NAI0NMF4770481 from NOAA's National Marine Fisheries Service. The purpose of the \$20,149,800 Oil Disaster Recovery Program (ODRP) grant¹ was to assist the Gulf fishing industry through projects aimed at the recovery and enhancement of the Gulf fishing economy. Specifically, the grant funded programs to market Gulf seafood products and provide health and safety assurances for those products. Of the Commission's 13 subrecipients under the ODRP grant, GSAFF received the largest subaward—to conduct marketing initiatives and public outreach through culinary events, perform consumer research, and develop communication strategies to address negative perceptions of Gulf seafood after the oil spill.²

One objective of our audit of the ODRP grant was to determine whether the Commission claimed costs that are allowable, allocable, and reasonable. Because GSAFF received a significant amount of grant funds—more than 33 percent of the federal share of the Commission's

¹ The authorized amount included \$14,985,000 in federal share and \$5,164,800 in recipient share. The award period was from October 1, 2010, through September 30, 2015.

² The subaward period was from March 15, 2011, through August 31, 2015.

award—we selected GSAFF’s subaward for an audit. Appendix A explains the objectives, scope and methodology of our audit.

Finding and Recommendations

I. The Commission Claimed \$5,030,452 in Unallowable Costs

According to award terms and conditions, recipients should monitor each subaward,³ provide OIG access to records and personnel knowledgeable of such records for audit purposes,⁴ and adequately document expenses.⁵ During the audit, the Commission could not provide records⁶ supporting GSAFF’s claimed costs on the subaward and assurances of access to personnel knowledgeable of such documents. Specifically, throughout the subaward period GSAFF submitted invoices to the Commission. GSAFF’s invoices summarized expenses by cost element as justification for reimbursement of project-related costs. However, those invoices did not provide adequate support to determine whether the \$5,030,452 in claimed costs were allowable, allocable, and reasonable.

After further inquiry of Commission staff, we determined that at the end of the subaward period—when it was notified of GSAFF’s potential inability to continue operating⁷—the Commission made plans to transfer data files related to GSAFF’s program performance, such as drafts of reports, video, and other information the Commission wanted. However, the Commission did not obtain from GSAFF and could not provide OIG supporting records such as general ledgers, personnel timesheets, contracts, invoices, and proof of payment sufficient to verify that costs claimed on the subaward to GSAFF were allowable, allocable, and reasonable.

³ U.S. Department of Commerce Office of Secretary, March 2008. *U.S. Department of Commerce Financial Assistance Standard Terms and Conditions*. Washington DC: DOC OS, 15. A recipient is responsible for monitoring the subrecipient’s use of federal awards to provide reasonable assurance that the subrecipient administers federal awards in compliance with laws, regulations and provisions. As of December 26, 2014, this requirement is in 2 C.F.R. § 200.331(d).

⁴ 15 C.F.R. § 14.53(b) & (e) (2010). Under the former regulation, all “records pertinent to an award shall be retained for a period of three years” starting on the day the grantee submits to the awarding agency its final expenditure report. If any audit is started before the expiration of the 3-year period, the records shall be retained until all audit findings involving the records have been resolved and final action taken. Furthermore, the Inspector General has the right of timely and unrestricted access to any pertinent records and reasonable access to grantee personnel for audit purposes. The rights of access are not limited to the 3-year retention period, but shall last as long as records are retained. As of December 26, 2014, these regulations have been removed and their requirements are instead located at 2 C.F.R. § 200.333, *Retention requirements for records* and 2 C.F.R. § 200.336, *Access to records*, respectively.

⁵ OMB Circular No. A-122, Attachment A, Section A.2.g. For costs to be allowable, they must be adequately documented. As of December 26, 2014, this requirement is in 2 C.F.R. § 200.403(g).

⁶ Supporting documentation includes (but is not limited to) general ledgers, personnel timesheets, contracts, invoices, and proof of payment.

⁷ Although GSAFF ceased operations in December 2016, according to the Division of Corporations in the State of Florida, GSAFF is an active organization and filed annual reports in 2017, 2018, and 2019.

In an attempt to access the records that could help to accomplish our audit objective, we performed alternative procedures, including reviewing audit work completed by GSAFF's accounting firm and accessing financial records directly from GSAFF.

We were aware that (a) GSAFF had Single Audit Act audits, (b) the subaward from the Commission was audited as a major program for fiscal years 2012–2015, and (c) the accounting firm that conducted the work did not report negative findings or question costs on any of GSAFF's federal programs, which were audited as major programs. To avoid duplication of audit effort—and to determine whether we could rely on its work to answer our audit objective—we contacted the accounting firm that conducted the audits and obtained documentation supporting its audit work.⁸

We found that the accounting firm only reviewed 4 percent of the \$5,030,452 claimed on the subaward in conducting its audits. Moreover, 80 percent of the \$5,030,452 claimed is for consulting or other contracted services, a cost element that is common on financial assistance awards and federal contracts, and an area where OIG often finds questioned costs or reports opportunities for cost savings. Based on our discussions with a representative from the accounting firm, our review of the available documents, as well as our understanding of the results of the firm's audit of claimed costs, we determined that the scope of its audit work did not include testing whether consulting and other contracted service costs are reasonable.

Our audit followed *Government Auditing Standards*, which require auditors conducting performance audits obtain sufficient, appropriate evidence to provide a reasonable basis for their findings and conclusions.⁹ Without enough persuasive evidence that costs claimed on GSAFF's subaward are allowable, allocable, and reasonable, we could not rely on the accounting firm's results to support conclusions on our audit objective.

Although GSAFF does not have electronic records, it did provide access to paper records pertaining to GSAFF's operations and activities. However, the records are contained within numerous boxes in two storage units and appear to be commingled with documentation unrelated to the Commission's subaward. Furthermore, no individuals with direct knowledge about the records and costs charged to the Commission's subaward were available to locate the particular documents supporting GSAFF's claimed costs on the subaward and to explain transactions. The lack of assistance from someone knowledgeable about the project costs and transactions effectively precludes OIG from identifying pertinent and complete records to support GSAFF's claimed costs. Therefore, we concluded that the records cannot be used to draw conclusions about the allowability of claimed costs.

⁸ Based on OIG's request, the accounting firm provided its audit documentation including (but not limited to) GSAFF's written policies and procedures, the accounting firm's explanations of GSAFF's internal controls for allowable costs and cash management, and results of payroll transactions and cash disbursements reviewed during its audits for fiscal years 2012–2015.

⁹ U.S. Government Accountability Office, December 2011, *Government Auditing Standards*, GAO-12-331G. Washington, DC: GAO, 154, 151. *Sufficiency* is "a measure of the quantity of evidence used to support the findings and conclusions related to the audit objectives"—whereas *appropriateness* is the measure of the quality of evidence that encompasses its relevance, validity, and reliability in providing support for findings and conclusions related to the audit objectives. Terms are explained in chapter 6, paragraphs 6.67 and 6.60, respectively.

Because the accounting firm's audit work did not provide enough evidence for us to conclude whether costs claimed on GSAFF's subaward are allowable, allocable, and reasonable—and individuals familiar with GSAFF's transactions and documentation could not provide assistance to locate records specific to the subaward and answer questions about claimed costs—we are unable to identify support for the Commission's \$5,030,452 in claimed costs on the ODRP grant. Therefore, we have concluded those costs are unsupported.¹⁰

Recommendations

We recommend the Director of NOAA Grants Management Division do the following:

1. Recover the amount disallowed from the \$5,030,452 questioned costs in accordance with the audit resolution process outlined in DAO 213-5.
2. Require the Commission to implement procedures to ensure access to adequate documentation to support subrecipient claimed costs and provide assurances of access to subrecipient personnel for audit purposes.

We evaluated and considered your September 25, 2019, response to the draft audit report in preparation of this final report. Your entire response appears in the report as appendix B. A synopsis of your response and our comments have also been included in the report. A public version of this final report will be posted on the OIG's website pursuant to sections 4 and 8M of the Inspector General Act of 1978, as amended (5 U.S.C. App., §§ 4 & 8M).

This memorandum is notice of your opportunity and responsibility to review the report and to develop a complete response that addresses the audit finding and recommendations. If you believe that the final report is in error in any respect, or if you disagree with the finding and recommendations, it is important that you explain the error or your reasons for disagreement and submit to NOAA evidence that supports your position. You should also explain how each documentary submission supports the position you are taking; otherwise, NOAA may be unable to analyze the information.

Your complete response will be considered by NOAA in arriving at a decision on what action to take with respect to the finding and recommendations in the audit report. Enclosure I explains the administrative dispute procedures.

Your response to this report must be submitted no later than 30 days from the date of this memorandum. There will be no extensions to this deadline. If you do not submit a response within the required timeframe, you will have no other opportunity to submit comments, arguments, or documentation before NOAA makes a decision on the audit report.

OIG appreciates the cooperation and courtesies extended by your staff during the audit. If you have any questions or concerns about this report, please contact me at (202) 482-6020 or Chris Rose, Audit Director, at (202) 482-5558.

¹⁰ Unsupported costs are those costs that the recipient or subrecipient could not adequately support at the time of audit; unsupported costs are also included in questioned costs.

cc: Jeffrey Thomas, Director, Acquisition and Grants Office, NOAA
Andy Strelcheck, Deputy Regional Administrator, Fisheries Southeast Region, NOAA
Kelly Donnelly, Program Officer, Fisheries Southeast Region, NOAA
Rhonda Lawrence, Audit Liaison, NOAA

NOTICE TO AUDITEES
Financial Assistance Audits

1. Audit requirements applicable to a particular financial assistance award may be established by law, regulation, policy, or the terms of the recipient's financial assistance agreement with the U.S. Department of Commerce.
2. The results of any audit will be reported to NOAA and to the auditee, unless the Inspector General of the Department determines that it is in the government's interest to withhold release of the audit report.
3. The results of an audit may lead to adverse consequences for the auditee, including but not limited to the following actions (which are subject to applicable laws and regulations):
 - suspension and/or termination of current awards;
 - referral of identified problems to other federal funding agencies and entities as deemed necessary for remedial action;
 - denial of eligibility for future awards;
 - canceling the authorization for advance payment and substituting reimbursement by check;
 - establishment of special conditions in current or future awards;
 - disallowance of costs, which could result in a reduction in the amount of federal payments, the withholding of payments, the offset of amounts due the government against amounts due the auditee, or the establishment of a debt and appropriate debt collection follow-up (including referrals to collection agencies).

Because of these and other possible consequences, an auditee should take seriously its responsibility to respond to audit findings and recommendations with explanations and evidence whenever audit results are disputed.

4. To ensure that audit reports are accurate and reliable, an auditee may have the following opportunities to point out errors (of fact or law) that the auditee believes were made in the audit, to explain other disagreements with audit findings and recommendations, to present evidence that supports the auditee's positions, and to dispute final determinations.
 - *During the audit*, the auditee may bring to the attention of the auditors at any time evidence that the auditee believes affects the auditors' work.

- *At the completion of the audit on site*, as a matter of courtesy, the auditee is given the opportunity to have an exit conference to discuss preliminary audit findings and recommendations and to present a clear statement of the auditee's position on the significant preliminary findings, including possible cost disallowances.
- *Upon issuance of the draft audit report*, the auditee has the opportunity to comment and submit evidence during the 30-day period after the transmittal of the report. (There are no extensions to this deadline.)
- *Upon issuance of the final audit report*, the auditee is given the opportunity to comment and to present evidence during the 30-day period after the transmittal of the report. (There are no extensions to this deadline.)
- *Upon issuance of the Department's decision* (the "Audit Resolution Determination") on the audit report's findings and recommendations, the auditee has the right to appeal for reconsideration within 30 calendar days after receipt of the determination letter. (There are no extensions to this deadline.) The determination letter will explain the specific appeal procedures to be followed.
- *After an appeal is filed*, or after the opportunity for an appeal has expired, the Department will not accept any further submissions of evidence concerning an auditee's dispute of the Department's decisions on the resolution of the financial assistance audit. If the appeal decision upholds the finding that the auditee owes money or property to the Department as decided in the Audit Resolution Determination, the Department will take appropriate collection action but will not thereafter reconsider the merits of the debt.

There are no other administrative appeals available in the Department.

Summary of Auditee Response and OIG Comments

The Commission's response, dated September 25, 2019, disagrees with the OIG finding in our draft memorandum that \$5,030,452 in costs incurred by GSAFF were unallowable. Further, the Commission describes corrective actions it has already implemented, such as increasing collection of additional documentation that supports incurred costs on federal awards. We have summarized the Commission's response and provided our comments below. Appendix B of this memorandum includes the Commission's complete response.

In response to OIG's finding, the Commission explains that it did not deem it necessary or reasonable to collect documents on individual GSAFF transactions because the Commission's program manager was in constant communication with GSAFF concerning programmatic activities and aware of costs as they were incurred. Furthermore, the Commission states GSAFF had been operating since 1976 and had prior positive experiences with federal funding.

As stated in report OIG-19-021-A, Congress created the Commission in 1949 under Public Law 81-66 to promote the better use of fisheries in the Gulf of Mexico. Although the Commission collaborates with NOAA National Marine Fisheries Service, like all other financial assistance award recipients it must still follow award terms and conditions when using federal funds. We reaffirm our finding. As stated in our memorandum, recipients must provide OIG access to pertinent records. The Commission did not obtain financial records supporting costs incurred, when it learned GSAFF might discontinue operations. As a result, the Commission could not demonstrate costs claimed were allowable, allocable, and reasonable.

The Commission also explains that it implemented a thorough subrecipient monitoring policy, which NOAA examined and approved in 2017. The Commission states that under the new policy, the collection of documentation to support incurred costs on federal awards has increased. Consequently, the Commission believes OIG should remove administrative process and subrecipient monitoring and documentation from the audit resolution process. To clarify, in this memorandum, OIG recommends that the Commission implement procedures to ensure access to adequate documentation and provide assurances of access to subrecipient personnel, neither of which are covered in the Commission's 2017 subrecipient monitoring policy. As a result, we reaffirm our recommendation.

In response to the Commission's stated concern that OIG is questioning costs based on the assumption that consulting or other contracted services is an area where OIG often finds questioned costs, OIG did not question costs due to its previous experience auditing contracted services, but rather included the comment in the report to emphasize that the cost element is high risk. Because the single audit accounting firm did not audit the cost element for reasonableness, we could not rely on the firm's work to provide reasonable assurance that over \$4,000,000 in contracted services was fairly priced and expended in a cost effective manner. To reiterate, without enough persuasive evidence that costs claimed on the subaward to GSAFF were allowable, allocable, and reasonable, we cannot rely on the accounting firm's results to support conclusions on our audit objective. Therefore, we reaffirm our finding that \$5,030,452 in claimed costs is unsupported.

Appendix A. Objectives, Scope, and Methodology

As indicated in Report No. OIG-19-021-A, in April 2018 we initiated an audit of NOAA financial assistance award numbers NA10NMF4720482 and NA10NMF4770481 to the Commission in Ocean Springs, Mississippi. The objectives of our audit were to determine whether the Commission (1) claimed costs that are allowable, allocable, and reasonable; (2) complied with award terms and conditions as well as administrative requirements, cost principles, and audit requirements; (3) met matching requirements using allowable funds and costs that are properly calculated and valued; and (4) achieved programmatic objectives for each award. The scope of work explained in this memorandum is specific to determining whether GSAFF, a subrecipient of award NA10NMF4770481, claimed costs that are allowable, allocable, and reasonable.

To accomplish our objectives, we performed the following:

- Reviewed the following documents to understand requirements related to financial assistance awards:
 - *Department of Commerce Financial Assistance Standard Terms and Conditions*
 - OMB Circular No. A-122, *Cost Principles for Non-Profit Organizations*
 - *Department of Commerce Uniform Administrative Requirements for Grants and Cooperative Agreements With Institutions of Higher Education, Hospitals, Other Non-Profit, and Commercial Organizations*¹¹
- Reviewed audit documentation prepared by GSAFF's accounting firm during the course of GSAFF's single audits and agreed upon procedures.
- Interviewed Commission staff to discuss the availability of records and access to GSAFF personnel.
- Interviewed GSAFF's executive director to discuss the availability of records and access to former GSAFF personnel.
- Interviewed GSAFF's former program director to discuss his responsibilities, the nature of significant costs claimed on the subaward, and the culture and attitude of GSAFF's management regarding compliance with federal award terms and conditions.
- Verified the existence of GSAFF's financial records in its storage facilities.

During our audit, we reviewed the Commission's compliance with laws and regulations relevant to our audit objectives. However, we were unable to review GSAFF's compliance with laws and regulations related to its subaward from the Commission. Without access to GSAFF employees with direct knowledge about the internal control processes related to transactions and costs

¹¹ On December 26, 2013, OMB published streamlined guidance on *Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards*, 2 C.F.R. Part 200. This final guidance supersedes and streamlines requirements from several OMB Circulars, including A-87 and A-122. This guidance applies to all federal awards or funding increments on or after December 26, 2014.

charged to the subaward, a scope limitation¹² exists and we identified and reported on those internal control deficiencies in our supplemental report.

We were unable to rely on and use computer-processed data to perform this audit because neither the Commission nor GSAFF gave us access to subaward data in electronic format. Consequently, we did not rely on computer-processed data in our attempt to perform this audit of the subaward.

We conducted audit fieldwork December 2018–April 2019 at the OIG office in Seattle and in May 2019 at GSAFF’s storage facility in Tampa, Florida, under the authorities of the Inspector General Act of 1978, as amended (5 U.S.C. App.), and Department Organization Order 10-13, dated April 26, 2013.

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. During our audit, no individuals with direct knowledge about the Commission’s subaward to GSAFF were available to locate the particular documents and to explain claimed costs. These limitations prevented us from determining whether GSAFF’s costs claimed on the subaward were allowable, allocable, and reasonable. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

¹² GAO-12-331G, 25, 161. Paragraph 2.24(b) states scope limitations include restrictions on access to records and individuals needed to conduct the audit. Furthermore, paragraph 6.84 explains that restrictions on access to records prevents the auditor’s compliance with generally accepted government auditing standards.

Appendix B. Auditee Response



GULF STATES MARINE FISHERIES COMMISSION

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September 25, 2019

Mr. Chris Rose, Audit Director
U.S. Department of Commerce Office of Inspector General
Room 7527
1401 Constitution Avenue N.W.
Washington, DC 20230

Subject: Response to the Supplemental Memorandum on Report No. OIG-19-021-A, Audit of NOAA Financial Assistance Awards to the Gulf States Marine Fisheries Commission Draft Report

Dear Mr. Rose:

Thank you for the draft report of the Supplemental Memorandum on Report No. OIG-19-021-A. We strongly believe the audit process has provided an opportunity to improve our agency. GSMFC is continually implementing new processes and internal controls to help ensure the proper use and expenditure of federal resources. This letter addresses the finding pertaining to the Gulf and South Atlantic Fisheries Foundation and our response.

Finding:

The Commission claimed \$5,030,452 in Unallowable Costs.

We disagree that the costs incurred by the Gulf and South Atlantic Fisheries Foundation were unallowable. The Gulf and South Atlantic Fisheries Foundation (GSAFF) played a major role in changing misperceptions and creating consumer confidence about Gulf seafood following the oil disaster by successfully completing all the objectives that were outlined in the Oil Disaster Recovery Program proposal. Our program manager was in constant communication with the foundation concerning programmatic activities and was aware of costs as they were incurred. If he had questions concerning costs, he sought resolution through phone conversations. GSAFF had been in operation since 1976, had prior positive experience with federal funding, and attained unremarkable annual audits as required. Based on those factors and the close working relationship on oil disaster objectives, GSMFC didn't deem it necessary or reasonable to collect documents on individual transactions. As was the case with other subrecipient related findings, the GSMFC has since created and implemented a thorough subrecipient monitoring policy that was examined and approved by

-Alabama-

-Florida-

-Louisiana-

-Mississippi-

-Texas-

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Mr. Chris Rose
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NOAA in 2017. Under the new policy, the Commission is increasing collection of additional documentation that supports incurred costs on federal awards. Due to these corrective actions already implemented and accepted by NOAA in 2017, administrative process and sub-recipient monitoring and documentation should be removed from the audit resolution process.

As noted in the OIG audit findings report, both the Commission and the GSAFF had clean single audits for the period of time that the sub-award in question was open. The Commission was following accepted internal procedures at the time and all costs incurred by the sub-recipient were found to be allowable, reasonable, and due to the disaster, most certainly necessary. Had the funds not been expended as they were, further economic failure would have occurred and the financial effects from this disaster would have crippled commerce in the Gulf region. As a commission created under the Magnuson Stevens Act with the mandate to support the Department of Commerce, the Commission feels it would be inappropriate to consider these costs unallowable. Further, the Commission is concerned that the OIG is questioning costs based on the assumption that consulting or other contracted services is a "cost element that is common on financial assistance awards and federal contracts, and an area where OIG often finds questioned costs or reports opportunities for cost savings."

We appreciate the opportunity to provide feedback on the draft report prior to its finalization. Please feel free to contact me if you have any questions or need further clarification at (228) 875-5912 or ddonaldson@gsmfc.org.

Sincerely,



David M. Donaldson
Executive Director

cc: GSMFC Commissioners and Proxies

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