

Audit of NOAA Financial Assistance Awards to the Gulf States Marine Fisheries Commission

FINAL REPORT NO. OIG-19-021-A

AUGUST 12, 2019



U.S. Department of Commerce
Office of Inspector General
Office of Audit and Evaluation



August 12, 2019

David M. Donaldson
Executive Director
Gulf States Marine Fisheries Commission
2404 Government Street
Ocean Springs, MS 39564

Dear Mr. Donaldson:

Enclosed is the final audit report concerning Gulf States Marine Fisheries Commission financial assistance awards NAI0NMF4720482 and NAI0NMF4770481.

We evaluated and considered your May 20, 2019, response to the draft audit report in preparation of this final report. Your entire response appears in the report as appendix E. 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 letter is notice of your opportunity and responsibility to review the report and to develop a complete response that addresses each audit finding and recommendation. If you believe the final report is in error in any respect, or if you disagree with any of the findings 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 evaluate the information.

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

Your response to this report must be submitted no later than 30 days from the date of this letter. 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.

Please send your response (including documentary evidence) to:

Arlene Porter
Director
Grants Management Division
NOAA
Silver Spring Metro Center Building 2 (SSMC2)
9th Floor
1325 East-West Highway
Silver Spring, MD 20940-3280

Please send a copy of your response (including any documentary evidence) to:

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

If you have any questions about the final report or the audit process, please call Chris Rose at (202) 482-5558.

Sincerely,



Carol N. Rice
Assistant Inspector General for Audit and Evaluation

Enclosures

cc: Arlene Porter, Director, Grants Management Division, NOAA
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 the National Oceanic and Atmospheric Administration 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.



August 12, 2019

MEMORANDUM FOR: Arlene Porter
Director
Grants Management Division
National Oceanic and Atmospheric Administration

Carol N. Rice

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

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

We are attaching a copy of the subject audit report for your action in accordance with Department Administrative Order (DAO) 213-5, "Audit and Evaluation Resolution and Follow-up." A copy of the report has been sent to the Auditee, which has 30 days from the date of the transmittal to submit comments and supporting documentation to you. A copy of our transmittal letter also is attached.

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 of federal awards; (3) met matching requirements using allowable funds and costs that are properly calculated and valued; and (4) achieved programmatic objectives for each award.

We have notified the Commission that we intend to post a public version of the final report on the OIG website pursuant to sections 4 and 8M of the Inspector General Act of 1978, as amended (5 U.S.C. App., §§ 4 & 8M).

Under DAO 213-5, you have 75 calendar days from the date of this memorandum to reach a decision on the actions that your agency proposes to take on each audit finding and recommendation and to submit an agency resolution proposal to this office. The format for the proposal is Exhibit 7 of the DAO. As applicable, your written proposal must include the rationale and/or legal basis for reinstating any questioned costs in the report and should reference any supporting documentation relied on. Under the DAO, the Office of Inspector General must concur with your proposal before it may be issued as a final determination and implemented. The DAO prescribes procedures for handling any disagreements this office may have with the agency resolution proposal.

Any inquiry regarding this report should be directed to Chris Rose of this office at (202) 482-5558. All correspondence should refer to the audit report number given above.

Attachment

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



Report in Brief

August 12, 2019

Background

The fishing industry is an important component of the U.S. economy. The National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS) works with federal, state, and other organizations to ensure the sustainable management of U.S. fisheries. NMFS collaborates with three Interstate Marine Fisheries Commissions (Atlantic, Gulf, and Pacific States), which collect data and manage fisheries resources in their regions. The Gulf States Marine Fisheries Commission's (the Commission's) principal objectives are to promote conservation, development, and full use of fishery resources in the Gulf of Mexico. Although the Commission's revenue sources include dues from member states and special contracts, it is dependent on funding from NOAA's financial assistance awards to accomplish its objectives. From calendar year 2010 through 2017, NOAA cooperative agreements and grants averaged 96 percent of the Commission's total revenue.

Why We Did This Review

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 of federal awards; (3) met matching requirements using allowable funds and costs that are properly calculated and valued; and (4) achieved programmatic objectives for each award.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Audit of NOAA Financial Assistance Awards to the Gulf States Marine Fisheries Commission

OIG-19-021-A

WHAT WE FOUND

We determined that the Commission achieved programmatic objectives by ensuring projects were completed and consistent with program objectives specific to each award, monitoring subrecipient performance, and ensuring timely submission of program performance reports. However, we found the Commission and two of its subrecipients claimed costs that were not allowable, allocable, and reasonable.

A third subrecipient, Gulf and South Atlantic Fisheries Foundation, did not provide access to financial records related to its subaward from the Commission. Without the source documentation, which provides evidence that transactions occurred, we could not perform work to determine whether \$5 million in costs claimed on award number NA10NMF4770481 are allowable, allocable, and reasonable. We address this issue separately in a supplemental memorandum.

Specifically, we found that the Commission

1. claimed, along with its subrecipients, questioned costs totalling \$1,166,790;
2. did not follow contract procurement and program income requirements; and
3. cannot verify that it met matching requirements.

WHAT WE RECOMMEND

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

1. Recover the amount disallowed from the \$1,166,790 questioned costs in accordance with the audit resolution process outlined in DAO 213-5.
2. Require the Commission to implement procedures to monitor subrecipients' compliance with terms and conditions of awards, including ensuring adequate documentation exists to support costs claimed and verifying that amounts claimed are based on actual expenses incurred.
3. Require the Commission to implement internal controls to ensure it allocates costs among federal programs in compliance with federal cost principles and uniform administrative requirements and uses other revenue sources to cover costs that are unallowable for federal awards.
4. Require that the Commission implement procedures to ensure it performs cost or price analysis on procurement contracts and obtains grants officer approval for sole-source contracts.
5. Determine whether unreported program income is due to the federal government and require that the Commission implement procedures to properly report, monitor, and spend program income in accordance with grant award terms and conditions.
6. Require the Commission to implement procedures to ensure match contributions comply with uniform administrative requirements, federal cost principles, and federal records retention requirements.

Contents

Introduction	1
Objectives, Findings, and Recommendations	4
I. Audit Found Questioned Costs of \$1,166,790.....	5
Recommendations.....	11
II. The Commission Did Not Follow Contract Procurement and Program Income Requirements.....	11
Recommendations.....	13
III. The Commission Cannot Verify That It Met Matching Requirements.....	14
Recommendation	14
Summary of Auditee Response and OIG Comments.....	15
Appendix A: Objectives, Scope, and Methodology.....	18
Appendix B: Summary of the Purpose of the Awards Audited.....	21
Appendix C: Summaries of Source and Application of Funds.....	23
Appendix D: Schedule of Questioned Costs and Summary of Contract Files Reviewed.....	24
Appendix E: Auditee Response	26

Cover: Herbert C. Hoover Building main entrance at 14th Street Northwest in Washington, DC. Completed in 1932, the building is named after the former Secretary of Commerce and 31st President of the United States.

Introduction

The fishing industry is an important component of the U.S. economy. In 2016, national commercial and recreational fisheries generated \$212 billion in sales, contributed \$100 billion to the U.S. gross domestic product, and supported 1.7 million jobs.¹ The National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS) works with federal, state, and other organizations to ensure the sustainable management of U.S. fisheries. For example, NMFS collaborates with three Interstate Marine Fisheries Commissions (Atlantic, Gulf, and Pacific States), which coordinate with NMFS and states to collect data and manage fisheries resources in their shared coastal regions.²

Created in 1949,³ the Gulf States Marine Fisheries Commission's (the Commission's) principal objectives are to promote conservation, development, and full use of fishery resources in the Gulf of Mexico. Its functions include facilitating discussions and developing coordinated policy to address marine management issues in the region. The Commission currently has 16 employees. Its office is located in Ocean Springs, Mississippi, and its member states consist of Texas, Louisiana, Mississippi, Alabama, and Florida—states with coastal fisheries along the Gulf of Mexico.⁴

Although the Commission's revenue sources include dues from member states⁵ and special contracts, it is heavily dependent on funding from NOAA's financial assistance awards to accomplish its objectives. From calendar year 2010 through 2017, NOAA cooperative agreements and grants averaged 96 percent of the Commission's total revenue (see figure 1).

¹ National Oceanic and Atmospheric Administration National Marine Fisheries Service, Office of Science & Technology, December 2018. *Fact Sheet, Fisheries Economics of the United States, 2016*, Silver Spring, MD: NOAA NMFS, 1.

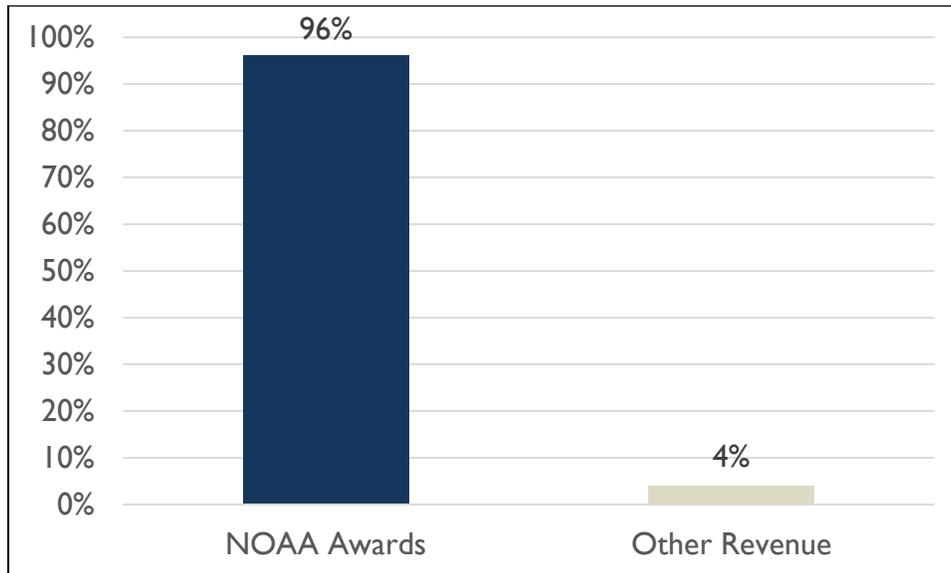
² NOAA NMFS. *Understanding Fisheries Management in the United States*. [online] www.fisheries.noaa.gov/insight/understanding-fisheries-management-united-states (accessed October 25, 2018).

³ The Commission was created by an act of Congress in 1949 under Public Law 81-66.

⁴ Gulf States Marine Fisheries Commission, *About Us*. [online] www.gsmfc.org/about.php (accessed October 3, 2018).

⁵ From 2010-2015, total dues collected from member states ranged from \$67,500 to \$157,500 annually.

**Figure I. Sources of Commission Revenue
Averages for Calendar Years 2010–2017**



Source: OIG analysis of the Commission's financial statements for years ending December 31, 2010–2017

^a Other revenue consists primarily of grants from the U.S. Department of Interior and dues from member states. Remaining amounts include special contracts, conference registration fees and income from dividends, interest, and rent.

Three of the four awards NMFS gave the Commission in 2010 were under the authority of the Magnuson-Stevens Fishery Conservation and Management Act and, of those three awards, we included two in our audit. Under the authority of 16 U.S.C. 1881a(d), NMFS awarded a cooperative agreement to conduct stock assessment enhancements (SAE) of Gulf of Mexico fisheries. Under the authority of 16 U.S.C. 1861a, NMFS gave the Commission an Oil Disaster Recovery Program (ODRP) grant to assist the Gulf fishing industry following the Deepwater Horizon oil spill through projects aimed at the recovery and enhancement of the Gulf fishing economy. The grant funded programs to market Gulf seafood products and provide health and safety assurances for those products. Table I summarizes the awards included in our audit.

Table I. Summary of the Agreements and Grants Included in This Report

Award Name and Number	Award Period	Award Type	Authorized Amount	Federal Share
Stock Assessment Enhancement (NA10NMF4720482)	October 1, 2010– September 30, 2015	Cooperative Agreement ^a	\$6,150,000 ^b	100%
Oil Disaster Recovery Program (NA10NMF4770481)	October 1, 2010– September 30, 2015	Grant	\$20,149,800 ^c	74% ^d

Source: OIG analysis of approved financial assistance awards

^a Use of a cooperative agreement allows NMFS staff to have substantial involvement in the Commission's stock assessment activities.

^b Of the \$6,150,000, the Commission awarded a total of \$2,712,791 to five subrecipients who collected biological samples of various types of fish and operated trip ticket programs.

^c The grant amount is made up of \$14,985,000 in federal share and \$5,164,800 in recipient share. Of the \$14,985,000, the Commission awarded a total of \$8,179,451 to 13 subrecipients.

^d To calculate the amount, we divided the federal share of project costs (\$14,985,000) by the award amount (\$20,149,800).

Appendix A explains the objectives, scope, and methodology of our audit. Appendix B explains the purpose of the awards audited.

Objectives, Findings, and Recommendations

This report provides the results of our audit of financial assistance award numbers NAI0NMF4770481 and NAI0NMF4720482 from NOAA to the Commission. 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 of federal awards; (3) met matching requirements using allowable funds and costs that are properly calculated and valued; and (4) achieved programmatic objectives for each award. Appendix C summarizes the source and application of funds for the two awards we audited.

For the grant and cooperative agreement audited, we determined that the Commission achieved programmatic objectives by ensuring projects were completed and consistent with program objectives specific to each award, monitoring subrecipient performance, and ensuring timely submission of program performance reports.

However, we found the Commission and two of its subrecipients claimed costs that were not allowable, allocable, and reasonable. During audit fieldwork, a third subrecipient, Gulf and South Atlantic Fisheries Foundation (GSAFF), did not provide access to financial records related to its subaward from the Commission. Without the source documentation, which provides evidence that transactions occurred, we could not perform work to determine whether \$5 million in costs claimed on award number NAI0NMF4770481 are allowable, allocable, and reasonable. Rather than questioning all costs the Commission awarded to GSAFF based on insufficient supporting documentation, OIG is in the process of requesting access to records it is entitled to review according to uniform administrative requirements, cost principles, and audit requirements for federal awards. Upon completion of our work, we will issue a supplemental memorandum to report the results and conclusions of our audit of the Commission's subaward to GSAFF.

The Commission complied with many of the terms and conditions for the grant and the agreement we audited, such as communicating award terms to subrecipients, following single audit oversight requirements, maintaining required documents in procurement files, and ensuring contractors were not debarred or suspended. However, the Commission did not perform contract cost or price analysis, obtain approval for non-competitive contracts, or properly report and account for program income.

Furthermore, the Commission cannot verify it met matching requirements because it could not provide adequate supporting documentation showing that it verified that costs used to meet matching funds were allowable.

I. Audit Found Questioned Costs of \$1,166,790

The Office of Management and Budget (OMB) establishes federal cost principles for determining allowable costs for federal awards. We reviewed the Commission's financial accounting policies and performed tests to determine whether claimed costs conform to federal cost principles as well as to the terms and conditions of the SAE and ODRP awards. Overall, we found the Commission and its subrecipients claimed \$1,166,790 in questioned costs (see table 2 in this finding as well as table D-1 in appendix D).

Table 2. Summary of Financial Results of Audit

Row Number	Description	Amount
1	Federal funds disbursed ^a	\$ 21,075,521
2	Total project costs claimed	26,240,321
3	Less questioned costs ^b	(1,166,790)
4	Accepted costs ^c	25,073,531
5	Federal share of accepted costs	19,962,015
6	Recommended by OIG for recovery ^d	\$ 1,113,506

Source: OIG analysis of Commission and subrecipient records and the approved financial assistance awards

^a For NAI0NMF4720482 and NAI0NMF4770481, NOAA disbursed \$6,150,000 and 14,925,521, respectively.

^b Of the \$1,166,790 in questioned costs, \$355,721 is unsupported (\$6,448 on SAE and \$349,273 on ODRP).

^c At this time, this figure includes subrecipient claimed costs totaling \$5,030,452, which we are yet to audit because, during audit fieldwork, GSAFF did not provide access to supporting documentation.

^d The amount on row 6 equals federal funds disbursed less the federal share of accepted costs.

A. Subrecipients claimed \$1,027,705 in unallowable costs

Department of Commerce Financial Assistance Standard Terms and Conditions require that a recipient's subrecipients follow the provisions of the award,⁶ including applicable cost principles and administrative and audit requirements. Specifically, subrecipients should

⁶ This same requirement is contained in both the Department's financial assistance award terms and conditions dated March 2008 and the latest applicable version, dated October 9, 2018.

provide OIG access to records for audit purposes,⁷ adequately document expenses,⁸ and limit the use of funds to allowable costs.⁹ One of the four subrecipients we selected for claimed costs testing¹⁰ during audit fieldwork, GSAFF, did not provide access to financial records to support \$5,030,452 (nearly 34 percent) of the Commission's claimed costs on the ODRP grant, and this issue will be addressed separately in a supplemental memorandum. A second subrecipient did not have adequate documentation to support amounts claimed, and a third claimed costs above actual expenses associated with project costs, resulting in receiving payment in excess of allowable costs. We did not question costs claimed by the fourth subrecipient. Of the \$2,388,944 that three of the Commission's subrecipients claimed as federal share on the awards we were able to audit,¹¹ we questioned \$1,027,705.

- I. Louisiana Wildlife and Fisheries Foundation could not provide adequate documentation to demonstrate the reasonableness of \$299,601 in expenses paid to two contractors for planning culinary events promoting Gulf seafood. The documentation provided consisted of invoices, which only included lump sum amounts. The invoices lacked cost details and did not provide a more complete itemized listing or breakdown of costs.¹²

Grant recipients cannot use the federal share of award funds to pay profit, fees, or any other amounts above actual expenses to subrecipients.¹³ We audited claimed costs for two of the five subrecipients under the SAE award and found that the Commission paid one subrecipient in excess of actual expenses. The Louisiana Department of Wildlife and Fisheries (LDWF) collected \$1,422,879 in subaward funds to conduct trip ticket and biological sampling programs. However, LDWF's

⁷ 15 C.F.R. § 14.53(b) & (e) (2010). All records pertinent to an award shall be retained for 3 years and starts 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, Inspectors General have the right of timely and unrestricted access to any pertinent records 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.

⁸ OMB Circular 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).

⁹ *Ibid.*, *Cost Principles for Non-Profit Organizations* and OMB Circular A-87, *Cost Principles for State, Local, and Indian Tribal Governments* contained basic guidelines for allowable costs such as necessity, allocability, and reasonableness. As of December 26, 2014, these requirements are in 2 C.F.R. § 200.403(a).

¹⁰ We used risk-based factors such as subaward amount, organization type, number of funding sources, single audit findings on federal programs, and results of investigations and reviews to choose 4 of the Commission's 15 subrecipients (between both awards) to include in our audit. Costs claimed by the 4 subrecipients were \$1,641,048 and \$5,778,348 on SAE and ORDP, respectively.

¹¹ The \$2,388,944 in subrecipient costs we audited excludes costs claimed by GSAFF.

¹² OMB Circular A-122, Attachment A, Section A.2.g. As of December 26, 2014, this requirement is in 2 C.F.R. § 200.403(g).

¹³ 15 C.F.R. § 24.22(a)(2) (2010). As of December 26, 2014, this requirement is in 2 C.F.R. § 200.400(g), which similarly prohibits recipients from earning or retaining profits unless explicitly authorized.

accounting records related to these activities showed they incurred only \$694,775 in total expenses. As a result, we questioned \$728,104 of the excess costs claimed. One reason for LDWF's collection of subaward funds in excess of allowable costs is the Commission did not adequately monitor LDWF's subaward expenditures.¹⁴ For instance, instead of requiring LDWF (and other subrecipients) to submit invoices summarizing expenses by cost element, the Commission made quarterly payments based upon LDWF's submission of a checklist, containing a statement explaining its expenditures were on target with the approved budget and LDWF was on track to meet its performance objectives. Based on email correspondence with the Commission, it appears that the Commission was unaware that LDWF received amounts in excess of its actual expenses until our audit found that this occurred. In 2017, in response to a request from NOAA, the Commission revised and implemented subrecipient monitoring procedures that were not in place during the SAE and ODRP awards. However, instead of verifying the amount of actual expenditures, the Commission continues to reimburse subrecipients based on submission of checklists.

In addition, LDWF staff explained several other reasons for collection of subaward funds in excess of allowable costs.

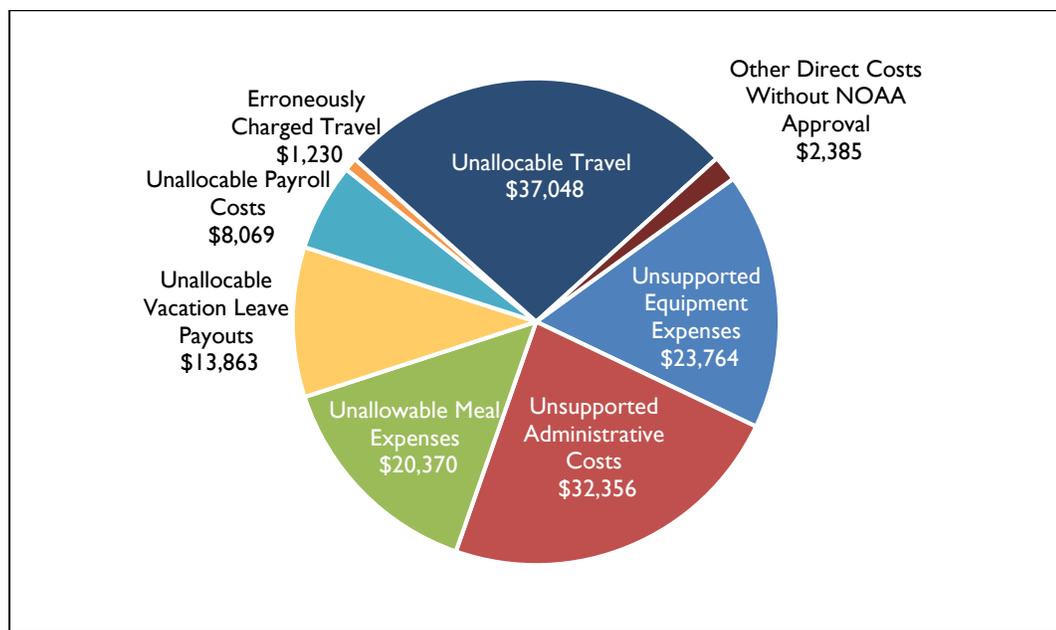
- First, to complete its trip ticket program, LDWF used fewer employees than expected, including part-time employees who were paid lower wages than budgeted.
- Second, LDWF charged less personnel service costs to its biological sampling programs under SAE and instead charged those expenses to other projects with similar scopes of work. The U.S. Fish and Wildlife Service (USFWS) and state of Louisiana funded projects similar to the Commission's subawards to LDWF. According to LDWF staff we interviewed, by charging more personnel service costs to other projects, LDWF undercharged the Commission's subawards. It is LDWF staff's opinion that some personnel services costs charged to its USFWS and state funded projects offset a portion of the \$728,104 in costs questioned by OIG's audit. However, based on our reading of the descriptions of the projects and following our interviews with LDWF staff, we concluded that the scope of work for projects funded by USFWS, Louisiana, and SAE were not the same.
- Third, LDWF staff believed the Commission provided fixed amount subawards rather than cost reimbursement subawards. NOAA's award terms and conditions do not permit fixed amount awards without written approval from the NOAA grants officer and no such approval was obtained.

¹⁴ 15 C.F.R. § 14.51(a) (2010) states recipients are responsible for managing and monitoring each subaward. As of December 26, 2014, this requirement is in 2 C.F.R. § 200.328(a).

B. The Commission claimed \$139,085 in unallowable costs

OMB establishes principles for determining allowable costs for federal awards. For example, the Commission should allocate expenses to federal awards according to relative benefits received, ensure costs are reasonable, and obtain prior approval from the awarding agency when required. Of the costs we reviewed, the Commission did not allocate expenses to projects or awards based on benefits received,¹⁵ ensure some of its conference and meals expenses are reasonable,¹⁶ and obtain prior approval from the NOAA grants officer for participant support costs and some pre-award expenses when required. As a result, we questioned \$139,085 in federal share as explained in the subfindings and in figure 2 below.

Figure 2. Summary of \$139,085 in Questioned Costs on SAE and ODRP Awards



Source: OIG analysis of Commission records and the approved financial assistance awards

¹⁵ OMB Circular A-122, Attachment A, Section A.4.a. A cost is allocable to a particular cost objective in accordance with relative benefits received. As of December 26, 2014, this requirement is in 2 C.F.R. § 200.405(a), *Allocable costs*.

¹⁶ *Ibid.*, Section A.3. “In determining the reasonableness of a given cost, consideration shall be given to: a. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the organization or the performance of the award . . . d. Significant deviations from the established practices of the organization, which may unjustifiably increase the award costs. As of December 26, 2014, this requirement is in 2 C.F.R. § 200.404, *Reasonable costs*.

1. Some of the travel and payroll costs the Commission charged to the ODRP grant are unrelated to ODRP's objectives and did not provide any benefit to the grant, resulting in unallowable costs. Specifically, \$38,278 in travel costs to attend workshops and meetings for fisheries management were charged to ODRP, an authorized objective under other NOAA funded programs, but not ODRP. Of the unallowable amounts, \$1,230 in travel costs were incorrectly coded to ODRP in the accounting system because of a clerical mistake. The Commission also charged to ODRP \$8,069 in payroll costs to prepare final performance reports required for two other federally funded programs not part of ODRP.¹⁷ The Commission allocated the payroll and remaining travel costs to ODRP due to insufficient funds on other benefitting awards. However, cost shifting between awards to overcome funding deficiencies is unallowable.¹⁸
2. The Commission charged \$13,863 in vacation leave payouts to ODRP even though the two employees receiving the payments charged time to multiple projects during their employment at the Commission. Fringe benefit costs, including vacation leave payouts, are allowable if allocated to projects based on time devoted to each. However, the Commission does not have a process to allocate vacation leave payments for employees working on multiple federally funded projects based on time employees spent on each project. Without a method for distributing fringe benefits costs to benefitting projects, the Commission charged total vacation leave payments to the ODRP grant when the two employees, one who had worked for the Commission since 2006 and the other since 2008, left the Commission. As a result, the costs are unallowable.
3. Grant recipients may recover administrative expenses benefitting multiple projects and awards using a direct allocation method. The direct allocation method is acceptable if it accurately measures benefits provided to each award or activity, is reasonable, and supported by current data.¹⁹ However, the Commission's direct allocation method did not accurately measure benefits to each project because it did not include all benefitting projects and did not use reasonable administrative cost estimates by project in its development. As a result, \$32,356 in administrative expenses are unsupported—\$6,448 and \$25,908 on SAE and ODRP, respectively.

¹⁷ The salary and wage reports pertaining to these questioned payroll costs claim the employee's time was spent on ODRP activities, but it was actually spent on activities related to other federal awards. OMB Circular A-122, Attachment B, 8.m(2)(a) states salary and wage reports must reflect an after-the-fact determination of the actual activity of each employee, and not just budget estimates. As of December 26, 2014, this requirement is in 2 C.F.R. § 200.430(i), *Compensation – personal services*.

¹⁸ *Ibid.*, Attachment A, Section A.4.b. Any cost allocable to a particular award or cost objective may not be shifted to other federal awards or cost objectives to overcome funding deficiencies. As of December 26, 2014, this requirement is in 2 C.F.R. § 200.405(c), *Allocable costs*.

¹⁹ *Ibid.*, Attachment A, Section D.4.b states a direct allocation is acceptable if each joint cost is prorated using a base which accurately measures benefits provided to each award or activity. The bases must be established in accordance with reasonable criteria and supported by current data. As of December 26, 2014, this requirement is in Appendix IV to Part 200, B.4.

In addition, the Commission did not allocate costs according to award terms and conditions when it charged computer software and automobile expenses to ODRP rather than distributing these equipment expenses to all projects benefitting from their use.²⁰ As a result, \$23,764 in equipment expenses are unsupported.

4. Allowable costs must be reasonable²¹ and in certain instances need prior approval from the awarding agency. During our audit, we reviewed several conferences and meetings held at golf and spa resorts or luxury hotels in the southeast, noting that the Commission paid meal expenses not only above the General Service Administration (GSA) per diem rate²² but also for attendees who were not Commission employees or Commissioners. As a result, the Commission claimed \$20,370 (SAE claimed \$1,594, and ODRP claimed \$18,776) in unallowable costs. These expenses do not conform to cost principles, which state that subsistence costs shall be considered reasonable and allowable only to the extent that such costs do not exceed charges normally allowed during regular operations.²³ The Commission ordinarily uses GSA per diem rates as the basis for meal reimbursement for its employees or Commissioners traveling on official business, but it did not consistently follow these practices. According to the Commission's Administrative Officer, the Commission hosted conferences and meetings at venues that required it to spend a minimum on banquet services. Consequently, the Commission incurred meal costs above GSA per diem rates and provided meals for attendees who were not Commission employees or Commissioners. Meal expenses for individuals who are neither employees nor commissioners are not necessary for the performance of federal awards—and therefore amounts for their meals are unreasonable and unallowable.

In addition, the Commission did not obtain prior approval from NOAA to charge honorarium²⁴ and pre-award²⁵ expenses to ODRP, resulting in \$2,385 in questioned costs. Commission staff stated that the Commission was unaware of requirements to obtain pre-approval for honorarium costs. Furthermore, the Commission's current accounting staff, who were not responsible for reviewing

²⁰ Ibid., Section A.4.a. As of December 26, 2014, this requirement is in 2 C.F.R. § 200.405(a), *Allocable costs*.

²¹ Ibid., Section A.3. As of December 26, 2014, this requirement is in 2 C.F.R. § 200.404, *Reasonable costs*.

²² GSA establishes per diem rates for destinations within the lower 48 contiguous United States. Per diem is the allowance for lodging (excluding taxes), meals, and incidental expenses.

²³ OMB Circular A-122, Attachment B, Cost Principle 51(b), *Travel costs*. As of December 26, 2014, these requirements are in C.F.R. § 200.474, *Travel costs*.

²⁴ Ibid., Cost Principle 33, *Participant support costs*. Participant support costs such as stipends are allowable with the prior approval of the awarding agency. As of December 26, 2014, these requirements are in C.F.R. § 200.456, *Participant support costs*.

²⁵ Ibid., Cost Principle 36, *Pre-agreement costs*. Pre-award costs are allowable if they would have been allowable after the date of the award and with the written approval of the awarding agency. As of December 26, 2014, this requirement is in C.F.R. § 200.458, *Pre-award costs*.

and approving pre-award expenses to ODRP, could not explain the reason for charging costs that we questioned.

Recommendations

We recommend that the Director of NOAA Grants Management Division (GMD) do the following:

1. Recover the amount disallowed from the \$1,166,790 questioned costs in accordance with the audit resolution process outlined in DAO 213-5.
2. Require the Commission to implement procedures to monitor subrecipients' compliance with terms and conditions of awards, including ensuring adequate documentation exists to support costs claimed and verifying that amounts claimed are based on actual expenses incurred.
3. Require the Commission to implement internal controls to ensure it allocates costs among federal programs in compliance with federal cost principles and uniform administrative requirements and uses other revenue sources to cover costs that are unallowable for federal awards.

II. The Commission Did Not Follow Contract Procurement and Program Income Requirements

Recipients of financial assistance awards are required to perform cost or price analysis²⁶ for every procurement action, obtain the federal awarding agency's approval to award non-competitive contracts,²⁷ and properly account for program income.²⁸ While the Commission met some contract procurement requirements for each award we audited, such as maintaining required documents in procurement files and ensuring that contractors were not debarred or suspended from receiving federal funds, it neither performed required cost or price analysis nor obtained approval for sole-source contracts. In addition, it did not follow program income requirements.

²⁶ 15 C.F.R. § 14.45 *Cost and price analysis* (2010). As of December 26, 2014, this requirement is in 2 C.F.R. § 200.323(a).

²⁷ U.S. Department of Commerce NOAA, August 2010. *NOAA Administrative Standard Award Conditions*. Washington DC: DOC NOAA, 17. *NOAA Administrative Standard Award Conditions* explain the following about sole source contracts. "The Recipient Authorized Representative should submit an award action request for a sole source contract, if the proposed contract was not described in the funded application, and if it is determined that the award of a contract through a competitive processes is infeasible, and if one of the following circumstances applies: (1) The item/service is available only from one source, (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation, or (3) Results of a competition are determined inadequate after solicitation of a number of sources. The recipient must seek written authorization from NOAA for sole source procurements in excess of \$100,000 if the proposed contract was not described in the funded application."

²⁸ *Ibid.*, 25. "Program income earned during the award period shall be retained by the Recipient and shall be added to funds committed to the award and used for the purposes and under the conditions applicable to the use of the award funds. Program income shall be reported on the Federal Financial Report form (SF-425 [sic]."

A. *Contracts lacked cost or price analysis and noncompetitive contracts were not approved by NOAA*

Analysis of contractor cost estimates helps to determine the allowability, allocability, and reasonableness of each cost element. When performed, price analysis, which may consist of comparing market prices and contractor price quotations, can establish that the overall price offered is fair and reasonable. In addition, award terms and conditions require that procurement transactions are conducted in a manner providing full and open competition²⁹ and that NOAA must approve contracts in excess of \$100,000 awarded on a non-competitive basis, also known as sole-source awards, through award action-requests.³⁰

Of the 31 contracts totaling nearly \$8.6 million and funded by the awards we audited, the Commission did not conduct cost or price analysis for 14 contracts totaling \$8 million (see table D-2 in appendix D). Additionally, of the 14 contracts we reviewed without cost or price analysis, the Commission awarded 4 noncompetitively (or on a sole source basis), totaling approximately \$1.7 million, without obtaining the required approval from the NOAA grants officer.

The Commission lacked policies to communicate contract procurement requirements to its staff responsible for procurement under ODRP and SAE. Responsible staff were unaware of the requirements to perform cost or price analysis. Because the Commission neither conducted cost or price analysis nor obtained approval from NOAA for sole-source contracts, there is increased risk that contract amounts may be unreasonable, inaccurate, or based on outdated information.

B. *Program income was not reported to NOAA, not spent to further program objectives, and not kept distinct from other revenue in the Commission's general fund*

The Commission hosts semiannual conferences to discuss topics related to fisheries in the Gulf of Mexico. Attendees include employees from NOAA, state governments, and private industry who have an interest in Gulf fisheries. To cover some of the expense of hosting conferences, the Commission charges participants registration fees to attend conferences. Since the Commission uses NOAA awards to help fund conference costs, registration fees earned through NOAA's awards meet the definition of program income.³¹ During calendar years 2010–2015, the Commission collected but did not report \$104,355 in conference registration fees earned primarily through the support of NOAA's financial assistance awards, including SAE and ODRP.

²⁹ 15 C.F.R. § 14.43 *Competition* (2010). As of December 26, 2014, this requirement is in 2 C.F.R. § 200.319(a).

³⁰ DOC NOAA. *NOAA Administrative Standard Award Conditions*, p. 17.

³¹ 15 C.F.R. § 14.2(aa) (2010) Program income was defined as gross income earned by the recipient that is directly generated by a supported activity or earned as a result of an award. As of December 26, 2014, this definition is in C.F.R. § 200.80, *Program income*. The Commerce Grants and Cooperative Agreements Manual (from both 2002 and 2013), under 9.D.7.a. identifies conference fees as a type of program income.

The Commission did not follow NOAA award terms and conditions, which require reporting program income on federal financial reports, proper accounting of collection of program income, and use of program income for the purposes and under the conditions applicable to the use of the award funds.³² Specifically, the Commission excluded registration fees from federal financial reports submitted to NOAA for the ODRP grant, commingled registration fees with other revenue recorded in its financial management system and cannot show it used the fees to further program objectives. Likewise, the Commission's procedures for recording program income received and tracking use of program income did not follow federal regulations that require a recipient's financial management system provide an accurate and complete disclosure of financial results and identify sources and application of funds.³³

The Commission did not consider amounts collected for registration fees as program income and was unaware of program income reporting, accounting, and use requirements. As a result, the Commission improperly combined program income with other revenue sources in the Commission's general fund, such as interest and dividends. The Commission uses its general fund to pay for various expenses including costs that are unallowable for federal awards. Therefore, the Commission cannot provide reasonable assurance it used program income consistent with award terms and conditions.

Recommendations

We recommend that the Director of NOAA GMD do the following:

4. Require that the Commission implement procedures to ensure it performs cost or price analysis on procurement contracts and obtains grants officer approval for sole-source contracts.
5. Determine whether unreported program income is due to the federal government and require that the Commission implement procedures to properly report, monitor, and spend program income in accordance with grant award terms and conditions.

³² DOC NOAA. *NOAA Administrative Standard Award Conditions*, p. 25.

³³ 15 C.F.R. § 14.21(b) (2010) stated a recipient's financial management system shall provide accurate, current, and complete disclosure of the financial results of each federally sponsored project or program. It further states the financial management system shall provide records that identify adequately the source and application of funds for federally sponsored activities. As of December 26, 2014, this requirement is in 2 C.F.R. § 200.302(b).

III. The Commission Cannot Verify That It Met Matching Requirements

The ODRP grant requires the Commission share in a portion of total project costs by providing \$5,164,800 in project-related expenses from non-federal sources.³⁴ Amounts grant recipients contribute³⁵ to meet matching requirements must be verifiable from the recipient's records and allowable under federal cost principles.³⁶ To meet its matching requirement, the Commission obtained pre-approval from NOAA GMD to use expenses for events intended to increase tourism in the Gulf Coast. Specifically, the Commission relied on third party contributions from Alabama Gulf Coast Convention and Visitors Bureau (AGCCVB), which used two grants from British Petroleum (BP) to fund the events.

We requested documentation supporting three transactions related to the events associated with increasing Gulf Coast tourism. Of the \$1,892,500 in expenses we selected for review, the Commission did not have any supporting documents such as contracts, invoices, and proof of payment, because it did not obtain or retain access to AGCCVB's records despite requirements to preserve records for 3 years.³⁷ As a result, we asked the Commission to obtain records directly from AGCCVB. However, following its own document retention policy, AGCCVB destroyed its accounts payable records related to the events. The policy allowed destruction of the records 7 years after AGCCVB received the two BP grants in 2010. Without adequate supporting documentation, the Commission cannot demonstrate that contributions are allowable under federal cost principles and there is no reasonable assurance it contributed its required share of project costs.

Recommendation

We recommend that the Director of NOAA GMD do the following:

6. Require the Commission to implement procedures to ensure match contributions comply with uniform administrative requirements, federal cost principles, and federal records retention requirements.

³⁴ ODRP is fisheries disaster relief funding authorized by the Magnuson-Stevens Fishery Conservation and Management Act (MSA). The MSA, under 16 U.S.C. § 1861a(a)(3), mandates the federal share of the cost of any activity carried out under its authority not exceed 75 percent of the cost of that activity.

³⁵ Recipients share in project costs by contributing cash, by providing in-kind (non-cash contributions), or through in-kind contributions from a third party.

³⁶ 15 CFR Part 14.23(a) (2010). All contributions, including cash and third party in-kind, shall be accepted as part of the recipients cost sharing or matching when such contributions meet all of the following criteria, including: (1) Are verifiable from the recipient's records. ... (4) Are allowable under the applicable cost principles. As of December 26, 2014, this requirement is in 2 C.F.R. § 200.306(b).

³⁷ 15 C.F.R. § 14.53(b) & (e) (2010). All records pertinent to an award shall be retained for 3 years from the day the grantee submits to the awarding agency its final expenditure report. As of December 26, 2014, this requirement is in 2 C.F.R. § 200.333, *Retention requirements for records*.

Summary of Auditee Response and OIG Comments

The Commission's response to our draft report, dated May 20, 2019, does not state whether it concurs or disagrees with the recommendations in our draft report. Instead, the Commission responds to each audit finding concurring with some and disagreeing with the conclusions in others. The Commission does not necessarily have any disagreement with the facts presented in the report. In some cases, the Commission explains new practices already in place or plans for implementing procedures to prevent noncompliance with award terms and conditions. We have summarized the Commission's response and provided our comments below. Appendix E of this report includes the Commission's complete response.

Subrecipients claimed \$1,027,705 in unallowable costs. In its response to finding I.A, for questioned costs totaling \$299,601 and claimed by the Louisiana Wildlife and Fisheries Foundation (LWFF), the Commission states spending appeared to be in line with the approved budget for this activity. OIG did not question costs due to inconsistencies with the budget nor LWFF's inability to carry out subaward activities. Instead, OIG questioned costs due to a lack of adequate documentation such as an itemized listing or breakdown of costs, demonstrating reasonableness of costs claimed. The Commission's response does not provide additional supporting documentation and we reaffirm our conclusion.

The Commission neither agreed nor disagreed with OIG's questioned costs totaling \$728,104 claimed by Louisiana Department of Wildlife and Fisheries. However, it explains effective January 1, 2019, the Commission no longer reimburses subrecipients based on their submission of a quarterly checklist and instead requires invoices as well as source documentation for any questionable expenses.

The Commission claimed \$139,085 in unallowable costs. In its response to finding I.B, the Commission agreed with \$3,615 in questioned costs (\$1,230 due to erroneously charged travel and \$2,385 claimed without prior approval from NOAA) but disagreed with \$103,114 in questioned costs as summarized below:

- **Unallocable travel costs of \$37,048.** The Commission confirms that the ODRP grant funded workshops and related travel for fisheries management activities due to the oil spill's impact on fisheries in the Gulf region. The workshops and related travel apply to Southeast Data, Assessment, and Review (SEDAR), a cooperative process that conducts stock assessment because Gulf Menhaden (a species impacted by the oil spill) are state specific and because of the high cost associated with the work. Previously, the Commission's Interjurisdictional Fisheries (IJF) Program provided some funding for SEDAR but as explained to us during the audit, IJF faced funding limitations. Given the Commission's position that many of its programs share closely related activities, it allocated costs for two of the three workshops, data, and assessment to ODRP. To reiterate, the \$37,048 in travel costs to attend workshops and meetings for fisheries management that we tested

was not an authorized objective under ODRP, and cost shifting between awards to overcome funding deficiencies is unallowable.

- **Unallocable payroll costs of \$8,069.** The Commission confirms it charged payroll costs to ODRP due to a lack of funds on the appropriate awards. As OIG describes in its finding, cost shifting between awards to overcome funding deficiencies is unallowable, and we reaffirm our conclusion that \$8,069 in payroll costs are unallocable to the ODRP grant.
- **Unallocable vacation leave payouts of \$13,863.** The Commission explains it uses a cash basis of accounting as opposed to an accrual basis. As a result, when employees finished their employment at the Commission, the Commission could not charge their vacation leave payouts to other projects the employees worked on because those projects had already ended. However, the Commission states it will explore methods to accrue funds to pay out vacation leave within the modified cash basis. OIG allowed a portion of the total vacation leave payouts based on each employee's time devoted to ODRP, but the questioned amount remains unallowable due to time spent on other projects.
- **Unsupported equipment expenses of \$23,764.** The Commission's response addresses one of the two equipment purchases mentioned in the finding, an automobile. The Commission explains it needed a car, acknowledges that it used the automobile for ODRP and other NOAA funded activities, and that NOAA approved the purchase through the ODRP budget. During the audit, OIG was aware that NOAA approved the automobile purchase. We do not take exception to the Commission acquiring the automobile. Rather, OIG questions the Commission's allocation of the entire cost to ODRP because accounting for the expense in that manner is inconsistent with award terms and conditions. We reaffirm our finding and question \$23,764 in equipment costs.
- **Unallowable meal expenses of \$20,370.** The Commission explains that since it is not a federal agency, it has the ability to (1) provide goods and services to its partners and (2) hold annual meetings at larger properties due to the number of attendees and required meeting space. Accordingly, the Commission stated it would negotiate with venues to receive the most benefit, such as spend a minimum on banquet services in exchange for complimentary meeting space and government lodging rates for all attendees.

Although the Commission is not a federal agency, when using federal funds to cover meeting expenses, it still must follow award terms and conditions that state costs should be necessary to be allowable. While fishing industry representatives from various government and private sectors attended these meetings (some of which were held at golf, spa, and beach resorts in Florida, Texas, and Alabama), providing meals for these individuals was not necessary to meet the goals and objectives of the SAE and ODRP awards and are unallowable expenses. If the Commission wants to provide meals at its meetings, it should fund those costs

using allowable sources, and we reaffirm that \$20,370 in meal expenses are unallowable.

The Commission did not agree nor disagree with our questioned costs due to unsupported administrative expenses of \$32,356 but states it will explore other methods of cost allocation. We reaffirm our finding questioning \$32,356 in unsupported administrative costs.

Contracts lacked cost or price analysis and noncompetitive contracts were not approved by NOAA. In its response to finding II.A, the Commission acknowledges it overlooked the need for a formal cost or price analysis and plans to implement a revised procurement policy and receive further training and education on procurement. The Commission also mentions Section 402(d) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), and believes that it has sole source authority under it. We reviewed Section 402(d) of the MSA³⁸ and determined it allows the Secretary of Commerce to provide financial assistance awards on a sole-source basis under certain circumstances. It does not extend this provision to financial assistance award recipients such as the Commission. We reaffirm our finding.

Program income was not reported to NOAA, not spent to further program objectives, and not kept distinct from other revenue in the Commission's general fund. In its response to finding II.B, the Commission explains that: historically, registration fees have never been considered program income; it implemented fees to help offset costs of conferences; and it spent fees to invest in all program objectives. Although the Commission never recognized the fees as program income, as indicated in our report, the fees meet the definition of program income and the Commission cannot show it used the fees to further program objectives. We reaffirm our finding.

The Commission cannot verify it met matching requirements. In its response to finding III, the Commission states NOAA GMD approved a ledger report of expenses incurred by the AGCCVB as support for the match requirement. Furthermore, the Commission states NOAA GMD did not ask for any source documentation during this time. Although we were aware that NOAA GMD approved the Commission's match requirement, award terms and conditions require that the Commission collect and retain a reasonable amount of source documents for approved matching costs. Based on the Commission's response to our report, in the future it will collect and retain source documents for approved matching costs.

³⁸ This provision is located in 16 U.S.C. § 1881a(d).

Appendix A: Objectives, Scope, and Methodology

In April 2018, we initiated an audit of NOAA financial assistance award numbers NAI0NMF4720482 and NAI0NMF4770481 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. Although our audit considered a fifth objective, whether NOAA provided adequate oversight and monitoring of the Commission's awards, we plan to address this objective in a separate product.

To accomplish our objectives, we performed the following:

- Reviewed the following documents to understand requirements related to financial assistance awards:
 - Public Law 111-212
 - OMB Circular A-87, *Cost Principles for State, Local, and Indian Tribal Governments*
 - OMB Circular A-122, *Cost Principles for Non-Profit Organizations*
 - OMB, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*³⁹
 - *Department of Commerce Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*⁴⁰
 - *Department of Commerce Uniform Administrative Requirements for Grants and Cooperative Agreements With Institutions of Higher Education, Hospitals, Other Non-Profit, and Commercial Organizations*⁴¹
 - *Department of Commerce Grants and Cooperative Agreements Manual*
 - *Department of Commerce Financial Assistance Standard Terms and Conditions*
 - *NOAA Administrative Standard Terms and Conditions*
- Reviewed transactions recorded in the Commission's financial accounting system, as well as timesheets, invoices, and proof of payment documentation to test for compliance with award terms and conditions.

³⁹ 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.

⁴⁰ These regulations have been revised and replaced by 2 C.F.R. Part 1327.

⁴¹ Ibid.

- Interviewed Commission staff to understand their financial accounting procedures and oversight of the costs claimed by subrecipients.
- Examined Commission meeting minutes to understand Commission processes for selecting contractors, monitoring contracts, and assisting with allowable travel costs testing.
- Obtained an understanding of the Commission's subrecipient monitoring activities and examined subrecipient final performance reports to determine objectives and outcomes.
- Interviewed the NOAA grants officer in the NOAA GMD and program staff at NMFS to understand award recipient responsibilities and allowability of costs.
- Accessed the NOAA Grants Online System to obtain and review award applications, including budget narratives and statements of work, special award terms and conditions, federal financial reports, semi-annual, and annual performance reports and other records in the grant award files.
- Examined policies, project information, general ledger details, indirect cost rate agreements, and other records from subrecipients.
- Accessed and reviewed the Commission's single audit reports obtained from the Federal Audit Clearinghouse Image Management System.

Our audit included judgmental selections of 4 out of 15 subrecipients between both awards.⁴² We chose subrecipients based on risk factors including subaward amount, organization type, number of funding sources, single audit findings on federal programs, and results of investigations and reviews. We followed a judgmental selection methodology to choose 39 subrecipient expense transactions reimbursed by the Commission between August 22, 2011, and September 17, 2015, which we included in our audit.

While we identified and reported on internal control deficiencies, any potential instances of fraud, illegal acts, significant violations, or abuse will be reported on separately.

We did not solely rely on computer-processed data to perform this audit. Although we could not independently verify the reliability of all of the information we collected, we compared the information with other available supporting documents to determine data consistency and reasonableness. Based on these efforts, we believe the information we obtained is sufficiently reliable for this report.

We conducted audit fieldwork April–October 2018 at the Commission's office in Ocean Springs, Mississippi, at offices of three subrecipients, and at OIG offices in Seattle and

⁴² During our audit fieldwork, one of the four subrecipients selected for testing, Gulf and South Atlantic Fisheries Foundation, denied our requests to access its financial records related to a \$5 million subaward from the Commission. Currently, OIG is pursuing access to documentation supporting this subrecipient's use of subaward funds. Upon completion of our work, we will issue a supplemental memorandum to report the results and conclusions of our audit of the Commission's subaward to Gulf and South Atlantic Fisheries Foundation.

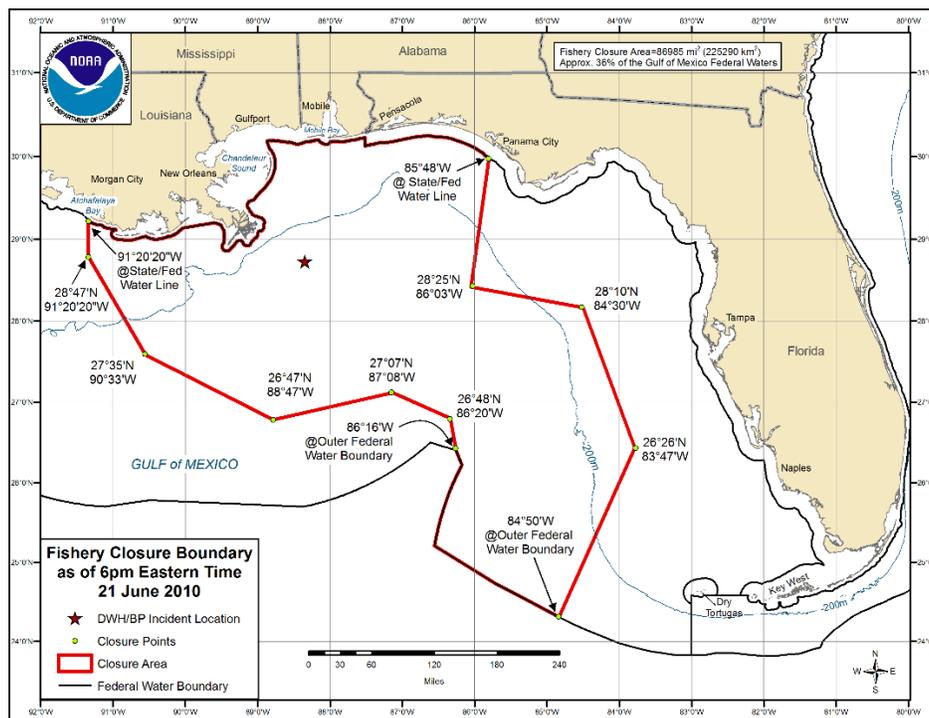
Washington, DC, under the authorities of the Inspector General Act of 1978, as amended (5 U.S.C. App.), and Department Organization Order 10-13, dated April 26, 2013.

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. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix B: Summary of the Purpose of the Awards Audited

The April 20, 2010, Deepwater Horizon oil spill had adverse effects on the Gulf of Mexico fishing industry. After the oil spill, NOAA officials closed more than one-third of federal waters in the Gulf to all fishing activity (see figure B-1). NOAA officials did not entirely re-open the area to fishing until 1 year after the oil disaster.⁴³

Figure B-1 Gulf of Mexico Fishing Closures as of June 21, 2010



Source: NOAA National Marine Fisheries Service, Southeast Regional Office.

Several hurricanes also impacted the Gulf fishing industry beginning in 2005 and contributed to decline in commercial fish landings, which decreased by 25 percent between 2009 and 2010. On June 2, 2010, the Secretary of Commerce declared fishery failures in the Gulf region⁴⁴ and, when Congress made funding available, NOAA gave the Commission financial assistance awards.

⁴³ U.S. Department of Interior, Bureau of Ocean Energy Management, March 2016. *An Analysis of the Impacts of the Deepwater Horizon Oil Spill on the Gulf of Mexico Seafood Industry*, BOEM 2016-020. New Orleans, LA: DOI BOEM, 8. NOAA re-opened the last federal Gulf waters to fishing on April 19, 2011.

⁴⁴ The fishery failures declaration affected four of the Commission's five member states (Florida, Alabama, Mississippi and Louisiana).

NOAA award number NAI0NMF4720482 funded an expanded stock assessment⁴⁵ of commercial and recreational fisheries in the Gulf of Mexico. NOAA and other fisheries management organizations use stock assessments as a basis for setting annual fishing harvest levels through quotas and catch limits. Allowable activities included:

- collecting biological sampling data⁴⁶ on various species for the Fisheries Information Network;⁴⁷
- implementing and operating a trip ticket⁴⁸ program to census the commercial fisheries landings for Texas, Louisiana, Mississippi, and Alabama; and
- contracting with vessels to conduct fishery independent surveys along the Gulf of Mexico.

NOAA award number NAI0NMF4770481 supported creation of a Gulf Seafood Marketing Coalition. The Coalition's role was to help the Commission coordinate efforts of the Gulf states, while also administering marketing activities and public relations programs (such as consumer perception surveys, media tours, and culinary events) to promote safety and consumption of Gulf seafood. Through a series of contracts, the grant funded sustainable fisheries objectives, such as (1) the development of an electronic seafood product tracking platform and (2) the creation of a web-based, publicly accessible Gulf fisheries information system for commercially and recreationally significant species. According to the Commission's final progress report to NMFS, of the \$15 million in federal share awarded, the Commission spent nearly \$7.5 million on marketing activities and it used \$4.6 million on sustainable seafood initiatives. The Commission applied the remaining federal share of grant funds to ODRP program administration, seafood testing, and abundance and mortality studies to understand causes for increased numbers of stranded sea turtles recorded between 2011 and 2013 in the northern Gulf of Mexico.

⁴⁵ A stock assessment is the process of collecting, analyzing, and reporting demographic information to determine changes in fishery stocks and predicting future trends.

⁴⁶ Biological sampling data includes age, length, and weight measurements of sampled species.

⁴⁷ The Fisheries Information Network is a state-federal cooperative program to collect, manage, and disseminate statistical data on commercial fisheries in the southeast region.

⁴⁸ A system to collect commercial landings and associated information by trip.

Appendix C: Summaries of Source and Application of Funds

	NA10NMF4720482 October 1, 2010– September 30, 2015		NA10NMF4770481 October 1, 2010– September 30, 2015	
	Authorized Award Budget	Claimed by the Commission	Authorized Award Budget	Claimed by the Commission
Source of Funds				
Federal Share	\$ 6,150,000	\$ 6,150,000	\$ 14,985,000	\$ 14,925,521
Recipient Share	-	-	5,164,800	5,164,800
Total	\$ 6,150,000	\$ 6,150,000	\$ 20,149,800	\$ 20,090,321
Application of Funds				
Personnel	\$ 95,941	67,818	\$ 689,452	\$ 682,292
Fringe Benefits	44,330	22,412	272,397	261,133
Travel	45,700	4,480	418,250	333,850
Equipment	0	0	92,115	135,306
Supplies	31,297	2,554	50,304	74,868
Contractual	5,896,301	6,038,477	13,399,240	13,233,108
Other	36,432	14,258	63,242	204,964
Total	\$ 6,150,000	\$ 6,150,000	\$ 14,985,000	\$ 14,925,521

Source: OIG analysis of Commission-approved award budgets and claimed costs

Appendix D: Schedule of Questioned Costs and Summary of Contract Files Reviewed

Table D-I. Summary of Recipient and Subrecipient Questioned Costs by Award

	NA10NMF4720482		NA10NMF4770481		Totals	
	Questioned	Unsupported ^a	Questioned	Unsupported ^a	Questioned	Unsupported ^a
Commission	\$ 8,042	\$ 6,448	\$ 131,043	\$ 49,672	\$ 139,085	\$ 56,120
Subrecipients:						
Louisiana Wildlife and Fisheries Foundation	-	-	299,601	299,601	299,601	299,601
Louisiana Department of Wildlife and Fisheries	728,104	-	-	-	728,104	-
Mississippi Department of Marine Resources	-	-	-	-	-	-
Total Subrecipients	728,104	-	299,601	299,601	1,027,705	299,601
Total	\$ 736,146	\$ 6,448	\$ 430,644	\$ 349,273	\$ 1,166,790	\$ 355,721

Source: OIG analysis of Commission and subrecipient records and the approved financial assistance awards

^a 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 the total of questioned costs.

Table D-2. Summary of Contract Files Reviewed

Selection No.	Award Number	Contract Number ^a	Contract Value	Contracts Without Cost or Price Analysis	Sole Source Contracts Without NOAA Approval
1	NAI0NMF4720482	-	\$ 499,450	X	
2	NAI0NMF4720482	-	585,925	X	
3	NAI0NMF4720482	-	539,600	X	
4	NAI0NMF4720482	-	495,000	X	
5	NAI0NMF4720482	-	474,300	X	
6	NAI0NMF4720482	-	437,625	X	
7	NAI0NMF4770481	TC-925-007-2011-TR	1,693,650	X	
8	NAI0NMF4770481	TC-925-007-2012-TR	574,400 ^b	X	X
9	NAI0NMF4770481	SSC-925-034-2013-AUD	778,155	X	
10	NAI0NMF4770481	GSW2-925-033-2013-GCR	574,382 ^b	X	X
11	NAI0NMF4770481	KRSA-925-035-2013-LGL2	250,000 ^b	X	X
12	NAI0NMF4770481	KRSA-925-035-2012-LGL	267,681 ^b	X	X
13	NAI0NMF4770481	TC-925-007-2011-GCR	499,000	X	
14	NAI0NMF4770481	925-035-2012-Ocean Trust	350,000	X	
Total			\$8,019,168	14	4

Source: OIG analysis of Commission's contract procurement files

^a The Commission did not assign contract numbers to contracts under award NAI0NMF4720482.

^b Of the 14 contracts without cost or price analysis, the Commission awarded 4, totaling approximately \$1.7 million, on a sole source basis.

Appendix E: Auditee Response



GULF STATES MARINE FISHERIES COMMISSION

2404 Government Street, Ocean Springs, MS 39564
 (228) 875-5912 • (228) 875-6604 Fax
www.gsmfc.org

May 20, 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 Audit of NOAA Financial Assistance Awards to the Gulf States Marine Fisheries Commission (GSMFC) Draft Report

Dear Mr. Rose:

Thank you for the draft audit report conducted by your office. GSMFC believes in ensuring our activities meet project objectives and follow all federal guidelines and administrative requirements in the process. We believe the audit process provides an opportunity to improve our agency.

This letter addresses all findings and our responses. We do not necessarily have any disagreement with the facts presented in the report, but we do not agree with all conclusions that were drawn by the audit team.

Finding 1A1:

Louisiana Wildlife and Fisheries Foundation (LWFF) could not provide adequate documentation to demonstrate the reasonableness of \$299,601 in expenses paid to two contractors for planning culinary events promoting Gulf seafood.

According to the reports submitted with the invoices and conversations that the program coordinator had with the foundation, all spending appeared to be in line with the approved budget for this activity. The program coordinator also was an attendee at these particular events. GSMFC had no reason to believe that reimbursement required further investigation. These events also preceded the Commission's revised Subrecipient Monitoring policies that were implemented in 2017 which increases the Commission's documentation requirements.

Finding 1A2:

LDWF collected \$1,422,879 in subaward funds to conduct trip ticket and biological sampling programs. However, LDWF's records showed they only incurred \$694,775 in total expenses.

The Commission has worked with our state partners on these programs for over 30 years. Budgets for these programs go through a lengthy review by NOAA annually and are in comparison with other state budgets before awards are made. The five Gulf States are given sub-awards with the same General Procedures documents. These General Procedures include language that explains the process of reimbursements. Historically, GSMFC has collected state-approved quarterly checklists prior to cost

-Alabama-

-Florida-

-Louisiana-

-Mississippi-

-Texas-

Mr. Chris Rose, Audit Director
May 20, 2019
Page 2 of 5

reimbursement payments in lieu of monthly invoices. These quarterly checklists specifically require states to acknowledge that expenses are being made in line with their approved budget. In an effort to more closely monitor states' activities, the Commission no longer makes quarterly payments based on approved budgets effective January 1, 2019. All subrecipients are required to submit invoices for cost reimbursement and to provide source documentation for any questionable expenses.

Finding 1B1:

Unallocable Travel costs of \$37,048

We do not agree with the disallowed travel costs. Gulf Menhaden and SEDAR workshops were charged to the Oil Disaster Recovery Program (ODRP). The Commission had no ability to conduct stock assessments based on our staff education or experience so it was necessitated that we use NOAA's SEDAR program. However, because Gulf Menhaden are a state species, SEDAR would only conduct a portion of the process due to the tremendous cost. The Commission was left to handle the first two of three workshops, data and assessment, which we did using ODRP funds. We did so because of the concern the disaster may have had on the menhaden populations which reside throughout the northern Gulf where the oil spill and closures occurred. Many of the Commission's programs share closely related activities. The Interjurisdictional Fisheries program funded the revision of regional management plans. ODRP funded the workshops and related travel.

Incorrect coding of \$1,230

The Commission agrees with this disallowed cost. It was charged to the wrong fund in error.

Payroll costs of \$8,069

We do not agree with the disallowed payroll costs. The program coordinator for ODRP was hired specifically to oversee disaster programs. He coordinated activities under the Emergency Disaster Recovery Program (EDRP) from 2005 until it ended in 2013. The final report was not written until after the award ended due to being dependent upon the submission of five individual state reports. The Automated Standard Application Payments system removed the funds availability prior to the usual close-out period in order to perform a fiscal year end close. The Commission was unable to claim time for report-writing costs from EDRP. The ODRP grant benefitted from the continuity of disaster fund personnel in time and the formation of committee partnerships incurred by EDRP.

Finding 1B2:

Vacation leave payouts of \$13,863

We do not agree with the disallowed vacation leave payouts. Personnel was specifically hired to oversee specific programs. When the two employees finished their employment at the Commission, the other programs they had worked under had ended several years prior to their termination. The Commission uses a cash basis of accounting as opposed to an accrual basis. Historically, GSMFC has not accrued funds to pay out vacation leave but will explore potential methods to do so within the modified cash basis.

Mr. Chris Rose, Audit Director
 May 20, 2019
 Page 3 of 5

Finding 1B3:

Administrative expenses of \$32,356

The Commission has been using a specific direct allocation method for over 30 years. Since it predates the current staff, the approval documentation methodology is unverifiable. Nonetheless, the Commission will explore other methods of cost allocation, including a negotiated indirect cost agreement.

Equipment expenses \$23,764

We do not agree with the disallowed cost of the automobile. The purchase of an automobile was requested within the ODRP award budget due to an expected increase in travel along the Gulf Coast. The automobile was used for ODRP activities and other NOAA funded activities. Although we understand that the expense should follow the benefit, the vehicle purchase was reviewed and approved by NOAA Fisheries through the ODRP budget.

Finding 1B4:

Meal Expenses \$20,370

We do not agree with this finding and below is an excerpt from the Commission's Rules and Regulations:

GULF STATES MARINE FISHERIES COMMISSION RULES AND REGULATIONS

As adopted October 13, 1949 and amended October 16, 1975, March 18 and October 21, 1977, March 16, 1979, March 19, 1982, March 16, 1990 and November 2015

ARTICLE II. MEETINGS

Section 1, Meetings shall be held at the call of the Chair. The Commission shall have at least two Regular meetings each year unless changed by unanimous consent of the Commission, one designated as the "Annual Meeting" shall begin during the week in the month of October that contains the third Thursday and Friday and one designated as the "Spring Meeting" shall begin during the week in the month of March that contains the third Thursday and Friday. Meeting dates may be changed by unanimous consent of the Commission.

Following this charge, the Commission has continued to hold these meetings since 1949. Although the Commission follows guidelines for spending federal funds, the Commission is not a federal agency and has the ability to provide goods and services to its partners. Commissioners, Commission staff, federal and state employees, industry representatives and other representatives from the private sector routinely attend the annual meetings. These annual meetings can only be held at larger properties due to the number of attendees and the amount of meeting space that will be occupied. Our agendas clearly indicate the number of breakout rooms needed and the smaller properties simply cannot accommodate our group. Contracts with properties are negotiated to receive the most benefit such as having the rental of meeting space waived with guaranteed banquet minimums, as well as providing government lodging rates for all attendees. With the reduced lodging rates for all attendees there is a great cost saving advantage. Costs would be comparable if meeting space was direct charged and therefore minimum banquet charges are deemed the most efficient use of funds.

Mr. Chris Rose, Audit Director
May 20, 2019
Page 4 of 5

We also disagree with the statement “However, meal expenses for individuals who are neither employees nor commissioners are not necessary for the performance of federal awards – and therefore amounts for their meals are unreasonable and unallowable.” Many individuals other than Commissioners and Commission staff, such as State Directors, state employees, federal employees, industry representatives and private sector representatives, attend the annual meetings and are necessary to the performance of on-going federally funded programs.

Honorarium and pre-award expenses \$2,385

The Commission agrees with the questioned costs of honorarium and pre-award expenses. The Commission conducted a telephone conference call prior to the award start date to discuss Oil Disaster activities. Pre-award costs were approved for the matching requirements only. The conference call charge was most likely an oversight. The honorarium expenses were incurred for project field workers to speak at a GSMFC conference concerning Kemps Ridley research. The program coordinator always spoke to the NOAA grants officer and received verbal approval for any and all activities. The Commission failed to retain written communication for approval of the honorarium expenses.

Finding II A:

Contracts lacked cost or price analysis and noncompetitive contracts were not approved by NOAA.

In response to the oil disaster, new activities and projects that resulted had never been undertaken before. The contracted activities were highly specific and difficult to assess the reasonableness of each cost element. Although GSMFC has always used basic methods to assess the reasonableness of contract prices, the necessity of a formal cost price analysis was overlooked. The contracts that were found to be sole-sourced by the auditors were for activities that were using previously selected contractors that followed procurement policies to build upon the work they had already accomplished. The Commission has sole source authority through the Magnuson-Stevens Fishery Conservation and Management Act as outlined in Section 402(d) – Information Collection, Contracting Authority. However, the Commission is planning to receive further training and education on procurement and will implement a revised procurement policy.

Finding II B:

Program income was not reported to NOAA, not spent to further program objectives, and not kept distinct from other revenue in the Commission's general fund.

Historically, registration fees have never been considered as program income. Registration fees for meetings were implemented to help offset the costs of semi-annual conferences and are spent to invest in all program objectives. GSMFC semi-annual conferences provides a forum to bring state, federal and other relevant stakeholders together to discuss and collaborate on priorities designated by NOAA. Specifically, the ODRP's ad hoc committee made pivotal decisions, addressed problems and learned of project results at these conferences. Since registration fees were never recognized as program income, they were not kept distinct from program revenue.

Mr. Chris Rose, Audit Director
May 20, 2019
Page 5 of 5

Finding III:

The Commission cannot verify that it met matching requirements.

The Commission retained in its records a ledger report of expenses incurred by the Alabama Gulf Coast Convention and Visitors Bureau (AGCCVB) which was reviewed and approved by the NOAA grants office as use for the match requirement. The Commission was not asked to provide any source documentation at the time of NOAA's approval. AGCCVB used non-federal funds for the allowable activities and followed their own requirements for record retention. In the future, the Commission will collect and retain a reasonable amount of source documents for approved matching costs.

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

I20000318