

COASTAL PROTECTION AND RESTORATION AUTHORITY

STATE OF LOUISIANA



FINANCIAL AUDIT SERVICES
MANAGEMENT LETTER
ISSUED JUNE 8, 2022

**LOUISIANA LEGISLATIVE AUDITOR
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Louisiana Legislative Auditor

Michael J. “Mike” Waguespack, CPA



Coastal Protection and Restoration Authority

June 2022

Audit Control # 80210039

Introduction

As a part of our audit of the State of Louisiana’s Annual Comprehensive Financial Report and our work related to the Single Audit of the State of Louisiana (Single Audit) for the fiscal year ended June 30, 2021, we performed procedures at the Coastal Protection and Restoration Authority (CPRA) to provide assurances on financial information that is significant to the state’s Annual Comprehensive Financial Report; evaluate the effectiveness of CPRA’s internal controls over financial reporting and compliance; and determine whether CPRA complied with applicable laws and regulations.

Results of Our Procedures

Current-year Finding

Noncompliance with Certain Subrecipient Monitoring Requirements

CPRA did not comply with certain subrecipient monitoring requirements for Gulf of Mexico Energy Security Act (GoMESA) program funds disbursed. Within its agreements with coastal political subdivisions (CPSs) for the use of GoMESA funds, CPRA did not identify to the CPSs that they are subrecipients of the funding or communicate the GoMESA assistance listing number to the CPSs. In addition, while CPRA appears to have conducted an informal risk assessment process in determining the project monitoring to be performed on each GoMESA project, this risk assessment process was not documented. Lastly, CPRA did not establish a process to ensure that CPSs receiving GoMESA funds obtain a Single Audit, if required by Uniform Guidance, nor did CPRA establish a process to obtain the CPSs Single Audit reports to review for GoMESA findings.

Not complying with federal subrecipient monitoring requirements increases the likelihood of disallowed costs and can result in inaccurate reporting of expenditures on the Schedule of Expenditures of Federal Awards (SEFA). Of the \$73.8 million in GoMESA expenditures reported by CPRA on the 2021 SEFA information submitted to the Division of Administration, \$60,974,812 was for payments to CPSs and was not listed as amounts provided to subrecipients.

GoMESA funds are received by the state of Louisiana annually without an accompanying grant award document, which is typically the document that identifies the applicable federal requirements the recipient agency must comply with. Absent an award document, the auditors

used the GoMESA Act and the Assistance Listing (15.435) to identify applicable compliance requirements. The Assistance Listing states that 2 CFR 200, Subpart D, *Post Federal Award Requirements*, applies to GoMESA funds. Within this subpart, federal regulations require CPRA to make case by case determinations of whether each agreement it makes for the disbursement of federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor using the criteria outlined within 2 CFR §200.331. Further, 2 CFR §200.332 outlines certain requirements that entities making subawards must comply with.

CPRA's GoMESA agreements with CPSs are for activities ranging from infrastructure construction, levee improvements, engineering and design, and real estate acquisition. CPSs enter into agreements with construction, engineering and design, and real estate vendors to provide services required to complete each project. CPSs receiving reimbursement from CPRA under the GoMESA program have been considered contractors by CPRA. Based on the auditor's application of the criteria outlined in 2 CFR §200.331 and using our professional judgment, we concluded that the agreements created subrecipient relationships between CPRA and the CPSs. The auditor's conclusion is mainly based on the agreements requiring CPSs to adhere to applicable federal program requirements on its use of GoMESA funds. In addition, the CPSs use the funds to carry out the public purpose of completing hurricane protection projects as specified in the GoMESA Act of 2006. CPRA stated that the lack of a federal award document for GoMESA funds resulted in uncertainty of which federal requirements CPRA is required to comply with and CPRA had not identified subrecipient requirements as applicable to GoMESA funds. CPRA contends that the GoMESA funds received by CPRA are not an "award," and, therefore, the criteria outlined in 2 CFR §200.331 cannot be applied to the agreements with CPSs for the purpose of determining a subrecipient or contractor relationship. CPRA and the auditors are currently seeking clarification from the federal agency disbursing GoMESA funds as to the applicability of subrecipient requirements.

CPRA should continue to pursue clarification on this issue and establish procedures to evaluate current and future GoMESA agreements with CPSs to ensure compliance with relevant requirements. Management did not concur with the finding (see Appendix A).

Additional Comments: Management's response stated, "the auditor acknowledges that there is continued uncertainty regarding the applicability of subrecipient requirements" since the finding acknowledges seeking additional clarification from the federal agency. We contend that the provisions of 2 CFR 200 (Uniform Guidance) noted as applicable in the Assistance Listing should be applied unless specific guidance from the federal government states otherwise. As noted in the finding above, absent an award document, the auditors used the available federal program information for GoMESA to identify applicable compliance requirements for use of the funds.

Management's response indicated the auditor's determination was made, "based on an April 7, 2022 phone call from staff at the Office of Natural Resources Revenue." The response stated, "Since this latest guidance occurred nearly one year after the period for which this audit was conducted, we question the basis for which CPRA is being issued a reportable finding." We would like to clarify that as communicated to CPRA management, our determination is based on the latest official guidance from the U.S. Department of the Interior, Office of Natural Resources Revenue (ONRR), in a letter dated January 21, 2021, confirming to CPRA that "GOMESA funds are federal

financial assistance” and that all applicable federal requirements apply. This was in response to a letter from CPRA to the U.S. Department of the Interior dated July 28, 2020, asking for confirmation that GoMESA funds are federal financial assistance in accordance with the Assistance Listing. That letter also stated that, “CPRA is adhering to all associated and applicable requirements of 2 CFR 200.” Based on this response to CPRA from ONRR, CPRA reported GoMESA funds on the Schedule of Expenditures of Federal Awards, as required by Uniform Guidance; however, it did not apply the subrecipient monitoring requirements that are also required by Uniform Guidance.

Lastly, management explained that its “position remains that until there is clear written guidance from the appropriate federal agency that subrecipient monitoring is a requirement, CPRA cannot be in noncompliance given that 2 CFR 200 affords the recipient agency the ability through a prescribed analysis to make that determination.” While Uniform Guidance requires CPRA to make determinations of whether each agreement funded with GoMESA casts the receiving party in the role of a subrecipient or a contractor, the auditor is required to review and evaluate CPRA’s determination. As noted above, based on the auditor’s application of the Uniform Guidance criteria and using our professional judgment, we concluded that the agreements created subrecipient relationships between CPRA and CPSs.

Annual Comprehensive Financial Report – State of Louisiana

As a part of our audit of the Annual Comprehensive Financial Report for the year ended June 30, 2021, we considered internal control over financial reporting and examined evidence supporting CPRA’s capital outlay escrow fund nonpayroll expenditures and payables and amounts due to the U.S. Army Corps of Engineers.

The account balances and classes of transactions tested, as adjusted, are materially correct.

Federal Compliance - Single Audit of the State of Louisiana

As a part of the Single Audit for the year ended June 30, 2021, we performed internal control and compliance testing as required by Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) on CPRA’s major federal program, GoMESA (Assistance Listing 15.435).

Those tests included evaluating the effectiveness of CPRA’s internal controls designed to prevent or detect material noncompliance with program requirements and tests to determine whether CPRA complied with applicable program requirements.

Based on the results of these Single Audit procedures, we reported a finding related to Noncompliance with Certain Subrecipient Monitoring Requirements. This finding will also be included in the Single Audit for the year ended June 30, 2021.

Trend Analysis

We compared the most current and prior-year financial activity using CPRA's Annual Fiscal Reports and/or system-generated reports and obtained explanations from CPRA's management for any significant variances. We also prepared an analysis of capital outlay expenditures (Exhibit 1) over the past five fiscal years. Fluctuations in capital outlay expenditures are primarily attributed to the timing of construction costs. Capital outlay expenditures increased by 52% over the past fiscal year, mainly the result of increased expenditures for the following projects: Bayou Chene Floodgate (GoMESA), West Grand Terre Beach Nourishment, Rabbit Island Restoration, Terrebonne Basin Barrier Island Restoration, and Grand Bayou Floodgate (GoMESA). The increased expenditures for these projects were partially offset by a decrease in expenditures resulting from the completion of Queen Bess Island Restoration.

Exhibit 1
Capital Outlay Expenditures, by Fiscal Year



Source: Fiscal year 2017-2021 Annual Fiscal Reports

The recommendation in this letter represents, in our judgment, that which will bring about beneficial improvements to the operations of CPRA. The nature of the recommendation, its implementation costs, and its potential impact on the operations of CPRA should be considered in reaching decisions on courses of action. The finding related to CPRA's compliance with applicable laws and regulations should be addressed immediately by management.

Under Louisiana Revised Statute 24:513, this letter is a public document, and it has been distributed to appropriate public officials.

Respectfully submitted,

Michael J. "Mike" Waguespack, CPA
Legislative Auditor

APPENDIX A: MANAGEMENT'S RESPONSE



State of Louisiana

JOHN BEL EDWARDS
GOVERNOR

May 31, 2022

Mr. Michael J. "Mike" Waguespack, CPA
Legislative Auditor
Office of Legislative Auditor
1600 North Third Street
Post Office Box 94397
Baton Rouge, LA 70804-9397

Dear Mr. Waguespack:

Per your request, I am writing to provide a response to the finding "Noncompliance with Certain Subrecipient Monitoring Requirements" issued to the Coastal Protection and Restoration Authority (CPRA) in connection with your audit of financial statements for the State of Louisiana as of June 30, 2021. We do not concur with the auditor's finding for the reasons set forth below.

The auditor acknowledges in the finding that GOMESA funds are received by the State of Louisiana annually without an accompanying grant award document, which is typically the document that identifies the applicable federal requirements the recipient agency must comply with. Absent this document, CPRA relied upon the GOMESA Act as well as the State's governing statutes for eligible uses of the funding.

Furthermore, CPRA has not historically and does not currently consider the CPS as a subrecipient. One reason is that CPRA does not subaward GOMESA funds to the CPS. Also, it is due to the nature of the relationship between the entities to implement CPRA selected Master Plan projects for the purpose of integrated coastal protection and restoration, which is clearly a determination that federal guidelines allow CPRA to make. It seems the auditor has failed to consider the agreement in its entirety, and does not consider the actual engagement between CPRA and the CPS. In accordance with the provisions of 2 CFR 200, without specific terms and conditions from a federal awarding agency, the determination of subrecipients is to be made by the recipient agency, which is CPRA.

Additionally, the auditor acknowledges that there is continued uncertainty regarding the applicability of subrecipient requirements as evidenced by the statement in the finding, "CPRA and the auditors are currently seeking clarification from the federal agency disbursing GOMESA funds as to the applicability of subrecipient requirements."

Executive Division

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To that point, and as you know, much discussion has taken place over the last two and half years among our staff, your audit team, and the relevant federal government agencies' staff to seek clarification of the federal government's intentions for GOMESA funding. These efforts yielded significant confusion for your audit team and CPRA as to whether the Gulf of Mexico Energy Security Act (GOMESA) funding is or is not federal assistance, is or is not a federal award, whether Single Audit applies, and whether subrecipient requirements apply. This is due to the lack of a federal award document or any other agreement, and a myriad of conflicting rulings/information received from the federal government agencies resulting from our respective inquiries, and in particular the interpretations made by the respective parties. For example, for the FY 20 audit, it appeared Single Audit did not apply, but for the FY 21 audit, as of April 7, 2022, it appears it may apply.

While it may be valuable to detail the chronology of events that led to the mass confusion on this issue and to demonstrate the inconsistencies in information from the federal agencies, the most important point is that CPRA has made every effort to follow applicable federal requirements, and clearly made efforts to seek official written guidance to very specific questions regarding the federal governments intentions for the treatment of GOMESA funds.

The latest response from the federal government came on April 7, 2022 through a verbal communication from staff in the Office of Natural Resource Revenue (ONRR) to both the auditor and CPRA, which informed us a determination was made that Single Audit applies to GOMESA funding. With this communication, it appears the federal government's position now is that Single Audit applies, and is in reversal of the position taken in July 2020.

The communication from the staff at ONRR did not address subrecipient requirements, and as of this date, CPRA has not been provided any information from a federal awarding agency that stipulates terms and conditions of a federal award. **However, you have issued a reportable finding to CPRA even though you acknowledge there is a continued uncertainty as to whether subrecipient requirements apply.** You have made your final determination in spite of the circumstances and apparently based on an April 7, 2022 phone call from staff at the Office of Natural Resources Revenue. Since this latest guidance occurred nearly one year after the period for which this audit was conducted, we question the basis for which CPRA is being issued a reportable finding.

I have reviewed the information presented by both my staff and your auditors, and our position remains that until there is clear written guidance from the appropriate federal agency that subrecipient monitoring is a requirement, CPRA cannot be in noncompliance given that 2 CFR 200 affords the recipient agency the ability through a prescribed analysis to make that determination.

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Given the reasons set forth herein, I am respectfully requesting you treat this issue as an exit comment/nonreportable audit finding. CPRA is committed to working on modifications to its existing and future agreements with CPS and to increase standards for documentation of engagement with the CPS in an attempt to address the auditor's concerns.

Sincerely,



Lawrence B. Haase
Executive Director

c: Janice Lansing, Chief Financial Officer
Candace Oby, Accountant Administrator

APPENDIX B: SCOPE AND METHODOLOGY

We performed certain procedures at the Coastal Protection and Restoration Authority (CPRA) for the period from July 1, 2020, through June 30, 2021, to provide assurances on financial information significant to the State of Louisiana's Annual Comprehensive Financial Report, and to evaluate relevant systems of internal control in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States. Our procedures, summarized below, are a part of the audit of the Annual Comprehensive Financial Report and our work related to the Single Audit of the State of Louisiana (Single Audit) for the year ended June 30, 2021.

- We evaluated CPRA's operations and system of internal controls through inquiry, observation, and review of its policies and procedures, including a review of the laws and regulations applicable to CPRA.
- Based on the documentation of CPRA's controls and our understanding of related laws and regulations, we performed procedures to provide assurances on certain account balances and classes of transactions to support our opinions on the Annual Comprehensive Financial Report.
- We performed procedures on the GoMESA program (Assistance Listing 15.435) for the year ended June 30, 2021, as a part of the 2021 Single Audit.
- We compared the most current and prior-year financial activity using CPRA's Annual Fiscal Reports and/or system-generated reports to identify trends and obtained explanations from CPRA's management for significant variances.

The purpose of this report is solely to describe the scope of our work at CPRA and not to provide an opinion on the effectiveness of CPRA's internal control over financial reporting or on compliance. Accordingly, this report is not intended to be, and should not be, used for any other purposes.

We did not audit or review CPRA's Annual Fiscal Reports, and accordingly, we do not express an opinion on those reports. CPRA's accounts are an integral part of the state of Louisiana's Annual Comprehensive Financial Report, upon which the Louisiana Legislative Auditor expresses opinions.