

Congress of the United States
House of Representatives
Washington, DC 20515-0902

August 21st, 2024

The Honorable Janet L. Yellen
Secretary of the Treasury
U.S. Department of the Treasury
1500 Independence Ave NW, Washington, D.C.
20220

Mr. Troyling R. Harris
Director of Remediation, Office of Recovery
Programs
U.S. Department of Treasury
1500 Pennsylvania Ave., N.W., Washington, DC
20220

Dear Secretary Yellen and Director Harris:

I write to request the Department of Treasury (“UST”), specifically the Office of Gulf Coast Restoration (“OGCR”) and the Treasury Restore Act Compliance (“TRAC”) office to reverse the final ruling issued to Gulf County, FL, on August 2nd, 2024, to return \$360,352.60 of Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act (RESTORE Act) funds. The RESTORE Gulf County Compliance Review Follow-up Report dated August 2nd, 2024, states that TRAC considers the funds used for Langton Consulting to be unallowable. Unfortunately, Treasury’s ruling does not align with previous pre-authorizations of funds to Gulf County regarding their contract with the entity.

Since the inception of the RESTORE Act, Gulf County has been abundantly transparent and compliant with Treasury regulations. Since 2016, the county has deferred to your federal agency, the technical guidance and the pre-approvals secured since the inception of the program. For example, on June 14th, 2019, the OGCR sent email correspondence to Gulf County stating, “OGCR has reviewed Gulf County’s contract with Langton Consulting, as amended (Addendum #2), and found it to be in compliance with Restore Act Standard Terms and Conditions.” On two other occasions that year, June 24th, 2019, and October 24th, 2019, UST sent letters of [further] confirmation that OGCR were satisfied with their procurement and contract process and documentation. The procurement process, contract, and task orders between Langton Consulting and Gulf County, were submitted to, and reviewed by OGCR prior to the related Special Awards Condition (“SAC”) being cleared on RDCGR100069 and RDCGR100080. Langton Consulting invoices for pre-award cost on those two grants were not allowed to be paid until SAC were cleared and UST released the funding in the ASAP system.

According to regulations at the time, 2 CFR 200.323 (a) stated, “The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modification. The method and degree of analysis is dependent on the facts surrounding the particular situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.” Gulf County completed this process and pre-bid independent estimates were made by BOCC staff. The county provided documentation to UST in 2019 explaining the process and estimates for this bid. UST cleared the related SAC after receiving the documentation provided.

Similarly, 2 CFR 200.323 (b) at the time of procurement stated, “the non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor’s investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.” According to Gulf County’s records, the master contract and each task order were negotiated by staff and vendor between 2017 and 2019 when the documents were ultimately accepted by UST. For a frame of reference, Gulf County staff started preparing for and working on the RESTORE Act from 2012 to 2016 while attending numerous trainings pre and post final rule. The county staff understood the amount of work and level of expertise needed to comply with federal regulations; the three percent and seven percent not-to-exceed amounts were considered both reasonable and cost effective based on the amount of work and experience needed. Langton Consulting worked directly with UST staff and Gulf County to revise and amend the Langton contract to meet compliance requirements, prior to approval for payments.

The first two grants, RDCGR100069 and RDCGR100080, Langton Consulting’s work was billed by the hour but limited to the not-to-exceed amounts set for each quarter. The third grant, RDCGR100134 was set up, with OGCR guidance and recommendations to be a true “fixed-price” contract, which doesn’t bill by the hour. No SAC related to Langton were placed on this grant, which was expected since the master contract was already approved, and UST helped draft the language used in the task orders. The Langton task orders for this grant were also included in the approved application. According to Gulf County records, the Langton contract was effective beginning June 1st, 2017, but the first grant agreement was not executed until November 15th, 2018, and the first payment to Langton was dated July 1st, 2019.

I urge you to take into consideration the economic devastation that will occur should UST not reverse their final ruling to claw back money from the financially deprived county. Gulf County is a small, rural, and fiscally constrained county. In 2018, Gulf County’s population including inmates was 16,499 people and 13,681 people without inmates. As of 2023, Gulf County’s population including inmates was 16,323 people and 14,606 without inmates. The County’s Office of Management and Budget (“OMB”) wasn’t established until October 1st, 2018, with a director and a shared staff assistant. Gulf County did not meet the federal single audit threshold in Fiscal Year (“FY”) FY16/FY17 when Langton was initially contracted, and staff greatly needed a third-party contractor to meet the demands of RESTORE Act and new federal compliance requirements. In the past two years, Gulf County has been able to expand its OMB department to meet the demands of RESTORE Act without a third-party contractor.

Following the environmental and economic devastation of the oil spill, Gulf County was hit with another devastating natural disaster, Hurricane Michael. Hurricane Michael made landfall on October 10th, 2018 as a category 5 storm and directly impacted Gulf County. The county, and much of FL-02 are still in the process of recovery, including open Federal Emergency Management Agency (“FEMA”) Public Assistance grants along with Disaster Recovery and Mitigation grants. Hurricane Michael stretched the already limited resources of the county and increased the need for Langton Consulting to handle RESTORE Act grants on behalf of the county.

I appreciate Treasury's willingness to proactively review this case. I am requesting a response on the appeal to reverse TRAC's final ruling in the Treasury RESTORE Act Compliance Report for Gulf County requiring them to pay the amount of \$360,352.60. Please respond by August 28th, 2024, and work with my Legislative Director, Molly Buening (Molly.Buening@Mail.House.Gov) for additional information related to Gulf County's case.

Sincerely,

A handwritten signature in blue ink, appearing to read "Neal P. Dunn", is written above a horizontal line.

Neal P. Dunn, M.D.
Member of Congress