

The Puerto Rico Department of Natural and Environmental Resources Needs to Fully Comply with Procurement Regulations When Executing NOAA Awards

FINAL REPORT NO. OIG-24-028-A
JUNE 20, 2024



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



June 20, 2024

MEMORANDUM FOR: Richard W. Spinrad, Ph.D.
Under Secretary of Commerce for Oceans and Atmosphere and
NOAA Administrator
National Oceanic and Atmospheric Administration

A handwritten signature in black ink, appearing to read "Arthur L. Scott, Jr.".

FROM: Arthur L. Scott, Jr.
Assistant Inspector General for Audit and Evaluation

SUBJECT: *The Puerto Rico Department of Natural and Environmental
Resources Needs to Fully Comply with Procurement Regulations When
Executing NOAA Awards*
Final Report No. OIG-24-028-A

Attached for your review is our final report on the audit of the National Oceanic and Atmospheric Administration's (NOAA) grants awarded to the Puerto Rico Department of Natural and Environmental Resources (PRDNER). Our audit objectives were to determine whether PRDNER (1) claimed allowable, allocable, and reasonable costs, and (2) met performance requirements of the grants. To address this objective, we reviewed \$1,676,515.45 in claimed costs and 65 grant award performance progress reports that PRDNER submitted.

Overall, we found the following:

- I. PRDNER claimed costs that were generally allowable, allocable, and reasonable but did not comply with internal and federal regulations.
- II. PRDNER continues to encounter challenges in meeting the performance requirements of operational awards.

On May 14, 2024, we received NOAA's response to our draft report. In its response to our draft report, NOAA concurred with all five of our recommendations. NOAA's response is included in appendix D.

Pursuant to Department Administrative Order 213-5, please submit to us an action plan that addresses the recommendations in this report within 60 calendar days. The final report will be posted on the Office of Inspector General's website pursuant to the Inspector General Act of 1978, as amended (5 U.S.C. §§ 404 & 420).

We appreciate the cooperation and courtesies extended to us by your staff during this audit. If you have any questions or concerns about this report, please contact me at (202) 577-9547 or Kelley Boyle, Division Director, at (202) 253-0856.

Attachment

cc: Lawrence Burney, Acting Director, Audit and Information Management Office, NOAA



Report in Brief

June 20, 2024

Background

The Jobs Bay National Estuarine Research Reserve (JBNERR) is on the southeastern coast of the island of Puerto Rico and encompasses 2,800 acres of diverse habitats. JBNERR's mission is to practice and promote coastal and estuarine stewardship through innovative research, monitoring, education, training, and community involvement. JBNERR is owned and operated by the Puerto Rico Department of Natural and Environmental Resources (PRDNER).

PRDNER is an agency within the government of the Commonwealth of Puerto Rico whose main function is to protect, conserve, and manage natural and environmental resources in an equitable way.

The National Oceanic and Atmospheric Administration (NOAA) annually allocates and distributes congressionally appropriated funds (that is, operational awards) to designated reserves, through PRDNER, for JBNERR's operations, research, monitoring, training, education, and stewardship. NOAA has also provided PRDNER with funding for construction and disaster relief projects.

Between October 1, 2015, and September 1, 2021, NOAA's National Ocean Service, Office for Coastal Management (OCM), and Office of Response and Restoration awarded PRDNER approximately \$5.5 million in federal funding across nine awards.

Why We Did This Audit

Our objective was to determine whether PRDNER (1) claimed allowable, allocable, and reasonable costs, and (2) met performance requirements of the grants.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

The Puerto Rico Department of Natural and Environmental Resources Needs to Fully Comply with Procurement Regulations When Executing NOAA Awards

OIG-24-028-A

WHAT WE FOUND

We reviewed \$1,676,515.45 in 182 claimed costs across nine JBNERR awards and found the following:

- I. PRDNER claimed costs that were generally allowable, allocable, and reasonable but did not comply with internal and federal regulations.
- II. PRDNER continues to encounter challenges in meeting the performance requirements of operational awards.

By not adequately meeting award performance requirements, PRDNER inhibits its efforts to protect and monitor the estuarine reserve and gather valuable data for coastal research and community decision-making.

WHAT WE RECOMMEND

We recommend that the NOAA Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator:

1. Ensure OCM program staff document deviations from the cooperative agreement's budget and awards.
2. Implement a financial oversight process to ensure award recipients seek budget revision approvals for any changes to the approved budget categories.
3. Ensure PRDNER obtains and retains all required documentation, including (a) all procurement documentation including sole-source justifications and award decisions from General Services Administration, (b) notifications to NOAA of costs not included in the budget, and (c) approvals from the NOAA Grants Officer, when required.
4. Collaborate with PRDNER, Puerto Rico's Office of Management and Budget, and the Office of the Administration and Transformation of Human Resources administrators to develop and implement a plan to hire sufficient staff, or consider subcontracting personnel, to resolve JBNERR's staffing challenges.
5. Consider options for a split-operations award with a supporting entity to assist JBNERR in meeting its performance requirements.

We provided a draft of this report to NOAA for review and response. NOAA concurred with our recommendations.

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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 Jobos Bay National Estuarine Research Reserve (JBNERR) is on the southeastern coast of the island of Puerto Rico and encompasses 2,800 acres of diverse habitats including salt flats, mudflats, shallow lagoons, offshore cays, and mangrove forests. JBNERR's mission is to practice and promote coastal and estuarine stewardship through innovative research, monitoring, education, training, and community involvement. JBNERR is owned and operated by the Puerto Rico Department of Natural and Environmental Resources¹ (PRDNER). PRDNER is an agency within the government of the Commonwealth of Puerto Rico whose main function is to protect, conserve, and manage natural and environmental resources in an equitable way.

In 1981, JBNERR was designated as part of the National Estuarine Research Reserve System (NERRS),² which was established by section 315 of the Coastal Zone Management Act of 1972, as amended.³ The Department of Commerce (the Department), National Oceanic and Atmospheric Administration (NOAA), annually allocates and distributes congressionally appropriated funds (that is, operational awards) to designated reserves, through PRDNER, for JBNERR's operations, research, monitoring, training, education, and stewardship. NOAA has also provided PRDNER with funding for construction and disaster relief projects. Between October 1, 2015, and September 1, 2021, NOAA's National Ocean Service, Office for Coastal Management (OCM) and Office of Response and Restoration (ORR) awarded PRDNER approximately \$5.5 million in federal funding across nine awards (see table I).

¹ Puerto Rico's Department of Natural and Environmental Resources is the English translation of *Departamento De Recursos Naturales Y Ambientales*.

² The NERRS is a network of 30 coastal sites designated to protect and study estuarine systems.

³ See 16 U.S.C. § 1461.

Table I. PRDNER's Federally Funded Awards

Number	Title	Award Start Date	Award End Date	Amount
NA15NOS4200138	Jobs Bay National Estuarine Research Reserve Operational Award Fiscal Year 2015	10/01/2015	09/30/2019	\$597,000
NA16NOS4200164	Jobs Bay National Estuarine Research Reserve Operational Award Fiscal Year 2016	10/01/2016	09/30/2020	\$619,322
NA17NOS4200115	Jobs Bay National Estuarine Research Reserve Operational Award Fiscal Year 2017	10/01/2017	10/31/2021	\$633,000
NA17NOS4200158	Construction of the Education and Training Center Phase I: Preparation of the construction site and environmental and construction permitting solicitation	10/01/2017	03/31/2023 ^a	\$215,891
NA18NOS4200117	Jobs Bay National Estuarine Research Reserve Operational Award Fiscal Year 2018	10/01/2018	12/31/2021	\$690,000
NA19NOS0220091	Jobs Bay National Estuarine Research Reserve Disaster Relief Funds	09/01/2019	08/31/2023 ^a	\$500,000
NA19NOS4200152	Jobs Bay National Estuarine Research Reserve Operational Award Fiscal Year 2019	10/01/2019	03/31/2023	\$770,800
NA20NOS4200172	Jobs Bay National Estuarine Research Reserve Operational Award Fiscal Year 2020	10/01/2020	03/31/2023 ^a	\$728,214
NA21NOS4200138	Jobs Bay National Estuarine Research Reserve Operational Award Fiscal Year 2021	09/01/2021	03/31/2023 ^a	\$758,125

Source: Office of Inspector General (OIG) summary of award information obtained from the Department's *Grants Online* website

^a During the audit, the period of performance end dates for NA17NOS4200158, NA20NOS4200172, and NA21NOS4200138 were extended to March 31, 2024; the performance end date for NA19NOS0220091 was extended to August 31, 2024.

In September 2021, the U.S. Department of the Interior Office of Inspector General found that PRDNER did not ensure grant funds were used for allowable activities.⁴ As a result, we initiated a detailed audit of PRDNER's costs claimed and performance requirements for nine JBNERR awards.

⁴ U.S. Department of the Interior, OIG. September 30, 2021. *U.S. Fish and Wildlife Service Grants Awarded to the Commonwealth of Puerto Rico, Department of Natural and Environmental Resources, From July 1, 2017, Through June 30, 2019, Under the Wildlife and Sport Fish Restoration Program*, Report No. 2020-CR-022. Washington, DC: Department of Interior.

Objectives, Findings, and Recommendations

The objectives of our audit were to determine whether PRDNER (1) claimed allowable, allocable, and reasonable costs, and (2) met performance requirements of the grants.⁵ Appendix A provides a more detailed description of our scope and methodology.

We reviewed \$1,676,515.45 in 182 claimed costs across nine JBNERR awards and found that PRDNER claimed costs that were generally allowable, allocable, and reasonable. However, PRDNER did not comply with federal and Puerto Rico (internal) regulations for 18 of the 182 costs claimed that we reviewed. Specifically, PRDNER did not notify NOAA in writing or receive written approvals from NOAA for budget deviations prior to making some procurements and did not have supporting documentation or justifications for awards, as required. (See appendix B for allowable costs claimed without notifications and/or justifications.) We also found PRDNER continues to face challenges in consistently meeting performance requirements for five of seven JBNERR operational awards, with a total of 26 out of 57 tasks, or 46 percent, not completed.

I. PRDNER Claimed Costs That Were Generally Allowable, Allocable, and Reasonable but Did Not Comply with Internal and Federal Regulations

Eligible costs under a Department financial assistance award (that is, grant or cooperative agreement) must be in accordance with the Code of Federal Regulations, Title 2, Part 200 (2 C.F.R. Part 200), *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, Subpart E, “Cost Principles.” The cost principles require that costs claimed under federal awards be allowable, including adequately documented,⁶ allocable,⁷ and reasonable.⁸

The cost principles also require Puerto Rico to adhere to its same policies and procedures for non-federal procurements.⁹ *General Services Administration Act for the Centralization of Purchases of the Government of Puerto Rico of 2019*, Act No. 73 of July 19, 2019, as amended, centralized all Government of Puerto Rico purchases and procurements under Puerto Rico’s General Services Administration (GSA).¹⁰ Additionally, Puerto Rico’s GSA adopted Regulation 9230 (amended by GSA Regulation 9292),¹¹ which details rules and procedures for all purchases of goods, works, and nonprofessional services. Before July 2019, purchases were not centralized under Puerto Rico’s GSA, and PRDNER primarily adhered to

⁵ The term “grants” used in this objective refers to both financial assistance awards: grants and cooperative agreements.

⁶ 2 C.F.R. § 200.403, “Factors affecting allowability of costs.”

⁷ *Ibid.* § 200.405, “Allocable costs.”

⁸ *Ibid.* § 200.404, “Reasonable costs.”

⁹ *Ibid.* § 200.317, “Procurements by states,” see also § 200.1 (the definition of “State” includes Puerto Rico).

¹⁰ Puerto Rico previously had established the *Administracion De Servicios Generales*, which translates to General Services Administration in English.

¹¹ Puerto Rico, GSA, November 18, 2020. *Uniform Regulation for Purchases and Bids of Goods, Works, and NonProfessional Services of the General Services Administration of the Government of Puerto Rico.*

Government of Puerto Rico circular letters and internal regulations when purchasing goods and services.

We tested \$1,676,515.45 in claimed costs and found that overall, PRDNER had documentation to support the allowability of the costs incurred. However, we found 18 instances of claimed costs for which PRDNER did not comply with federal regulations and internal procedures when purchasing goods and services.

A. PRDNER did not comply with federal regulations for documenting notifications and approvals for budget deviations

Federal regulations state that costs claimed for federal awards must be adequately documented,¹² and award recipients are required to report deviations from the approved budget to the awarding agency.¹³ Federal regulations allow exemptions to this rule if the costs incurred are within 10 percent of the budget amount.¹⁴ In addition, NOAA program officials stated that it does not require prior approval for items that are within the project's scope.

Initially, we identified that PRDNER did not have documentation to show that it notified NOAA or received prior approval from NOAA for 9 of the 18 costs claimed that were not in the approved budget. Specifically, PRDNER purchased:

- probes and sensors to be used by the water quality monitoring program; however, the purchase exceeded the \$25,000 budget by \$32,865;
- an all-terrain/utility vehicle;
- building's ladder/safety cage to access a roof;
- two seats and a canopy for JBNERR's research boat;
- two computers;
- land survey;
- consulting and/or legal fees—title/doc preparation;
- professional and consulting services for land surveys/site assembly; and
- topography of a construction site.

We discussed with NOAA program officials the details of these costs that were not originally in the budget. NOAA program officials stated that, although PRDNER did not document the approval, NOAA was aware of these costs and verbally approved the costs. A NOAA program official acknowledged that NOAA does not have internal control procedures to account for or alert them to budget deviations. NOAA explained that it has a long-standing relationship with JBNERR and communicates frequently with

¹² 2 C.F.R. § 200.403(g).

¹³ *Ibid.* § 200.308(b).

¹⁴ *Ibid.* § 200.308(f)

PRDNER and JBNERR staff; however, NOAA could strengthen its internal procedures to improve the approval process.

Based on NOAA's explanation and verbal approval of the costs, we agree with NOAA that the items previously listed were within the scope of the project, and as a result, we are not questioning the costs claimed for these transactions. However, we note that improvements could be made to ensure PRDNER complies with federal award requirements and internal procedures by notifying NOAA of any budget deviation and obtaining prior, written approval for the budget deviations when required.

B. PRDNER did not comply with Puerto Rico's procurement requirements for noncompetitive awards

Costs claimed for federal awards must be reasonable. In determining cost reasonableness, consideration must be given to several factors, including (1) market prices of comparable goods or services for the geographic area and (2) the restraints or requirements imposed by such factors as federal and state laws and regulations.¹⁵

Puerto Rico has territory-specific procurement regulations that require PRDNER to request bids and quotes from multiple vendors to obtain the best value. Prior to July 2019, PRDNER primarily relied on Government of Puerto Rico circular letters and its regulations for procuring goods, services, and contracts. As of July 2019, in accordance with Puerto Rico's Act No. 73-2019, Puerto Rico's GSA centralized all procurement procedures. Puerto Rico's Act No. 73-2019 requires:

- a bidding method for informal purchases of goods, works, and nonprofessional services that do not exceed \$15,000,
- an informal bid method for purchases above \$15,000 and do not exceed \$100,000 and
- a formal bid method for purchases over \$100,000.¹⁶

During a bidding process, either the Assistant Procurement Administrator or a bid board evaluates the bids and selects the bid with the best value to receive the award.¹⁷ Best value is defined as the bid that meets the purchase criterion, specifications, conditions, and terms established in the invitation to bid; in other words, the bidder that offers the best value.¹⁸

Exceptions to bidding include emergencies, prevention of damage or loss to government property, or professional services that are associated with registered providers.¹⁹

¹⁵ *Ibid.* § 200.404.

¹⁶ Puerto Rico's Act No. 73-2019, Article 31.

¹⁷ *Ibid.*

¹⁸ *Ibid.* at Article 4(w) and GSA 9230, Article 1.6 (1).

¹⁹ Puerto Rico's Act No. 73-2019, Article 34-35. Businesses can sign up to be registered as sole professional services providers if they want to be contacted for government opportunities.

Puerto Rico's Act No. 73-2019 requires any noncompetitive (exceptional) purchases to be requested in writing and authorized by relevant procurement officials.²⁰ In addition, in 2021, the Government of Puerto Rico issued Executive Order 2021-29,²¹ which states that contracting for professional services in the amount of \$250,000 or more during a fiscal year must be conducted through an open, competitive, and public process.

We found that 12 of the 182 costs claimed by PRDNER did not have (1) supporting documentation for quotes or bids received to show that the best value was received or (2) justifications for noncompetitive or sole-source awards. For example, PRDNER:

- purchased a 25-foot boat through GSA for a total of \$135,485,²² to replace JBNERR's existing boat to reduce delays in carrying out monitoring activities. According to PRDNER, GSA procured the equipment and received multiple quotes in its bidding process; however, GSA could not provide records of the quotes or its evaluation of bids for the boat.
- contracted services for consultants, legal tasks, and coordination of community meetings. However, PRDNER did not document the award bidding process or its request for noncompetitive awards prior to 2019.

See appendix B for additional details on the 12 purchases.

Although these 12 purchases were within the scope of the awards, and NOAA program officials provided justifications verbally to us for the noncompetitive awards, PRDNER did not adhere to Federal regulations²³ and Puerto Rico's internal procedures for retaining award documentation to record justifications and/or approvals for noncompetitive awards.²⁴ Also, four of the awards were made by Puerto Rico's GSA; however, PRDNER could not provide evidence of the supporting documentation because records were not easily accessible or were not retained.

We briefed NOAA officials on the details of the 12 procurements that were missing award documentation or justifications. After we raised this issue, NOAA stated that it did not have concerns about the reasonableness of the costs identified; however, NOAA agreed that, in the future, PRDNER should document sole-source decisions and other procurement actions. The 12 purchases were within the scope of the awards; therefore, we are not questioning the associated costs claimed.

²⁰ *Ibid.* at Article 34.

²¹ Government of Puerto Rico Administrative Bulletin No. OE-2021-029. April 27, 2021. *Executive order of the governor of Puerto Rico, Hon. Peter r. Pierluisi, in order to establish measures to ensure transparency and fiscal responsibility in procurement of government professional services.*

²² Puerto Rico Act No. 73-2019 requires the bid board to purchase equipment from the bidder with the best value when costs exceed \$100,000.

²³ 2 C.F.R. § 200.334, "Retention requirements for records."

²⁴ GSA 9230, Article 11.2.

Recommendations

We recommend that the NOAA Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator:

1. Ensure OCM program staff document deviations from the cooperative agreement's budget and awards.
2. Implement a financial oversight process to ensure award recipients seek budget revision approvals for any changes to the approved budget categories.
3. Ensure PRDNER obtains and retains all required documentation, including (a) all procurement documentation including sole-source justifications and award decisions from GSA, (b) notifications to NOAA of costs not included in the budget, and (c) approvals from the NOAA Grants Officer, when required.

II. PRDNER Continues to Encounter Challenges in Meeting the Performance Requirements of Operational Awards

We reviewed the 65 performance progress reports that PRDNER submitted during the nine awards' periods of performance and found that JBNERR, which is operated by PRDNER, did not consistently meet the performance requirements for five²⁵ out of seven operational awards²⁶ with a total of 26 out of 57 tasks (46 percent) not completed (see appendix C).

JBNERR is administered through a memorandum of agreement²⁷ between NOAA and PRDNER. The memorandum states that PRDNER shall provide JBNERR with staff in accordance with NOAA's annual funding guidance²⁸ and the reserve management plan. NOAA's annual funding guidance notifies eligible recipients, such as PRDNER, of the funding allocations, program requirements, and staffing requirements.

²⁵ The five awards consisted of NA17NOS4200115, N18NOS4200117, NA19NOS4200152, NA20NOS4200172, and NA21NOS4200138. The federal award value for all five awards was \$3,580,139.

²⁶ Our sample selection also included an active construction award from 2017 and an active disaster relief award from 2019. In total, 10 tasks were not completed for these two awards. We did not include these tasks in our finding because the tasks were dependent upon external agency approvals, which were outside of PRDNER's control.

²⁷ *The Memorandum of Agreement Between the National Oceanic and Atmospheric Administration And the Puerto Rico Department of Natural and Environmental Resources Detailing the Commonwealth-Federal roles in the Management of the Jobos Bay National Estuarine Research Reserve*, November 16, 2006.

²⁸ NOAA. *National Estuarine Research Reserve System Funding Allocations and Guidance for Fiscal Years 2015 through 2022*. Washington, DC: NOAA. The guidance is published on an annual basis. Therefore, the dates within our scope were: March 27, 2015; February 24, 2016; June 20, 2017; April 13, 2018; April 4, 2019; March 13, 2020; March 2, 2021; and May 12, 2022.

The guidance also requires tasks²⁹ within the award to be supported adequately to achieve the stated outcome. In addition, JBNERR's management plan for 2017 to 2022 outlines the reserves' goals and its need to fill vacancies for key positions such as the Education Coordinator, System-Wide Monitoring Program Technician, and an Administrative Assistant/Facilities Coordinator.

*Department of Commerce Financial Assistance Standard Terms and Conditions*³⁰ and NOAA's *Administrative Standard Award Conditions for Financial Assistance Awards*³¹ require the semiannual submission of performance progress reports. PRDNER uses performance progress reports to report its progress in completing award tasks. NOAA also issues specific award conditions for each award, which includes PRDNER's programmatic requirements such as the Coastal Training Program and System-Wide Monitoring Program.

Every 4 to 5 years (since 2001), NOAA's OCM conducts periodic performance evaluations of the states and territories with federally approved coastal management programs. In its previous review, in 2018, NOAA made several recommendations and identified necessary actions for PRDNER and JBNERR to improve the efficiency of routine administrative activities and to fill necessary positions within their programs. However, our review of progress reports found that PRDNER did not address NOAA's recommendations for tasks not consistently completed.

The tasks not consistently completed related to the following NOAA national and JBNERR programs.

Coastal Training Program. The Coastal Training Program is a national program directed by NOAA for all reserves and delivers information to support local and regional decision makers to improve coastal stewardship. We found that JBNERR did not complete all Coastal Training Program tasks for two operational awards. The required tasks include activities such as hosting training workshops and offering technical assistance to coastal decision makers. Both awards expired with Coastal Training Program tasks not completed. Furthermore, for three operational awards, the Coastal Training Program tasks remain incomplete. Although these awards were still active, JBNERR reported to NOAA that it will be unable to complete these tasks because JBNERR cannot fill the vacant Coastal Training Program Coordinator position.

System-Wide Monitoring Program. The System-Wide Monitoring Program is another national program directed by NOAA and is focused on long-term water

²⁹ Each task supports NOAA's national programs and/or falls under the umbrella of the reserve's programmatic requirements of reserve operations, research, monitoring, training, education, and stewardship. PRDNER submits a detailed application to NOAA for approval that includes tasks, the corresponding budget allocations, and the staff needed to perform each task. NOAA's OCM and the Grants Management Division reviews, provides comments, and approves the tasks to be completed under the award.

³⁰ *Department of Commerce Financial Assistance Standard Terms and Conditions*, December 26, 2014; March 31, 2017; March 30, 2019; and November 12, 2020. Washington, DC: DOC.

³¹ NOAA, February 18, 2021. *Administrative Standard Award Conditions for National Oceanic and Atmospheric Administration (NOAA) Financial Assistance Awards U.S. Department of Commerce*. NOAA, December 13, 2017, and April 21, 2016. *NOAA Financial Assistance Administrative Terms*. Washington, DC: NOAA.

monitoring activities and habitat assessments. According to NOAA, this long-term water monitoring program is the foundation for the existence of the reserves, including JBNERR. Our review found that one award closed without JBNERR updating its habitat maps, as planned. Also, JBNERR has not been able to complete the program's nutrient task since October 2019 for two awards. Finally, JBNERR failed to collect water quality data from two of four monitoring stations for most of 2022.

Jobs Bay Biomonitoring Program. The Jobs Bay Biomonitoring Program is reserve specific. It consists of monitoring *Halophila stipulacea*, an invasive seagrass that appeared in Jobs Bay in 2015, and biological species native to Jobs Bay. For three operational awards, JBNERR has not completed several biomonitoring tasks, such as researching plankton, monitoring Avian populations, and acoustically monitoring organisms.

We learned that staffing issues as well as supply and contracting challenges affected PRDNER's ability to complete tasks for five awards for JBNERR.

Staffing Issues. PRDNER was not able to hire adequate staff to accomplish award performance requirements. Specifically, JBNERR has not had a Coastal Training Program Coordinator since August 2020.³² In addition, JBNERR has been unable to fill the Education Coordinator position since May 2022, the System-Wide Monitoring Program Technician position since August 2019, and the secretary position since June 2020.

Although PRDNER has budgeted NOAA funding for the four positions, PRDNER and JBNERR officials identified several challenges associated with filling the vacant positions. These challenges include the following.

- Candidates perceived that the salaries were low for the experience needed.
- Necessary funding cuts by the government of the Commonwealth of Puerto Rico affected staffing levels.
- The Coastal Training Program Coordinator and Education Coordinator are temporary positions that are subject to yearly renewals.
- The hiring process is an administratively burdensome process that extends outside of PRDNER's purview. PRDNER must obtain approval from Puerto Rico's Office of Management and Budget and the Office of the Administration and Transformation of Human Resources, and both these offices reside outside of PRDNER.

NOAA has identified a lack of adequate staffing as a recurring issue in prior evaluations of PRDNER. In 2018, NOAA recommended that needed positions be filled as soon as possible using funding from the NOAA cooperative agreement.³³ Additionally, we discussed with NOAA, PRDNER, and JBNERR the root causes of not meeting performance requirements

³² From October 2015 through September 2021, JBNERR did not have a Coastal Training Program Coordinator for 42 (or 50 percent) of the 84 months.

³³ NOAA. Office for Coastal Management. October 2018. *Final Evaluation Finding JBNERR, February 2011 to June 2017*.

and they reinforced the lack of staffing as the main, and recurring, issue. JBNERR and NOAA provided suggestions on how to resolve the staffing issue, and we incorporated those suggestions into recommendations 4 and 5.

Supply and Contracting Challenges. PRDNER faces multiple challenges during the procurement process that can negatively affect its ability to meet its performance goals. Specifically, Puerto Rico has internal policies and priorities that can impact the procurement process. Additionally, PRDNER's physical location makes it difficult to obtain supplies and equipment and find interested parties to bid on contracts.

Puerto Rico's government has laws, policies, and priorities that influence PRDNER's ability to obtain supplies and services and hire permanent, long-term employees. With the issuance of Puerto Rico's Act No. 73-2019, the government centralized the purchases of goods, works, and nonprofessional services under Puerto Rico's GSA. Puerto Rico centralized the procurement awards to optimize the effectiveness and efficiency of governmental management and increase transparency, uniformity, and healthy competition. However, processing all procurements through one agency can increase procurement award times. During fiscal year 2021, Puerto Rico's GSA processed approximately 15,509 procurement requests from government agencies in Puerto Rico; 1,481 of those requests were from PRDNER. GSA reported that for the purchase of goods and services that did not require a bidding process, it took 7 days to complete the procurement, and for sealed bidding processes, it took on average of 180 days to complete the procurement.

GSA also reported that delays in issuing the procurement award can be attributed to:

- insufficient information for purchase requests, such as PRDNER not defining the specification and scope of work or providing justification letters and cost estimates;
- a lack of qualified personnel for the tasks needed;
- shifts in public policy (such as a change in the Secretary's position); and
- the received offers surpass the allocated budget, which causes the agency to undertake internal procedures to secure additional funds.

Furthermore, Puerto Rico's physical location makes it more challenging to obtain supplies and equipment, as suppliers are limited and storage issues do not allow for supplies to be readily available, which can make it more difficult to complete tasks. According to an OCM official, when working with reserves in the United States, it is easier to share resources and quickly transfer items between reserves. For example, two other reserves (Great Bay New Hampshire and Hudson River) have split operational awards wherein the responsibilities are split between a state and another entity. The split award option could be a solution for JBNERR.

By not adequately meeting award performance requirements, PRDNER inhibits its efforts to protect and monitor the estuarine reserve and gather valuable data for coastal research and community decision-making.

Recommendations

We recommend that the NOAA Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator:

4. Collaborate with PRDNER, Puerto Rico's Office of Management and Budget, and the Office of the Administration and Transformation of Human Resources administrators to develop and implement a plan to hire sufficient staff, or consider subcontracting personnel, to resolve JBNERR's staffing challenges.
5. Consider options for a split-operations award with a supporting entity to assist JBNERR in meeting its performance requirements.

Summary of Agency Response and OIG Comment

On May 14, 2024, we received NOAA's response to our draft report. In its response, NOAA concurred with all five of our recommendations and described actions it has taken or will take to address them. We look forward to receiving NOAA's action plan for implementing the recommendations. NOAA's response also included an editorial comment on information presented in the report. We incorporated the editorial comment as requested. NOAA's complete response to our draft report is included as appendix D.

Appendix A: Objective, Scope, and Methodology

The objectives of our audit were to determine whether PRDNER (1) claimed allowable, allocable, and reasonable costs, and (2) met performance requirements of the grants.

To accomplish our objectives, we performed the following actions:

- reviewed relevant federal, departmental, and the government of the Commonwealth of Puerto Rico's guidance, regulations, policies, and procedures; including:
 - 2 C.F.R. Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*,
 - 15 C.F.R. Part 921, *National Estuarine Research Reserve System Regulations*,
 - *Coastal Zone Management Act of 1972*, as amended, 16 U.S.C. § 1461, *National Estuarine Research Reserve System (Section 315)*,
 - *Department of Commerce Grants and Cooperative Agreements Manual*,
 - *Department of Commerce Financial Assistance Standard Terms and Conditions*,
 - *Administrative Standard Award Conditions for National Oceanic and Atmospheric Administration (NOAA) Financial Assistance Awards U.S. Department of Commerce*,
 - *NOAA Financial Assistance Administrative Terms*,
 - *Specific Award Conditions*,
 - *National Estuarine Research Reserve System Funding Allocations and Guidance*,
 - *Memorandum of Agreement Between the National Oceanic and Atmospheric Administration And the Puerto Rico Department of Natural and Environmental Resources Detailing the Commonwealth-Federal roles in the Management of the Jobos Bay National Estuarine Research Reserve*,
 - *Government of Puerto Rico, Office of the Governor and Office of Management and Budget, Circular Letter 141-17, Procedure for Prior Authorization of Professional Services or Purchase Contracts in Excess of Ten Thousand (\$10,000) Dollars*,
 - *Government of Puerto Rico, Circular Letter 152-18, Procedure to Formalize Service Contracts Contingency Professionals of Public Adjusters and Lawyers*,
 - *Government of Puerto Rico, Act No. 73 of July 19, 2019, General Services Administration Act for the Centralization of Purchases of the Government of Puerto Rico of 2019*,
 - *Amendments to the Uniform Regulation for Purchases and Bids of Goods, Works, and NonProfessional Services of the General Services Administration of the Government of Puerto Rico (GSA Regulation 9230, subsequently amended to GSA Regulation 9292)*,
 - *Government of Puerto Rico, PRDNER, Internal Administrative Procedures*,
 - *Government of Puerto Rico, PRDNER, DNER-FD-002, Reimbursement Requests, Federal Financial Reports, and other Financial Reports preparation process*, and
 - *Jobos Bay National Estuarine Research Reserve Management Plan 2017-2022*.

- interviewed NOAA Grants Management Division and program staff at OCM to gain an understanding of the awards given to PRDNER;
- interviewed PRDNER and JBNERR officials to gain an understanding of the award program, process flows (for example, hiring, purchasing, transaction processing), and any potential issues with administering the grants;
- interviewed relevant staff at PRDNER, JBNERR, and NOAA to identify the root cause and better understand impacts of incomplete tasks under the awards; and
- identified internal controls significant to our audit objectives (for example, processes relating to booking expenses and reviewing transactions in the accounting system; management's design control to achieve the program's objectives).

The scope of this audit included approximately \$5.5 million in federal funding across nine NOAA awards awarded to PRDNER for JBNERR from October 1, 2015, to September 1, 2021. The nine awards included seven operational awards, one construction award, and one disaster relief award. Specifically, we:

- judgmentally selected the 25 highest-value transactions across the nine JBNERR awards, except for NAI7NOS4200158 and NAI9NOS0220091, where there were under 25 transactions to choose from. For these two awards, we selected all the costs claimed for review. There were 182 transactions totaling approximately \$1.6 million in federal funding selected for review from a universe of 2,349 across the nine awards. The 182 transactions included cost categories of contracts, equipment, services, supplies, miscellaneous expenses, and payroll;³⁴
- completed an analysis of initial and follow-up document requests for each sampled cost claimed;
- reviewed supporting documentation including award documents, budget and project narratives, vendor quotes, justifications, approvals, purchase orders, invoices, receipts, vouchers, contracting documents, assurances that goods/services were received, timesheets, and payroll costs for each sampled cost claimed; and
- reviewed all 65 available progress reports and requested updates from PRDNER and JBNERR regarding status of incomplete tasks.

During our audit, we gained an understanding of PRDNER and JBNERR's internal control processes significant within the context of the audit objectives by interviewing PRDNER and JBNERR officials and reviewing documentation for evidence that PRDNER carried out internal control procedures. We reported the internal control weaknesses in the Objectives, Findings, and Recommendations section of this report. Although we identified and reported on internal controls deficiencies, we did not detect any specific instances of fraud, illegal acts, or abuse during our audit.

³⁴ As we did not statistically sample transactions, the results of our testing should not be used to project to the population of untested transactions.

We did not rely solely on computer-processed data to perform this audit. We assessed the reliability of data by comparing general ledger data provided with source documentation and interviewing personnel knowledgeable about the data. Based on these efforts, we believe the data was sufficiently reliable for this report.

We conducted our audit from August 2022 to April 2024 under the authority of the Inspector General Act of 1978, as amended (5 U.S.C. §§ 401–424), and Department Organization Order 10-13, as amended October 21, 2020. We performed our fieldwork remotely.

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: Allowable Costs Claimed Without Notifications and/or Justifications

Award Number/Count	Service/Item Purchased	Cost Claimed	Budget Deviations / Notifications	Noncompetitive Justifications
NAI5NOS4200138				
1	Meeting Material Prep/Meeting Minutes	\$14,000.00		X ^a
2	Consultant Hired to Participate in Community Meetings/Reserve Mapping	\$8,851.45		X
3	Land Survey	\$8,200.00	X	X
4	Sensors	\$32,865.00	X	
NAI6NOS4200164				
5	Boat Whaler (First Payment)	\$67,742.50		X
6	Sentinel Site Assembly/Survey	\$6,800.00	X	
7	Translation of Management Plan	\$11,000.00		X
8	Logistics of TOTE (Education) Programs	\$10,000.00		X
9	Engine for Boat and Installation	\$10,000.00		X
10	Training Workshops, Audio Equipment Rental	\$9,523.84		X
NAI7NOS4200115				
11	Boat Whaler (Second Payment)	\$67,742.50		X
12	Boardwalk Construction	\$7,293.00		X
13	Legal Services/title Prep/deeds	\$5,744.00	X	X

Award Number/Count	Service/Item Purchased	Cost Claimed	Budget Deviations / Notifications	Noncompetitive Justifications
14	Safety Cage/ Ladder	\$5,772.00	X	
NA17NOS4200158				
15	Design Review of Construction Site	\$1,500.00	X	
NA20NOS4200172				
16	Computers	\$5,654.22	X	X
17	All-Terrain/Utility Vehicle	\$18,895.00	X	
18	Seats/Hood for Boat	\$9,464.00	X	
Total		\$301,047.51	9	12

Source: OIG analysis of PRDNER official award files

^a "X" denotes PRDNER did not provide documentation showing budget deviations/notifications and noncompetitive justifications.

Appendix C: JBNERR Tasks Not Completed

Task	NA17NOS-4200115	NA18NOS-4200117	NA19NOS-4200152	NA20NOS-4200172	NA21NOS-4200138
Reserve Operations and Management		X			X ^a
Facilities: Maintenance, Ground Operation, and Vehicles		X			X
Margaret A. Davidson Fellowship and Student Development			X	X	X
Research Coordination				X	X
Implement System-Wide Monitoring Program (SWMP)		X		X	X
Non-SWMP Water Quality Monitoring		X		X	X
Jobs Bay Biomonitoring			X	X	X
Implement Coastal Training Program	X	X	X	X	X
Implement Teachers on the Estuary Training					X
General Education Program					X
Professional Development, Training, and Presentations					X
Total	1	5	3	6	11

Source: OIG analysis of JBNERR performance progress reports

^a "X" denotes a task not completed.

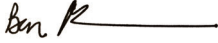
Appendix D: Agency Response

NOAA's response to our draft report follows on p. 21.



UNITED STATES DEPARTMENT OF COMMERCE
Deputy Under Secretary for Operations
National Oceanic and Atmospheric Administration
Washington, D.C. 20230

MEMORANDUM FOR: Arthur L. Scott, Jr.
Assistant Inspector General for Audit and Evaluation

FROM: Benjamin P. Friedman 
Deputy Under Secretary for Operations
National Oceanic and Atmospheric Administration

SUBJECT: *The Puerto Rico Department of Natural and Environmental Resources Needs to Fully Comply with Procurement Regulations When Executing NOAA Awards*
Draft Report

The Department of Commerce's National Oceanic and Atmospheric Administration (NOAA) is pleased to submit the attached response to the draft report on NOAA grants awarded to the Puerto Rico Department of Natural and Environmental Resources. We reviewed the report and concurred with the recommendations.

We appreciate the opportunity to review and respond to your draft report. If you have questions, please contact Lawrence N. Burney, Jr., Acting Director, Audit and Information Management Office on (202) 643-6010.

Attachment



Department of Commerce
National Oceanic and Atmospheric Administration
Response to the OIG Draft Report Titled
PRDNER's Administering NOAA Grants (2022-435) (April 2024)

General Comments

The National Oceanic and Atmospheric Administration (NOAA) appreciates the opportunity to review the Office of Inspector General's (OIG) draft report which determined whether the Puerto Rico Department of Natural and Environmental Resources (PRDNER) (1) claimed allowable, allocable, and reasonable costs, and (2) met performance requirements of the grants. NOAA reviewed the draft report and concurs with the OIG's recommendations. General comments and responses to the five recommendations are provided below.

NOAA Response to OIG Recommendations

In responding to each recommendation, please state whether or not NOAA concurs. A brief statement regarding action(s) to be taken may also be provided. If a recommendation is rejected, please provide a rationale for non-concurrence. A target implementation date does not need to be provided until the audit action plan is prepared for the final OIG report. However, if an action was implemented before or at the time of the draft report, please specify the completion date in this section.

Recommendation 1: That the NOAA Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator ensure Office for Coastal Management (OCM) program staff document deviations from the cooperative agreement's budget and awards.

NOAA Response: We concur. OCM has processes to ensure documentation of deviations from the cooperative agreement's original budget and awards, and will ensure these processes are fully followed.

Recommendation 2: That the NOAA Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator implement a financial oversight process to ensure award recipients seek budget revision approvals for any changes to the approved budget categories.

NOAA Response: We concur. OCM has a financial oversight process, implemented in coordination with NOAA's Grants Management Division, and will ensure the process is fully followed.

Recommendation 3: That the NOAA Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator ensure PRDNER obtains and retains all required documentation, including (a) all procurement documentation including sole-source justifications and award decisions from GSA, (b) notifications to NOAA of costs not included in the budget, and (c) approvals from the NOAA Grants Officer, when required.

NOAA Response: We concur.

Recommendation 4: That the NOAA Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator collaborate with PRDNER, Puerto Rico's Office of

Management and Budget, and the Office of the Administration and Transformation of Human Resources administrators to develop and implement a plan to hire sufficient staff, or consider subcontracting personnel, to resolve Jobos Bay National Estuarine Research Reserve's (JBNERR) staffing challenges.

NOAA Response: We concur.

Recommendation 5: That the NOAA Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator consider options for a split-operations award with a supporting entity to assist JBNERR in meeting its performance requirements.

NOAA Response: We concur.

Recommended Changes for Factual/Technical Information

Provide suggested changes to factual or technical information in this section. Cite the hard copy page number and other specific references (such as paragraph number, sentence number, or bullet number). Also, you need to explain why this change is necessary in order for OIG to accept it. Do not include editorial comments, which will be covered in the next section.

None to report.

Editorial Comments

Provide editorial comments (i.e., grammatical changes) in this section. Cite the hard copy page number and other specific references (such as paragraph number, sentence number, or bullet number). Please note that an editorial comment is not your assessment or opinion of a given text from the draft report. An opinion should be covered in the general comments section.

Page 5 of report, Finding A.

"However, we note that improvements could be made to ensure PRDNER complies with Federal Award requirements and internal procedures by notifying NOAA and obtaining prior written approval for budget deviations as required" should be changed to "However, we note that improvements could be made to ensure PRDNER complies with Federal Award requirements and internal procedures by notifying NOAA of **any budget deviation** and obtaining prior written approval for budget deviations **when** required."

NOTE: This would ensure they submit notice for all budget changes even those under the 10% rule, but only require prior written approval for those budget changes that did not meet the 10% rule exemption.

REPORT

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