

STATE OF FLORIDA AUDITOR GENERAL

Operational Audit

TRIUMPH GULF COAST, INC.



Sherrill F. Norman, CPA
Auditor General

Board of Directors and Executive Director of Triumph Gulf Coast, Inc.

Section 288.8013, Florida Statutes, establishes Triumph Gulf Coast, Inc. (Triumph) as a nonprofit corporation that is not a unit or entity of State Government. Section 288.8014, Florida Statutes, provides for Triumph to be governed by a seven-member Board of Directors (Board). The Board is to include three private sector members appointed by the Governor, the Attorney General, and the Chief Financial Officer, respectively, two private sector members appointed by the President of the Senate, and two private sector members appointed by the Speaker of the House of Representatives. One of the two Board members appointed by the President of the Senate and the Speaker of the House of Representatives must represent one of the four least populous disproportionately affected counties.

During the period June 2017 through June 2018, Susan Skelton served as Executive Director of Triumph and the following individuals served as Board members:

Governor Appointee	Stan W. Connally, Jr. from June 3, 2017
Attorney General Appointee	Pam Dana from June 3, 2017
Chief Financial Officer Appointee	Stephen Riggs, IV from June 3, 2017, Treasurer from July 13, 2017
President of the Senate Appointees	Allan Bense from June 3, 2017, Chair July 13, 2017, through December 31, 2017 Jason Shoaf from June 30, 2017
Speaker of the House of Representatives Appointees	Don Gaetz from June 30, 2017, Vice-Chair July 13, 2017, through December 31, 2017, Chair from January 1, 2018 Benjamin Lee from January 18, 2018 Robert Bonezzi from June 3, 2017, through January 10, 2018

The team leader was William Karalius, CPA, and the audit was supervised by Joshua Barrett, CPA.

Please address inquiries regarding this report to Christi Alexander, CPA, Audit Manager, by e-mail at christialexander@aud.state.fl.us or by telephone at (850) 412-2786.

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State of Florida Auditor General

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TRIUMPH GULF COAST, INC.

SUMMARY

This operational audit of Triumph Gulf Coast, Inc. (Triumph) focused on the administration of Triumph project and program awards and selected administrative activities. Our audit disclosed the following:

Application and Awards Program

Finding 1: Triumph records did not clearly evidence that applicants for awards were notified in writing the specific basis for determining during the pre-application phase that the proposed project or program did not appear eligible to receive Triumph funding.

Selected Administrative Activities

Finding 2: Triumph records did not adequately evidence the basis for compensating the Executive Director and the law firm utilized by Triumph for services rendered pro-bono during the period November 2015 through June 2017.

Finding 3: Triumph controls over electronic funds transfers need enhancement.

BACKGROUND

The Gulf Coast Economic Corridor Act¹ (Act) established Triumph Gulf Coast, Inc. (Triumph) effective May 17, 2013, as a nonprofit corporation that is not a unit or entity of State Government to administer the funds to be used for the economic recovery, diversification, and enhancement of the areas impacted by the 2010 Deepwater Horizon oil spill.²

State law³ specifies that 75 percent of the funds received by the State pursuant to the settlement agreement⁴ with the BP entities must be deposited into a trust account established by Triumph and that at least 40 percent of the funds received by the State before July 1, 2017, are to be allocated equally among the eight disproportionately affected counties (Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Wakulla, and Walton).⁵ State law⁶ further provides that Triumph administrative costs may not exceed 0.75 percent of the funds released to Triumph and that the annual salaries of employees and contracted staff may not exceed \$130,000 and associated benefits may not exceed 35 percent of salary.

Chart 1 provides a timeline of Triumph-related milestones, from the April 2010 Deepwater Horizon oil spill through the execution of Triumph's first award agreement in June 2018.

¹ Chapter 2013-39, Laws of Florida. Codified in Sections 288.80 and 288.8011 through 288.8018, Florida Statutes.

² On April 20, 2010, the oil rig Deepwater Horizon exploded in the Gulf of Mexico, resulting in an 87-day oil spill that impacted the coasts of Alabama, Florida, Louisiana, Mississippi, and Texas.

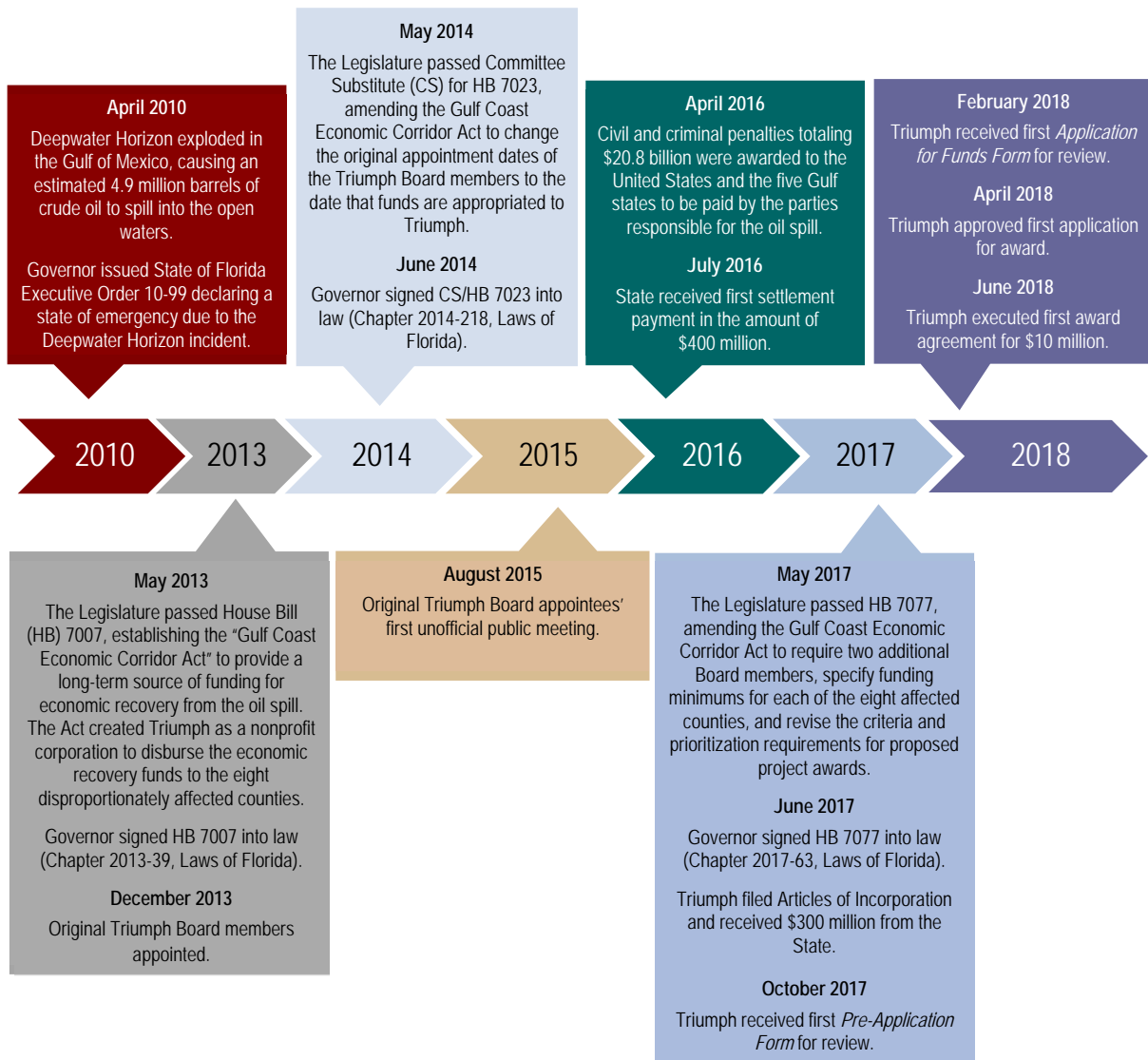
³ Section 288.8013(2), Florida Statutes.

⁴ Section 288.8012(4), Florida Statutes, specifies that the settlement agreement is the agreement entitled, "Settlement Agreement Between the Gulf States and the BP Entities with Respect to Economic and Other Claims Arising from the *Deepwater Horizon* Incident," entered into on October 5, 2015.

⁵ Section 288.8013(2)(b)2., Florida Statutes, specifies that at least 32 percent of settlement agreement funds received after July 1, 2017, are to be allocated equally among the eight disproportionately affected counties.

⁶ Section 288.8013(2)(d) and (3), Florida Statutes.

**Chart 1
Triumph Timeline**



Sources: Triumph and other legislative and Office of the Executive Governor records.

According to Triumph records, as of June 2018, Triumph employed an Executive Director and utilized three independent contractors to carry out Triumph's responsibilities. During the period June 2017 through June 2018, Triumph paid salary and benefit expenses totaling \$226,681.

FINDINGS AND RECOMMENDATIONS

APPLICATION AND AWARDS PROGRAM

Pursuant to State law,⁷ Triumph is responsible for: responsibly and prudently managing all funds received; ensuring funds are used in accordance with all applicable laws, bylaws, or contractual

⁷ Section 288.8016, Florida Statutes.

requirements; administering the awards program created by the Act; and operating in a transparent manner, including providing public access to information, notice of meetings, awards, and the status of projects and programs. State law⁸ requires Triumph to make awards from available funds to projects or programs that meet the priorities for economic recovery, diversification, and enhancement of the disproportionately affected counties, including projects or programs that:

- Provide ad valorem tax rate reductions.
- Meet local match requirements for rural infrastructure projects.⁹
- Construct, expand, or maintain public infrastructure.
- Establish and maintain equipment and trained personnel for local action plans to respond to disasters.
- Prepare students for future occupations and careers at K-20 institutions.
- Provide participants with transferable, sustainable workforce skills that are not confined to a single employer.
- Promote and advertise tourism and Fresh From Florida and promote workforce and infrastructure.

State law¹⁰ specifies that Triumph awards may not finance 100 percent of any project or program and that contracts executed with an awardee must include provisions for a performance report on contracted activities, account for the proper use of awarded funds, and permit the recovery of awards in the event the award was based on fraudulent information or the awardee is not meeting performance requirements. State law¹¹ further specifies that Triumph is to monitor, review, and annually evaluate awardees' projects and programs to determine whether an award should be continued, terminated, reduced, or increased.

State law¹² requires Triumph to establish an application procedure for awards and a scoring process to select projects and programs that have the potential to generate increased economic activity in the disproportionately affected counties. Chart 2 illustrates Triumph's three-phase application process.

⁸ Section 288.8017(1), Florida Statutes.

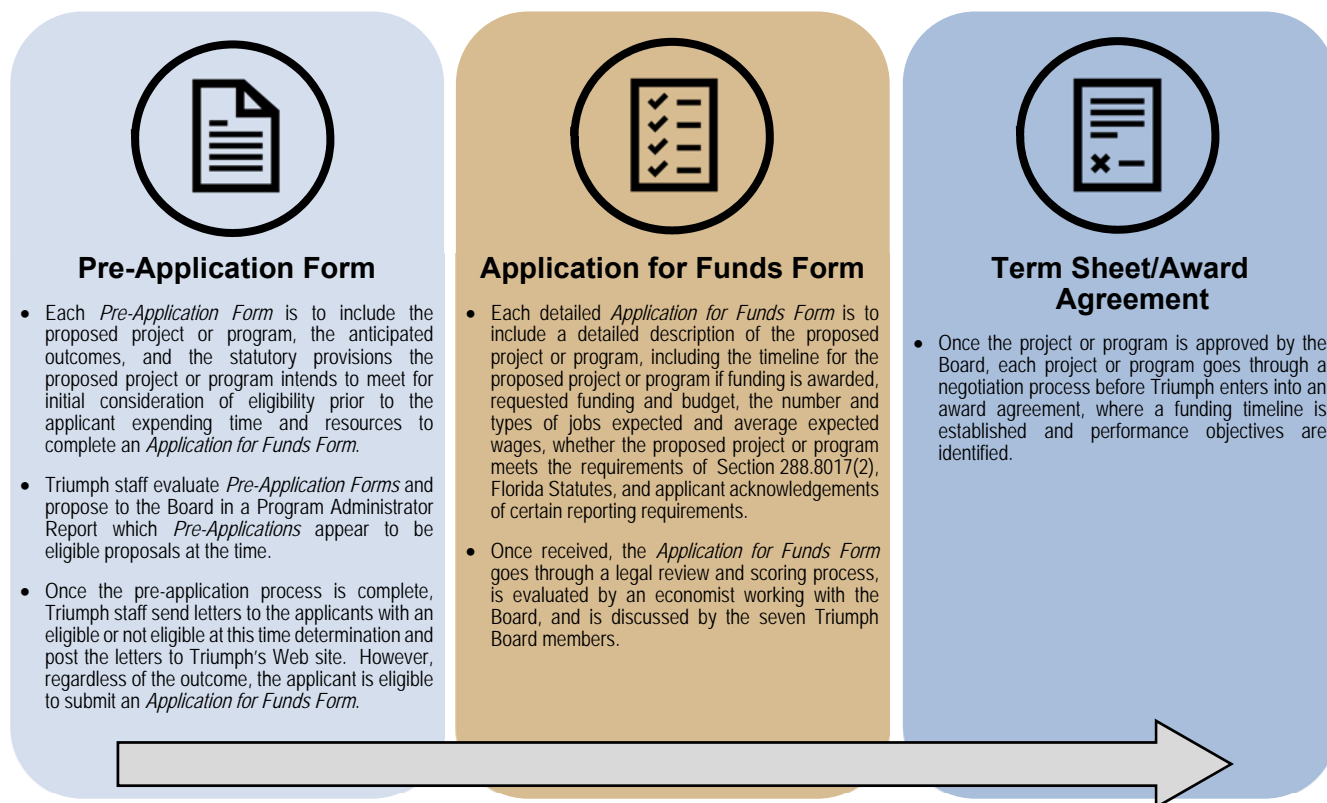
⁹ Section 288.0655(2)(e), Florida Statutes.

¹⁰ Section 288.8017(3) and (4), Florida Statutes.

¹¹ Section 288.8016(3), Florida Statutes.

¹² Section 288.8017(2), Florida Statutes.

**Chart 2
Triumph Award Application Process**



Source: Triumph records.

According to Triumph records, as of June 2018, Triumph had received 39 *Application for Funds Forms* and approved five awards totaling \$18,873,576.

Finding 1: Pre-Application Review Process

Pursuant to State law,¹³ Triumph is to make awards from available funds to projects or programs that meet the priorities for economic recovery, diversification, and enhancement of the disproportionately affected counties and establish an application procedure for awards. As illustrated in Chart 2, Triumph established a three-phase application review process that included an initial pre-application review to determine whether a proposed project or program appeared eligible for award. Regardless of the initial eligibility determination made during the pre-application review process, applicants for Triumph awards could submit an *Application for Funds Form*.

As part of our audit, we interviewed Triumph management and independent contractors, evaluated Triumph policies, procedures, and processes for evaluating pre-applications, and examined the records for 25 selected pre-applications for awards submitted to Triumph during the period June 2017 through June 2018, including 6 pre-applications deemed by the Board to be ineligible for award at the time of pre-application. Our audit procedures disclosed that, while Triumph notified the 6 applicants in writing

¹³ Section 288.8017(1) and (2), Florida Statutes.

that their proposed project or program did not appear eligible to receive Triumph funding, the notifications did not specify the basis for the determination or provide the applicants sufficient information to allow them the opportunity to address their proposals' shortcomings. According to Triumph management, in lieu of providing written specifics regarding a proposal's ineligibility, applicants were encouraged to contact the Program Administrator with any questions, comments, or concerns regarding the eligibility determination or pre-application process.

Written notifications to applicants for Triumph awards specifying the basis for ineligibility determinations made during the pre-application process would better demonstrate the reasons for the determinations, provide sufficient information to allow applicants the opportunity to address proposal shortcomings, and, should applicants submit an *Application for Funds Form*, facilitate the submission of applications that include all required information to be considered for award.

Recommendation: We recommend that Triumph management enhance pre-application evaluation processes to ensure that Triumph records evidence that, for ineligibility determinations during the pre-application phase, applicants for awards were notified in writing the specific basis for the determination and provided the information necessary to address proposal shortcomings.

SELECTED ADMINISTRATIVE ACTIVITIES

As part of our audit, we evaluated selected Triumph administrative activities and controls, including those related to general and administrative expenses and electronic funds transfers.

Finding 2: Contracted Staff Compensation

State law¹⁴ permits Triumph to hire or contract for all staff, including a legal advisor, necessary to properly execute its powers and duties to implement the Act. Additionally, State law¹⁵ requires Triumph to responsibly and prudently manage all funds received. The use of written employment and contracted services agreements establishes the services to be rendered and compensation to be provided, as well as the terms and conditions of the arrangement.

Although Triumph was established in 2013, until the Governor signed legislation¹⁶ in June 2017 that appropriated funds to Triumph, the Board operated without funding. As part of our audit, we examined Board meeting agendas and minutes and other Triumph records related to staff compensation approved by the Board during the period June 2017 through June 2018 and found that Triumph records did not adequately evidence the basis for compensating the Executive Director and the law firm utilized by Triumph for services rendered pro-bono during the period November 2015 through June 2017.

Specifically, according to the October 28, 2015, Board meeting minutes, the Board Chair asked, and the Executive Director agreed, to serve pro-bono as Interim Executive Director, with the understanding that the part-time pro-bono position may not lead to a paid position once funding was available. Similarly, the Board Chair indicated that a law firm had also agreed to work pro-bono until funding was available, with

¹⁴ Section 288.8014(9), Florida Statutes.

¹⁵ Section 288.8016(1), Florida Statutes.

¹⁶ Chapter 2017-063, Laws of Florida.

the understanding that the firm may not be selected as Triumph's legal advisor once funding was available. While both parties agreed to work pro-bono for an indeterminate period of time, the Board did not execute written contracts with either party specifying the services to be provided, performance expectations, or the basis for potential compensation for services rendered when funds became available.

Subsequently, during the July 13, 2017, Board meeting, the Board authorized the Chair to negotiate an employment package for the Executive Director, as well as to consider some form of remuneration in recognition of the services she already rendered. The Board also authorized the Chair and Vice Chair to work to ensure that some remuneration was made to recognize the work performed by Triumph's law firm to date. Both parties provided the Board Chair a statement of the hours worked on Triumph activities prior to the receipt of funding and the total costs of the services rendered based on the party's current compensation rates. During the January 29, 2018, Board meeting, the Chair brought these costs before the Board, which authorized payments to the Executive Director and law firm totaling \$103,944 and \$90,335, respectively, that were made on February 28, 2018.

While we recognize that the services rendered by the Executive Director and the law firm were necessary to organize and operate Triumph, the absence of executed employment or contracted services agreements detailing the services to be provided and the compensation to be paid by Triumph to the parties, coupled with the official Triumph Board meeting minutes stating that such services were agreed to be provided pro-bono, highlights the need for Triumph records to clearly evidence the basis for all compensation paid and that any such amounts demonstrate prudent management of funds received by Triumph.

Recommendation: We recommend that Triumph ensure that all payments for services rendered by staff or independent contractors be evidenced by a written employment or contracted services agreement or other records detailing the services to be rendered, performance expectations, and compensation to be provided.

Finding 3: Electronic Funds Transfers

State law¹⁷ requires Triumph to establish a trust account at a Federally insured financial institution to hold funds received from the Triumph Gulf Coast Trust Fund and make deposits and payments. Additionally, State law authorizes Triumph to invest surplus funds in the Local Government Surplus Funds (LGSF) Trust Fund and any interest earned by Triumph is to be deposited monthly in the Triumph Gulf Coast Trust Fund. Triumph policies and procedures provided that the Chair, Vice Chair, and Treasurer were the only Board members authorized to initiate electronic funds transfers (EFTs) between the trust account and the LGSF Trust Fund. As of June 30, 2018, Triumph held \$4,419,277 in the trust account and \$299,664,193 in the LGSF Trust Fund.

As part of our audit, we evaluated Triumph EFT controls and examined Triumph records related to 24 EFTs, totaling \$305.6 million, made during the period June 2017 through June 2018. Our audit procedures disclosed that, while Triumph policies and procedures established the Board member positions authorized to initiate EFTs, Triumph did not periodically review bank authorization records to

¹⁷ Section 288.8013(3), Florida Statutes.

ensure that the authorized Board member information was accurate. Consequently, we noted that, as of June 30, 2018, one of the authorized signers had not held the position of Chair, Vice Chair, or Treasurer since January 1, 2018. According to Triumph management, the Board member remained an authorized signer due to Board transition issues and as a matter of convenience in case of emergency given the member's proximity to Triumph's banking institution.

While Triumph had established certain controls over EFTs, such as designating the Board member positions authorized to initiate an EFT, the absence of periodic reviews of bank authorization records increases the risk that EFTs may be initiated by unauthorized persons.

Recommendation: We recommend that Triumph management enhance policies and procedures to require periodic reviews of bank authorization records to ensure that the list of Board members authorized to initiate EFTs is accurate and, if necessary, timely updated.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Auditor General conducts operational audits of governmental entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations.

We conducted this operational audit from June 2018 through January 2019 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.

This operational audit of Triumph Gulf Coast, Inc. (Triumph) focused on the administration of Triumph project and program awards and selected administrative activities. The overall objectives of the audit were:

- To evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, administrative rules, contracts, grant agreements, and other guidelines.
- To examine internal controls designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, the reliability of records and reports, and the safeguarding of assets, and identify weaknesses in those internal controls.
- To identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the audit, deficiencies in management's internal controls, instances of noncompliance with applicable governing laws, rules, or contracts, and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of

management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

As described in more detail below, for those programs, activities, and functions included within the scope of our audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; exercising professional judgment in considering significance and audit risk in the design and execution of the research, interviews, tests, analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit's findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

Our audit included the selection and examination of transactions and records. Unless otherwise indicated in this report, these transactions and records were not selected with the intent of statistically projecting the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination.

An audit by its nature, does not include a review of all records and actions of agency management, staff, and vendors, and as a consequence, cannot be relied upon to identify all instances of noncompliance, fraud, abuse, or inefficiency.

In conducting our audit, we:

- Reviewed applicable laws to obtain an understanding of the legal framework governing Triumph operations.
- Reviewed applicable laws, Triumph policies and procedures, and other guidelines, and interviewed Triumph personnel to gain an understanding of Triumph controls for administering awards and managing financial and other administrative activities.
- From the population of 150 pre-applications for awards submitted to Triumph during the period June 2017 through June 2018, examined Triumph records for 25 selected pre-applications, including 6 pre-applications deemed ineligible for award, to determine whether pre-applications were evaluated based on the criteria established in Section 288.8017, Florida Statutes, and eligibility decisions were sufficiently documented and communicated to applicants.
- Interviewed Triumph management and reviewed Triumph policies and procedures to determine whether Triumph required management and independent contractors to attest, in writing, that they would comply with established Triumph conflict of interest policies and were independent of, and had no conflicts of interest related to, the applicants they were responsible for evaluating.
- From the population of 15 applications for awards evaluated by Triumph staff during the period June 2017 through June 2018, examined Triumph records for 10 selected applications to determine whether applications were appropriately evaluated based on the criteria established in Section 288.8017, Florida Statutes, and approval or denial decisions were sufficiently documented and communicated to applicants.
- Examined Triumph records for the 5 applications for awards, totaling \$18,873,576, approved by the Board to enter into term sheet negotiations during the period June 2017 through June 2018 to determine whether Triumph staff obtained Board approval prior to negotiating terms with the applicants and whether Triumph posted its intent to award on Triumph's Web site in accordance with Section 288.8016(4), Florida Statutes.

- Examined Triumph records for 3 award agreements, totaling \$15,426,867, executed by Triumph during the period June 2018 through August 2018 to determine whether Triumph included in the award agreements the provisions specified in Section 288.8017, Florida Statutes.
- Interviewed Triumph staff to obtain an understanding of Triumph monitoring procedures for executed award agreements.
- Examined Triumph records for the 3 semi-annual reports due to the Governor, the President of the Senate, and the Speaker of the House of Representatives during the period June 2017 through June 2018 to determine whether Triumph submitted the reports in accordance with Section 288.8013(4), Florida Statutes.
- Examined Triumph policies and procedures and Board meeting agendas and minutes for the period June 2017 through June 2018 to determine whether Triumph ensured that Board meetings were held in accordance with Section 288.8011, Florida Statutes, and whether Board members timely and properly disclosed possible direct and indirect conflicts of interest.
- Examined Triumph records for 10 general expense transactions, totaling \$46,155, selected from the population of 67 general expense transactions, totaling \$205,199, incurred during the period June 2017 through June 2018, to determine whether general expenses were appropriately supported, approved, and timely and accurately recorded to Triumph financial records.
- Examined Triumph records for 10 travel expense transactions, totaling \$9,710, selected from the population of 35 travel expense transactions, totaling \$12,768, incurred during the period June 2017 through June 2018, to determine whether travel expenses complied with applicable provisions of State law and whether expenses were timely and accurately recorded to Triumph financial records.
- Examined Triumph records for 14 contractual service expense transactions, totaling \$45,035, selected from the population of 67 contractual service expense transactions, totaling \$404,819, incurred during the period June 2017 through June 2018, to determine whether contractual service expenses agreed with the contract terms and amounts approved by the Board and were timely and properly recorded to Triumph financial records.
- Examined Triumph records for 5 contracts selected from the population of 12 contracts executed by Triumph during the period June 2017 through June 2018, to determine whether Triumph procured and administered the contracts in accordance with Triumph policies and procedures.
- Interviewed Triumph management, examined Triumph records, and evaluated Triumph processes to determine whether Triumph took steps to reasonably ensure that service organization controls relevant to the services performed on behalf of Triumph were suitably designed and operating effectively during the period June 2017 through June 2018.
- Examined Triumph records and interviewed Triumph management regarding the 7 Board members who served during the period June 2017 through June 2018 to determine whether Triumph had established a process to ensure that Board members filed disclosures of financial interests by July 1 each year in accordance with Section 112.3145, Florida Statutes.
- Observed, documented, and evaluated the effectiveness of selected Triumph processes and procedures for:
 - Budgetary, cash management, revenue, and cash receipt activities.
 - The administration of tangible personal property in accordance with Triumph policies and procedures. As of June 30, 2018, Triumph was responsible for tangible personal property with related acquisition costs totaling \$8,596.
 - The administration of purchasing cards in accordance with Triumph policies and procedures. As of June 30, 2018, Triumph had one active purchasing card.

- The assignment and use of mobile devices with related costs totaling \$900 during the period June 2017 through June 2018.
- The acquisition and management of real property leases in accordance with Triumph policies and procedures. As of June 30, 2018, Triumph was responsible for one real property lease.
- Communicated on an interim basis with applicable officials to ensure the timely resolution of issues involving controls and noncompliance.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.
- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe the matters requiring corrective actions. Management's response is included in this report under the heading **MANAGEMENT'S RESPONSE**.

AUTHORITY

Section 288.8013(5), Florida Statutes, requires that the Auditor General conduct an operational audit of Triumph Gulf Coast, Inc. annually. Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.

A handwritten signature in blue ink that reads "Sherrill F. Norman". The signature is fluid and cursive, with a large initial "S" and "N".

Sherrill F. Norman, CPA
Auditor General

MANAGEMENT'S RESPONSE

Triumph Gulf Coast, Inc.
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May 14, 2019

Ms. Sherrill F. Norman, CPA
Auditor General, State of Florida
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Tallahassee, FL 32399-1450

RE: Response to Operational Audit Findings and Recommendations

Dear Ms. Norman,

We have received the list of preliminary and tentative operational audit findings and recommendations and hereby submit our written response.

Finding 1: Pre-Application Review Process

Auditor Recommendation: We recommend that Triumph management enhance pre-application evaluation processes to ensure that Triumph records evidence that, for ineligibility determinations during the pre-application phase, applicants for awards were notified in writing the specific basis for the determination and provided the information necessary to address proposal shortcomings.

Response to Finding: Triumph Gulf Coast agrees with the recommendation, and has already started the process of notifying in writing the specific basis for the determination and providing the information necessary to address proposal shortcomings.

Finding 2: Contracted Staff Compensation

Auditor Recommendation: We recommend that Triumph ensure that all payments for services rendered by staff or independent contractors be evidenced by a written employment or contracted services agreement or other records detailing the services to be rendered, performance expectations, and compensation to be provided.

Response to Finding: Triumph Gulf Coast agrees with the recommendation, and now requires a written employment or contracted services agreement prior to payments for services rendered.

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Finding 3: Electronic Funds Transfers

Auditor Recommendation: We recommend that Triumph management enhance policies and procedures to require periodic reviews of bank authorization records to ensure that the list of Board members authorized to initiate EFTs is accurate and, if necessary, timely updated.

Response to Finding: Triumph Gulf Coast agrees with the recommendation, and is in the process of updating our policies and procedures.

Thank you for your time and insight while working with our staff during this process, as it helps improve the operations of Triumph Gulf Coast.

Very truly yours,



Scott A. Remington
General Counsel

cc: Don Gaetz, Chair
Stephen Riggs, IV
Susan Skelton