



Sherrill F. Norman, CPA
Auditor General

AUDITOR GENERAL STATE OF FLORIDA

Claude Denson Pepper Building, Suite G74
111 West Madison Street
Tallahassee, Florida 32399-1450



Phone: (850) 412-2722
Fax: (850) 488-6975

April 16, 2019

The Honorable Don Gaetz, Chair
Triumph Gulf Coast, Inc.
P.O. Box 12007
Tallahassee, Florida 32317

Dear Mr. Gaetz:

Enclosed is a list of preliminary and tentative audit findings and recommendations that may be included in a report to be prepared on our operational audit of Triumph Gulf Coast, Inc.

Pursuant to Section 11.45(4)(d), Florida Statutes, you are required to submit within thirty (30) days after receipt of this list a written statement of explanation concerning all of the findings, including therein your actual or proposed corrective actions. If within the 30-day period you have questions or desire further discussion on any of the preliminary and tentative audit findings and recommendations, please contact this Office.

Your written explanation should be submitted electronically in source format (e.g., Word or WordPerfect) and include your signature. For quality reproduction purposes, if you are not submitting your response in source format, please convert your response to PDF and not scan to PDF. If technical issues make an electronic response not possible, a hard copy (paper) response will be acceptable.

Please e-mail this Office at flaudgen_audrpt_sga@aud.state.fl.us to indicate receipt of the list of preliminary and tentative audit findings and recommendations. Absent such receipt, delivery of the enclosed list is presumed, by law, to be made when it is delivered to your office.

Sincerely,

A handwritten signature in blue ink that reads "Sherrill F. Norman".

Sherrill F. Norman

SFN/ca

Enclosure

c: Ms. Susan Skelton, Executive Director

**PRELIMINARY AND TENTATIVE AUDIT FINDINGS
NOT AN AUDIT REPORT**

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.

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.

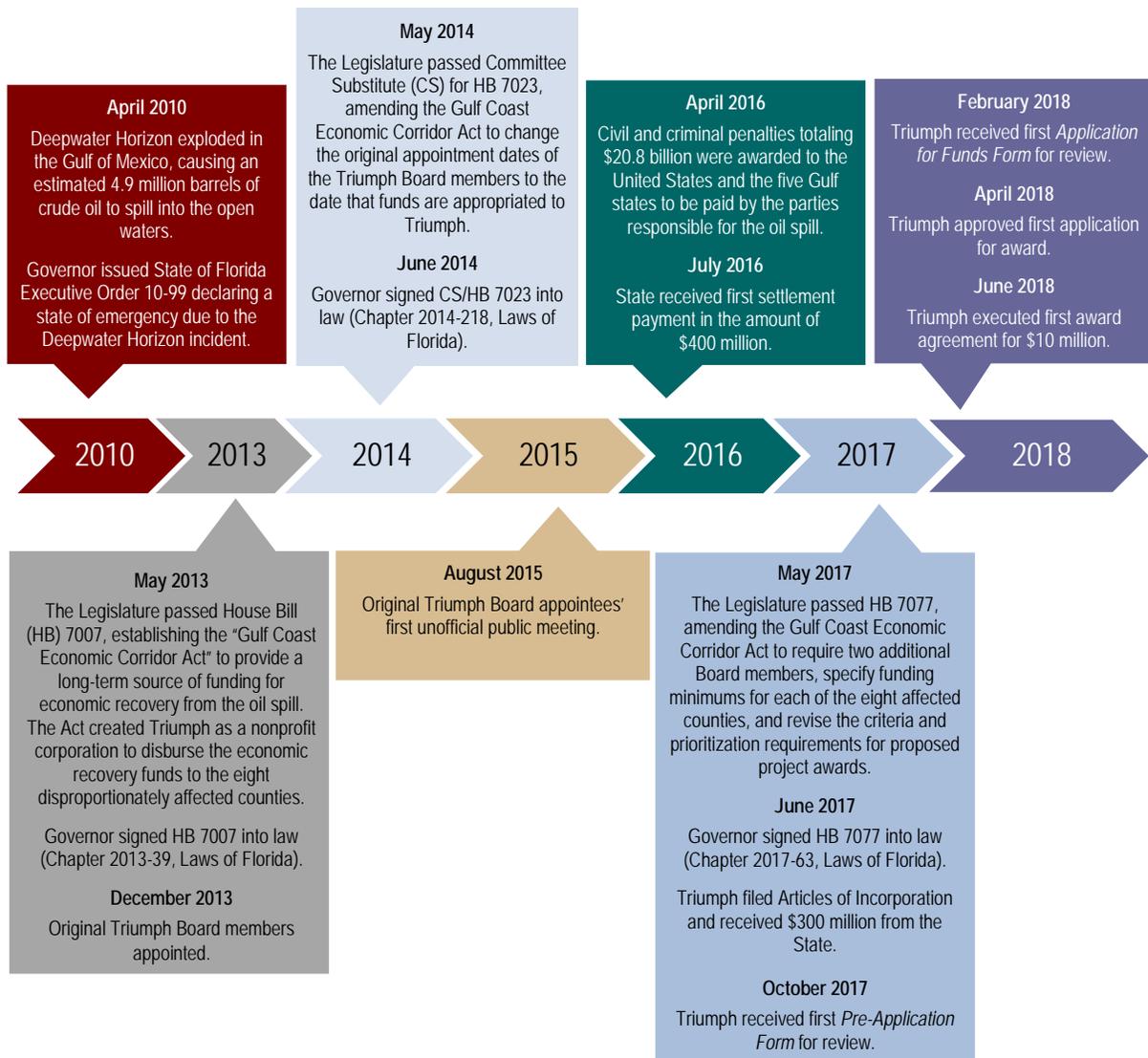
⁵ Section 288.8013(2)(b)2., Florida Statutes, specifies that at least 32 percent of settlement agreement funds received after July 1, 2017, are to be allocated equally among the eight disproportionately affected counties.

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

PRELIMINARY AND TENTATIVE AUDIT FINDINGS
NOT AN AUDIT REPORT

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.

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.

**PRELIMINARY AND TENTATIVE AUDIT FINDINGS
NOT AN AUDIT REPORT**

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 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.

⁷ Section 288.8016, Florida Statutes.

⁸ Section 288.8017(1), Florida Statutes.

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

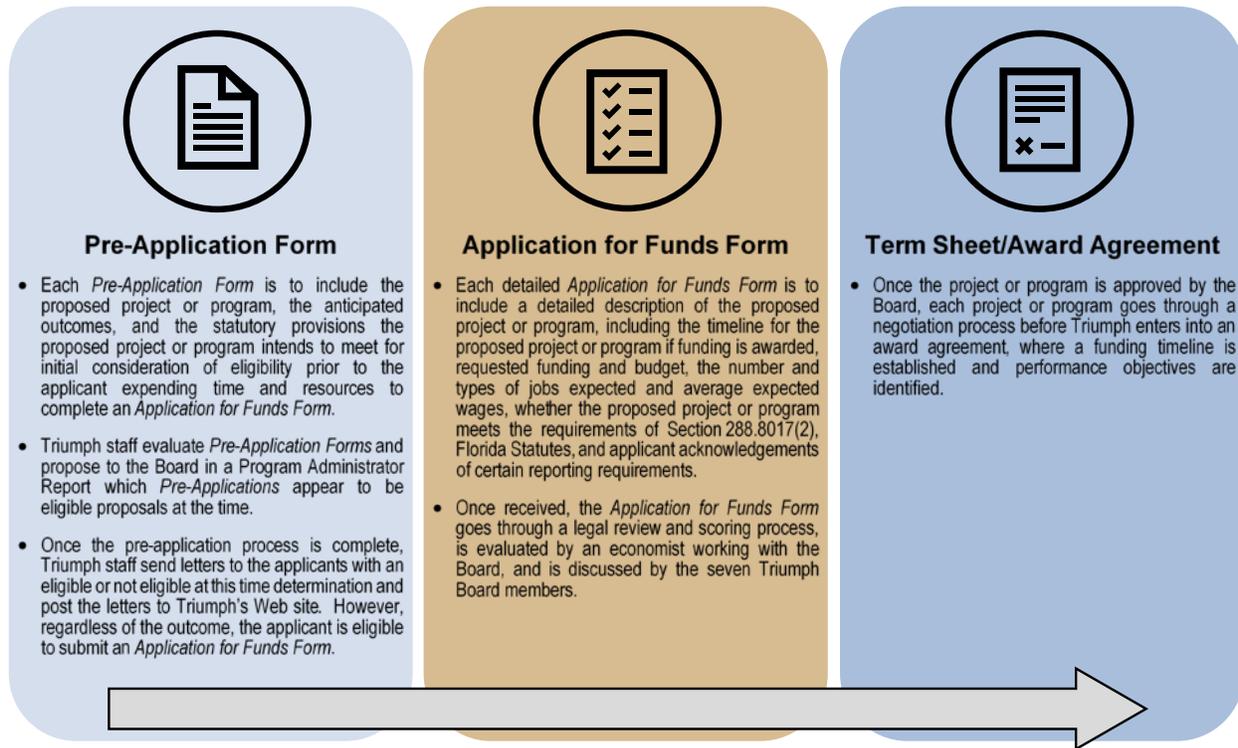
¹⁰ Section 288.8017(3) and (4), Florida Statutes.

¹¹ Section 288.8016(3), Florida Statutes.

¹² Section 288.8017(2), Florida Statutes.

**PRELIMINARY AND TENTATIVE AUDIT FINDINGS
NOT AN AUDIT REPORT**

**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

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

**PRELIMINARY AND TENTATIVE AUDIT FINDINGS
NOT AN AUDIT REPORT**

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 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

¹⁴ Section 288.8014(9), Florida Statutes.

¹⁵ Section 288.8016(1), Florida Statutes.

¹⁶ Chapter 2017-063, Laws of Florida.

**PRELIMINARY AND TENTATIVE AUDIT FINDINGS
NOT AN AUDIT REPORT**

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 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,

¹⁷ Section 288.8013(3), Florida Statutes.

***PRELIMINARY AND TENTATIVE AUDIT FINDINGS
NOT AN AUDIT REPORT***

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 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.

End of Preliminary and Tentative Audit Findings.