Denali Commission
Office of Inspector General
Seattle, WA 98174

November 4, 2014

INFORMATION MEMORANDUM FOR THE DENALI COMMISSIONERS

FROM: David Sheppard
Acting Inspector General

SUBJECT: Top Management Challenges Facing the Denali Commission in Fiscal Year 2015

Enclosed is our report on the Denali Commission's top management challenges for fiscal year (FY) 2015. The commission has been substantially affected by continued budget reductions and a decision by the Justice Department in 2006 regarding the application of federal conflict-of-interest rules to the commissioners. Inherent logistical challenges also impact the commission staff's ability to visit funded projects.

We remain committed to keeping the commission's decision-makers informed of problems identified through our audits, evaluations, and investigations so that timely corrective actions can be taken. A copy of this report and the commission's response to it (which appears as an appendix) will be included in the commission's Agency Financial Report, as required by law.[1]

We appreciate the cooperation received from the commission, and we look forward to working with you in the coming months. If you have any questions concerning this report, please contact me at (206) 220-7970.

cc: Corrine Eilo, Chief Financial Officer, Denali Commission
Tessa Axelson, Director of Programs, Denali Commission
Todd Zinser, Inspector General, U.S. Department of Commerce

[1] 31 U.S.C. § 3516(d).

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Challenge 1

Identifying a Strategic Vision and Plan in a Period of Uncertainty

The Denali Commission has had diminishing funding since fiscal year (FY) 2006. It no longer receives Congressional earmarks, and receives few transfers from other federal or state agencies. In FY 2006, the commission's budget was $140.6 million, with funding coming from six federal sources. Its FY 2014 budget is $13.8 million, with funding coming from only two federal sources: the Energy and Water Development and Related Agencies Appropriations Act, 2014, and the Trans-Alaska Pipeline Liability Fund.

Despite this drastic reduction in funding over the past 8 years, the commission has not yet developed a strategic plan that would define its vision for the future and identify strategies to get there. This is due in part to funding uncertainties, other pressing priorities (such as the widely reported conflicts between the commissioners and the former Inspector General), and resource limitations.

Earlier this year, the commission entered into an agreement with the Performance Institute of Washington, DC, to help it begin the critical effort of creating a strategic plan. This process will require bringing together commissioners with different perspectives and with varied perceptions of the commission's priorities. It will also require that commission staff, the federal co-chair, and the commissioners themselves agree on a common vision for the commission's future and a set of core values. This will be a challenge, considering the commission's limited and uncertain funding.

However, this funding challenge is the very reason that the completion of a strategic vision and planning effort is so critically important. Strategic planning will help the commission fulfill its mandate from Congress by (a) clearly identifying its priorities and whom it should be serving, and (b) developing a process to help it deliver those priorities to its beneficiaries, which are primarily rural Alaska communities. The planning process will also help the commission to make the best use of its limited funding and unite the commission staff, commissioners, and its stakeholders—which include its beneficiaries, the Alaskan Congressional delegation, and others—around a common vision and approach. The planning process should also provide the commission with a method of assessing whether its activities are successfully meeting measurable program goals.

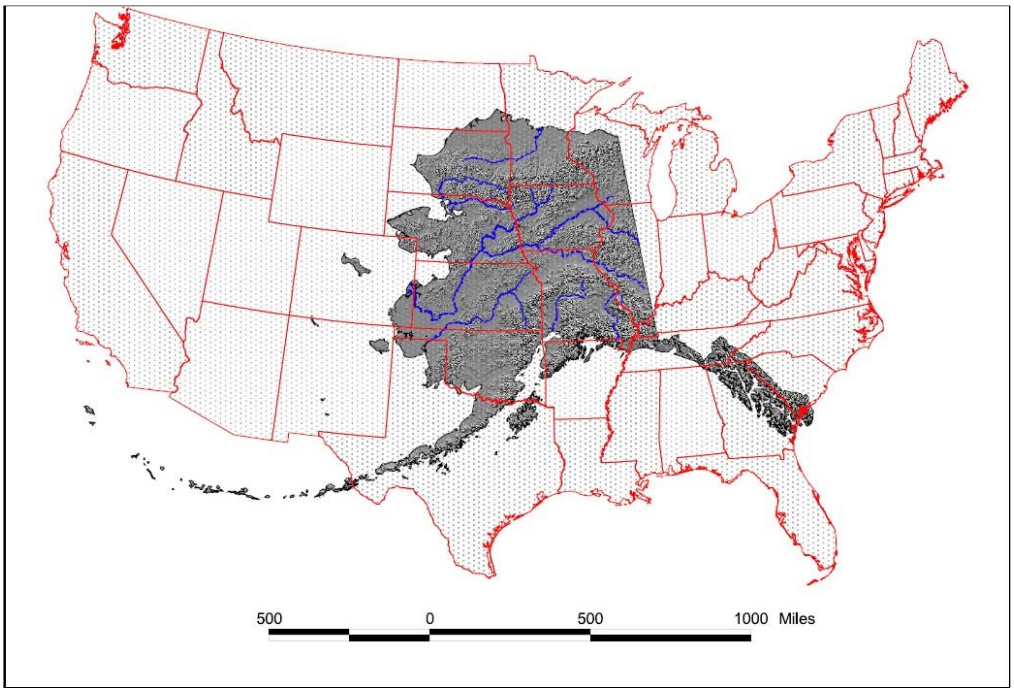
In order to have an effective strategic planning process, the commission must have the full support of each staff member and each commissioner, working toward a common goal and pulling in the same direction.

Challenge 2

Improving the Monitoring of Grant Recipients in the Face of Logistical Challenges

Alaska's large size, sparse population, and lack of roads present a challenge to the commission in monitoring the activity of its grant recipients. The state's land mass comprises more than 570,000 square miles, by far the largest of the 50 states (see figure 1), but it is among the most sparsely populated—ranking 47th, with just over 735,000 residents. And Alaska's terrain of vast wilderness creates natural barriers to transportation. As a result, Alaska has very few roads, and those that exist cover only a very small area of the state (see figure 2). Most cities and villages in Alaska, including the capital city of Juneau, are accessible only by sea or air.

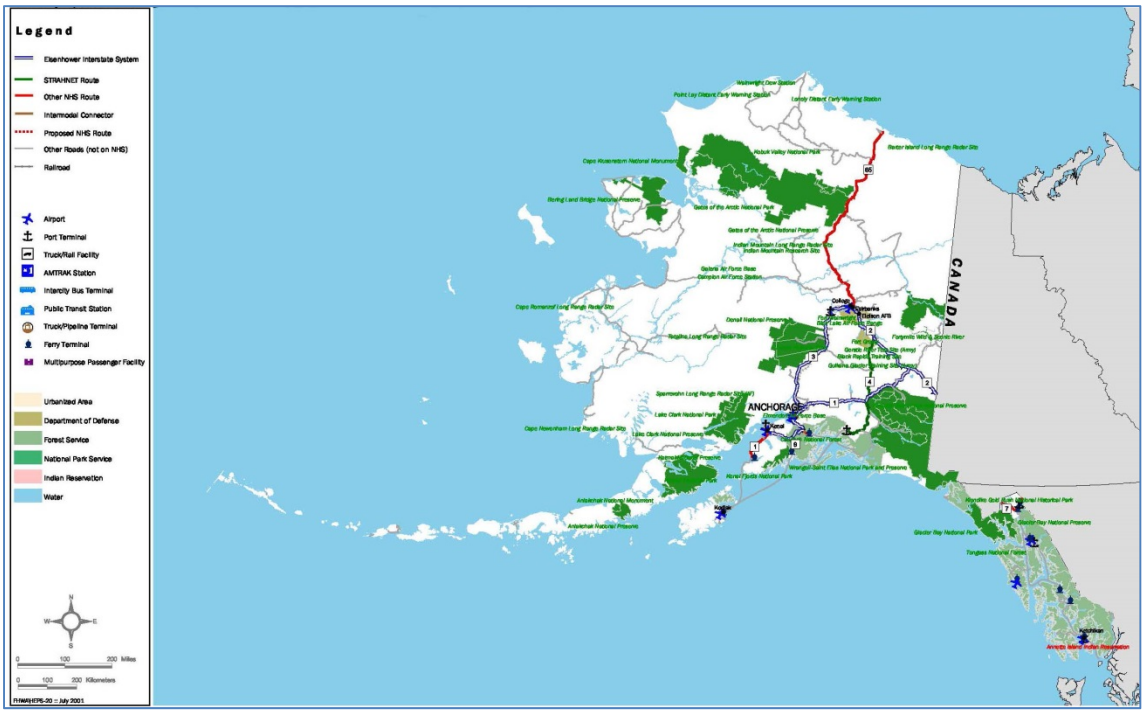
Figure 1. Size of Alaska Compared to the Lower 48 States



Source: U.S. Department of Agriculture, Natural Resources Conservation Service.

Much of the Denali Commission's funds support projects located in rural areas of Alaska. These projects can be difficult and expensive to visit. For example, in 2008 the commission provided nearly $1.53 million to the Alaska Native Tribal Health Consortium for the construction of a clinic in Kobuk, Alaska, a city in the Northwest Artic Borough. The only way of reaching Kobuk is by air, and its airport is a general aviation facility that does not have regularly scheduled commercial passenger service. A flight from Anchorage to Kobuk can take between 9 and 11 hours with two stops, and costs nearly $900; there are no hotels in or around Kobuk.

Figure 2. Alaska Highways



Source: U.S. Department of Transportation, Federal Highway Administration.

As a result of the remote location of many of the public works projects funded by the Denali Commission, it is both time consuming and costly to monitor their progress. While financial monitoring is not as difficult because grants are typically awarded to larger entities located near larger cities, without visiting the site it is difficult to determine whether certain items purchased for projects are actually used on them.

The challenge of ensuring that federal funds are being spent in accordance with the terms and conditions of the grant, and are satisfying the objectives of the award, can only be met by using creative monitoring and assessment techniques. For the commission to meet this challenge, its staff must develop cost-effective alternatives. We plan to conduct a review of the commission's project monitoring and assessment process for FY 2015.

Challenge 3

Engaging Commissioners in Light of Conflict-of-Interest Concerns and Funding Realities

The Denali Commission Act of 1998 establishes that the commission will be composed of seven members appointed by the Secretary of Commerce. The commissioners are responsible for creating an annual work plan for the commission. They represent a variety of perspectives throughout Alaska, and include the governor and the presidents of the University of Alaska, the Alaska Municipal League, the Alaska Federation of Natives, the AFL-CIO Alaska, the Associated General Contractors of Alaska, and the federal co-chair of the Denali Commission.

Given the positions held by the commissioners within their respective organizations, the commission requested an opinion from various federal entities—including the Office of Government Ethics and the Department of Justice—on whether federal conflict-of-interest laws apply to commissioners. The decisions provided by the Department of Justice in 2006 and 2007 were that, absent an exemption, the federal conflict-of-interest laws apply to each commissioner, in part because they are considered "special government employees."[2] In light of this determination, commissioners became concerned about their level of engagement, considering they could be held criminally liable for breaking conflict-of-interest laws.

As noted previously, the commission's funding has been declining since 2006 and is currently only $13.8 million. Incentives for commissioner engagement have weakened as a result of the limited funding available to support needed projects for their respective constituents.

While funding is not the only incentive for commissioners to be engaged in the work of the commission, and exceptions from conflicts of interest can be established by Congressional action or the granting of a waiver or exception, encouraging all commissioners to be sufficiently engaged with the commission's work remains a challenge.

The current cadre of commissioners embodies a wealth of knowledge and experience within the state and represents an important cross-section of tribes, municipalities, state government, academia, business, and labor. Obtaining their input and advice is considered by many to be an important component of the Denali Commission Act. Increasing commissioner engagement is therefore a challenge that the Denali Commission's staff will need to overcome to ensure it is meeting the intent of the act.

[2] A *special government employee* is defined by law (18 U.S.C. §202) as an "officer or employee … who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days, temporary duties either on a full-time or intermittent basis, a part-time United States commissioner, a part-time United States magistrate judge, or, regardless of the number of days of appointment, an independent counsel."

Appendix C: Management Response to OIG Draft Report

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Memorandum

To: David Sheppard, Acting Inspector General
From: Joel Neimeyer, Federal Co-Chair
Subject: Commissioner Response to Top Management Challenges Facing the Denali Commission in FY2015
Date: November 3, 2014

This is in response to your memo dated October 6, 2014 concerning the above referenced subject. I am signing the document on behalf of all of the Commissioners who deliberated on the three top management challenges in a public meeting held on October 17, 2014. The following is offered.

Challenge 1: Identifying a Strategic Vision and Plan in a Period of Uncertainty:

Commissioners concur with this management challenge. We note that we want to produce a first draft by the next quarter of FY2015 and we want the plan to not be perfunctory, but to address the larger needs facing rural Alaska today. We are in the process of scheduling resources to this discussion and we intend to engage the Alaska delegation and the Office of the Governor in a meaningful way in the development of the agency strategic vision and plan.

Challenge 2: Improving the Monitoring of Grant Recipients in the Face of Logistical Challenges:

Commissioners concur with this management challenge. We note that with reduced resources the agency will have to identify creative solutions to monitoring grantees based upon risk management principles. As an example, we will explore opportunities with mature contractors/grantees as recognized by other agencies to reduce the need for additional agency oversight and utilize new mechanisms for grantees who need more wrap around support. The Denali Commission has experience with small communities facing multiple challenges and we will update agency processes in consultation with our other federal partners.

Challenge 3: Engaging Commissioners in Light of Conflict-of-Interest Concerns and Funding Realities:

Commissioners concur with this management challenge; however, we wish to note that disengagement is not exclusively a result from reduced agency funding, but more importantly from our collective unfavorable experience with the former Inspector General. Commissioners were appointed based upon their varied skills and experiences and the special government employee ruling has prevented full participation by the Commissioners, and we look forward to Congressional statutory changes to address this matter.

We thank you for the opportunity to provide our thoughts on the Top Management Challenges for 2015.