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SEMIANNUAL REPORT TO THE CONGRESS

FY 2008 – FIRST HALF

OFFICE OF THE INSPECTOR GENERAL

DENALI COMMISSION

ANCHORAGE, ALASKA



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INSPECTOR GENERAL

May 15, 2008

MEMORANDUM FOR FEDERAL CO-CHAIR CANNELOS

From: Mike Marsh, CPA, MPA, CFE, Esq.
Inspector General

Subject: Semiannual report to agency head and Congress for first half of FY 2008

The discussion below constitutes my report to the agency head and Congress, as required by the Inspector General Act, for the first half of FY 2008. This is the fourth such report for this function here at the Denali Commission.

BACKGROUND

The Denali Commission is an independent federal agency with its office in Anchorage, Alaska. Congress created it in 1998 through the Denali Commission Act.¹ The commission provides rural Alaska with some of the basic local facilities that the rest of the nation has long taken for granted. The agency's "legacy" programs fund the construction of clinics, powerhouses, and fuel tanks in some of the most challenging locations in America.

In 1999, Congress amended the Denali Commission's enabling legislation and the Inspector General Act to include the agency among the independent federal agencies required to have an "inspector general." The commission thus became one of around 30 "designated federal entities" that are statutorily required to have this oversight function. However, until three months ago (February 2008), the Denali Commission had no permanent arrangement to fulfill this mandate.

Up through 2005, the Appalachian Regional Commission (out of Washington, DC) periodically loaned its inspector general to the Denali Commission as a public service. For approximately two years after that, a local Alaskan agency responded to a request from the federal co-chair and sent a full-time detailee to serve as the commission's inspector general under the Intergovernmental Personnel Act. And I recall with mixed memories that it was a "lonely" staff-less office of one during those two years.

¹ P.L. 105-277, 42 U.S.C. § 3121.

OVERHAUL OF THE INSPECTOR GENERAL FUNCTION

In February 2008, the inspector general position (IG) was converted into a full-time, permanent federal employee of the commission itself. In the three months since this conversion, I have taken the following 15 steps to overhaul the function:

1. IG home page published, with online reports, listserv notification, and visible link from the agency's home page.²
2. IG work plan issued, with anticipated inspection of 10 projects involving a spectrum of issues.
3. First separate budget for IG function submitted to agency head (but not yet approved as of this writing).³
4. Full-time OIG staff position hired to support office administration and conduct project inspections.
5. Summer detail of an analyst arranged from another OIG to support specialized project inspections.
6. Part-time detail of an analyst arranged from the University of Alaska to support specialized project inspections over the next year.⁴
7. Part-time detail⁵ of a contract officer continued from another federal agency to support audit independence.
8. Contract let for a new financial auditor⁶ under terms that clarify OIG oversight.
9. Contract let to remodel the OIG office suite to accommodate staffing, assure confidentiality, and preserve physical separation from the commission's operating staff.
10. Arrangements made to consult with other IG lawyers⁷ as needed for advice.
11. Arrangements made to share IT support with the agency for non-sensitive work.

² See www.denali.gov.

³ There was no separate IG budget at the Denali Commission prior to April 1, 2008.

⁴ The former state director of the Cooperative Extension Service now serves as Professor of Rural Development. The university has agreed to detail this experienced PhD (to quote the federal Intergovernmental Personnel Act) "for work of mutual concern . . . beneficial to both." See 5 U.S.C. §§ 3372, 3374.

⁵ Per Denali Commission Act §§ 306(d), 305(a).

⁶ The auditor for FY 2008 will be Clifton Gunderson CPAs of Calverton, Maryland.

⁷ The Council of Counsels to Inspectors General (CCIG) in Washington, DC.

12. Arrangements made to consult with GAO's IT security lab for technical assistance as needed.
13. Agreement reached with the agency's finance staff as to procedures for OIG travel that accommodate the respective needs for independence and compliance with Federal Travel Regulations.
14. IG's periodic attendance at ECIE meetings started.⁸
15. IG's participation continuing, as the ECIE IG representative, in monthly meetings of the AGA / OMB Partnership for Intergovernmental Management and Accountability (national panel of experience to share lessons learned in federal grant accountability).

IT SYSTEM DISRUPTION

In January 2008, the Denali Commission, in effect, electronically "seceded" from the federal system when it lost its capacity for email, fax, and wireless communication for a period of around two weeks. I recommended that management retain an IT security consultant to determine the cause.

GAO's IT security lab provided me with technical assistance in reviewing the adequacy of the methodology used by management's outside consultant to determine the disruption's cause. I have concluded that (1) the consultant employed a reasonable investigative methodology given the evidence available after the incident, (2) the commission's management has effectively investigated and responded to the incident, and (3) further investigation by the IG is unnecessary.

CONTINUING INSPECTION OF SUSPENDED GRANT

Last year, the commission's CFO suspended a grant for construction of 12 facilities around rural Alaska. I opened an inspection of this grant and anticipate that the review will be completed this summer.

ANNUAL FINANCIAL AUDIT

I contracted with Brown and Company CPAs of Largo, Maryland to perform the annual financial audit for FY 2007. This firm issued an unqualified opinion on the financial statements, with one finding on internal controls: a "significant deficiency" (but not a "material weakness") indicating the need for improved policies and procedures concerning the accounting for grants.

⁸ My attendance at ECIE meetings will, of course, be efficiently coordinated with other business in Washington, DC.

NEW INSPECTION OF GRANT FOR ALTERNATIVE FUEL RESEARCH

The Denali Commission awarded a \$2 million grant for a Canadian corporation to operate an energy research facility south of Anchorage. This research explored the feasibility of converting coal into a gas for fuel. The corporation recently announced its decision to terminate the experiment.

My past reports on other projects have strongly recommended that the commission apply its funding to find alternatives to the paradigm of diesel dependency that is challenging rural Alaska. The grant to be inspected appears to be just such an effort, and it deserves a public epilogue as the project is closed out and the physical facility decommissioned. My report will examine how this project advanced the commission's understanding of energy alternatives and what "lessons learned" exist for its funding of future research.

IG'S MONITORING OF THE PUBLIC PROCESS

Public Meetings

By agreement with the agency head, this inspector general routinely monitors events with a quorum of commissioners for compliance with 42 U.S.C. § 15911(c) (the applicable public meetings law).⁹ Some gatherings of the panel of commissioners constitute "meetings" that require public notice and public access (such as "deliberations" to make decisions). Other gatherings do not (such as informational briefings by the commission's staff and external experts) — though the body is usually free to be more public than the legal minimums. My monitoring since the beginning of FY 2008 shows the commission's process to have been consistent with its open meetings statute.

However, compliance with public meeting laws doesn't necessary translate into public participation. Though the commission spreads its quarterly meetings around the state at considerable expense, attendance varies considerably from place to place. For instance, I observed less than a dozen members of the public¹⁰ at the commission's recent meeting in Cordova, Alaska (a scenic but remote seacoast town of pop. 2,200 beyond the road system).¹¹

On the other hand, attendance always seems good at the informal community dinners that the commissioners and staff attend in the evening. Though these community meals have not been

⁹ In 2005, Congress enacted an open meetings law specifically applicable to the commission. Though not an amendment to the Denali Commission Act, the commission's open meetings statute is codified as a permanent part of the United States Code at 42 U.S.C. § 15911(c). The wording of this law is not original; rather, Congress has adapted parts of the Government in the Sunshine Act (GISA, 5 U.S.C. § 552b) that has been applied over 30 years to many other agencies.

¹⁰ This limited attendance included three local presenters, one news reporter, and only two persons who offered public testimony (including one who owned the hotel where the meeting was held). There may have been a few people listening on the telephonic audio-conference.

¹¹ The small town of Cordova (pop. 2,200) is one of the spectacular settings that appear in the national public television documentary *Over Alaska* (KCTS Television, 2001). Cordova is a century old this year, demonstrating resilience over its lifespan to a town fire, loss of its founding industry, the nation's strongest earthquake, and the nearby grounding of the *Exxon Valdez*.

treated as the official “meeting,” combining the two events might be a simple answer. Meetings in historic locations or buildings might be another. Another possibility is the so far untried option in the enabling legislation for individual commissioners (less than a quorum) to “hold hearings” around the state without convening the panel as a whole.¹²

But no matter how the commission evolves, it should never forget its foundation to serve the “other Alaska” that most visitors never see. Memories are enhanced to the extent that at least a meeting a year is traditionally held in a setting beyond the urban centers.

One difficulty with such remote settings, though, is the struggle to coordinate available air transportation with meaningful attendance by part-time commissioners — whose ex-officio statutory appointments result from their very status as full-time, key leaders in other statewide organizations.¹³ For the most recent meeting in Cordova, the commission even chartered a plane to accommodate some commissioners’ travel schedules.

As with all of the commission’s public meetings in recent years, staff flew in an Anchorage court reporter to record the proceedings in Cordova. While this expense reflects a genuine effort at a transparent process, management needs to review whether these verbatim recordings ultimately translate into published transcripts.¹⁴ The last published transcript on the commission’s home page appears to be for a meeting held three years ago.

Nevertheless, the overall point here is that venues where the commissioners and staff outnumber the public signal a need to rethink the costs and benefits of a well-intended effort.

Role of the Commissioners

I’ve repeatedly reported that the commission’s most untapped resource is the commissioners themselves. They’re no ordinary advisory panel. In the enabling act, Congress has assembled the most esteemed “dream team” of statewide experts since the drafting of the Alaska Constitution. My monitoring of the past year’s meetings shows that they are indeed collectively developing their rightful role as Alaska’s think tank that brainstorms breakthroughs — the solutions-in-waiting that lie somewhere beyond the classic federal “just add money.”

In fact, individual commissioners are taking an active role on the technical review panels that screen potential projects for feasibility. And staff is adapting online software that will remotely alert commissioners to offer any insights as applications for funding are being processed. As one commissioner commented at the recent meeting in Cordova, the agency is “breaking new ground all the time.”

¹² See Denali Commission Act § 303(e).

¹³ I also note with concern that one of the statutory commissioners, a key statewide leader, no longer regularly attends the panel’s meetings.

¹⁴ The court reporter indicates that her company charges \$4.50 per page to type up a transcript from her recording.

Selection and Monitoring of Grantees

Staff's recent documentation of grant approval processes¹⁵ is a commendable step toward greater public understanding of how the agency selects and denies. However, potential application of the Administrative Procedures Act (APA)¹⁶ to this internal documentation remains unexplored at this point. The agency's management should pursue guidance from its legal counsel as to whether the APA requires a more formal and public rulemaking process for policies that affect the public, such those that prescribe grant applications, matching requirements, and selection criteria.

My past reports have criticized the commission's failure to evaluate the "impacts" and "outcomes" of its major programs (clinics; rural electrification). Both the agency head and inspector general recently received helpful guidance on this issue from national experts on the commission's financial management advisory committee. That panel persuasively argues that a spectrum of careful case studies (qualitative, anecdotal examples) can tell a more valuable story than the traditional social surveys and generalized statistics (quantitative "measures" and "indicators"). With my new staffing noted above, my increased inspections for "lessons learned" will contribute to the public conversation concerning what's been done with what's been given.

One obvious possibility is for the commission to condition receipt of its money on a grantee's commitment to report back results for several years after a facility opens. This would test whether the "business plans" submitted with grant applications function as charters of control, or mere promotional materials. Any lore that the Denali Commission can't customize its grant conditions is nonsense — and should be scrutinized by the federal co-chair with his counsel as needed.

The commission's staff remains internally divided as to the proper balance among convenience, flexibility, and accountability in allowing grantees to diffuse a single award beyond one discrete physical facility. To the extent that scores of construction projects are buried in a "pooled" award, the federal co-chair is simply compromised in his ability to confidently tell the public where its money ended up. This, of course, doesn't mean that the money has been misused; it's just harder to say for sure one way or the other.

But such debates over grantees' desires and obligations beg the very uncomfortable question as to the public value that should be added through the commission's role as a funding "wholesaler." Inspections by my increased staff this summer should help the agency head better understand the degree to which grantees can trace their funding to particular facilities.

¹⁵ The process varies among the programs.

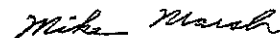
¹⁶ 5 U.S.C. § 553.

THE DESTINY OF DENALI

In the work of the Denali Commission, there are definite behemoths in the back of the room. They include (1) escalating costs of sending diesel fuel to the “bush,”¹⁷ (2) ubiquitous national health care issues,¹⁸ (3) migration from rural Alaska to cities (vanishing villages),¹⁹ and (4) geology of the changing coastline. All of these factors affect the future of Alaska — and what the Denali Commission can accomplish here.

GAO recently announced its plans to update its 2003 review of the federal role in Alaskan communities with shorelines threatened by flooding and erosion.²⁰ However, another important aspect of changing coastlines is geologists’ prediction that a viable transcontinental shipping channel will open up through the arctic over the next decade.

If that long-sought “Northwest Passage”²¹ materializes as predicted, Alaska’s northern and western coasts (including the watersheds of the Yukon and Kuskokwim rivers) will be part of the action.²² Some federal umbrella entity will need to coordinate both the economic opportunities and the provision of en route services (billable ones) expected by international shippers. To the extent Congress might repeat the models of the St. Lawrence Seaway Development Corporation and the Tennessee Valley Authority, that essential federal presence could conceivably be the Denali Commission.



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INSPECTOR GENERAL

¹⁷ For instance, one barge company recently told the commissioners that it plans a shipping increase of \$1.50 per gallon of diesel fuel for its customers in rural Alaska this fall.

¹⁸ See, for example, Alex Berenson, “Debate on rural dental treatment goes nationwide” and Debra McKinney, “Fighting cancer with Native foods,” both front-page stories in the *Anchorage Daily News* on April 28, 2008.

¹⁹ See Stephanie Martin, Mary Killorin, and Steve Colt, *Fuel Costs, Migration, and Community Viability* (Institute of Social and Economic Research, University of Alaska Anchorage: May 12, 2008).

²⁰ See GAO, *Alaska Native Villages: Most Are Affected By Flooding and Erosion, but Few Qualify for Federal Assistance*, GAO-04-142 (Dec. 2003).

²¹ The closest realization of that polar trade route was the establishment of commercial flights over the North Pole starting in the 1950s (much to the economic benefit of Alaska). We note with sadness the January 2008 death of Alaskan Einar Pedersen, who pioneered this chapter in commercial aviation with the needed advancements in airline navigation.

²² Alaska’s share of the route could conceivably be labeled someday on maps as the “Denali Passage,” given the highest mountain’s position as the approximate geometric center of the arc — a matter that obviously lies within the province of the board of geographic names rather than this inspector general.