



Denali Commission
510 L Street, Suite 410
Anchorage, AK 99501

907.271.1414 *tel*
907.271.1415 *fax*
888.480.4321 *toll free*
www.denali.gov

INSPECTOR GENERAL

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FINAL REPORT

FOR PUBLIC RELEASE

Inspection of Tanacross community center
(grant 94-DC-2003-I9, state sub-award 84-0845)

Congress provided two appropriations to the Denali Commission for “multi-purpose community facilities.” Denali passed this money on to Alaska’s state government as grant 94-DC-2003-I9 for \$7.3 million. In July 2009, Denali formally closed out this grant.

The state government issued sub-awards for 12 projects across Alaska. One of these projects was a \$349,817 sub-award to construct a community center in the tiny, unincorporated settlement of Tanacross (pop. \approx 190). In September 2009, the Office of Inspector (OIG) conducted an inspection of the construction site.

The purpose of this inspection was to evaluate (1) the present status of the construction site and (2) the state’s process for monitoring its sub-award. Though Denali no longer issues grants for such “multi-purpose” (or “multi-use”) facilities, we noted some lessons worth considering in its continuing programs.

PROJECT’S LOCATION

Tanacross is a small Alaskan settlement (pop. \approx 190) about 70 miles west of the Canadian border. It lies on the state’s main highway system, 12 miles from the major intersection (Tok Junction) of the Alaska Highway (goes to Fairbanks) and the Glenn Highway (goes to Anchorage). In other words, Tanacross is connected via hard-surface highways to Alaska’s two largest cities and to the Lower 48.

Tanacross also has an airport with a paved 5,000-foot runway, which remains from World War II and is still used by aircraft that fight wildfires. And it lies on the navigable Tanana River (Tanacross is the historical shorthand for “Tanana Crossing”).

While Tanacross is less isolated than many Alaskan settlements, its long winters can drop to a harsh 75°F below zero. However, the average low temperature in January is a “warmer” 22°F below zero. The drive to Fairbanks is 200 miles. And the drive to Anchorage, though scenic, takes a full day.

Tanacross is not incorporated as a city. Rather, the settlement has a tribal government. BIA counted 169 tribal members in 2005 but considered only 124 to actually live in Tanacross. The tribe claims 92,000 acres under the Alaska Native Claims Settlement Act. The tribe's financial statements for 2003 to 2005 (the years involved in Denali's grants) show that it annually received funding from 12 to 18 types of federal grants during that time period.¹

The settlement has approximately 50 households that are clustered around a 14-block town site. There is a publicly-funded school with 17 students, 2 teachers, and a principal.

PROJECT'S FUNDING HISTORY

At various points over the past decade, HUD and the Denali Commission have awarded grants for the tribe² to build itself a community center at Tanacross. The awarded grants totaled around \$1.5 million, but the tribe has actually received \$843,898.

The tribe originally asserted that the building would cost just under \$670,000, and HUD responded with a \$500,000 grant in 2001. Based on the tribe's final grant report in 2004, HUD assumed that the tribe had completed the building and the agency then closed out the grant. HUD was thus surprised to discover in 2006 that the only progress was a concrete foundation (which remains the case to this day).

In 2003, Denali awarded the tribe a grant of \$671,424 to continue construction on this building. This grant was passed through the Alaska Native Tribal Health Consortium under Denali's health facilities program. In contrast to HUD's misassumption of completion, Denali's program manager mistakenly assumed for some time that construction had not yet started (it was actually well under way).

In 2004, Denali awarded the tribe a further grant of \$349,817 for the building. This grant was passed through the State of Alaska under Denali's program to construct "multi-use" buildings (grant 94-DC-2003-I9). The state then applied this money to Tanacross' project as state sub-award 84-0845 — the subject of this report. Denali paid the state \$6,996 to administer this sub-award.

By June 2005, the tribe determined that the planned building would actually cost \$4.4 million. Denali discontinued its funding in view of the confused construction and escalating estimates. By August 2005, the tribe's progress report to the state described the project's status with a single sentence: "*The project has been halted by the Denali Commission.*"

However, the state had already paid out \$340,098 of Denali's money under "multi-use" sub-award 84-0845. Over 70% of this (\$253,089) was for two direct payments to a Colorado vendor that delivered structural steel to the construction site.

¹ The 2003-2005 financial statements are the ones issued for the Tanacross Village Council as reported on the federal government's public online database at <http://harvester.census.gov/fac/>.

² More specifically, these grants were made to the Tanacross Village Council (the "tribe" for purposes of this report).

WHY WE INSPECTED THIS PROJECT

In July 2009, Denali formally closed out grant 94-DC-2003-I9 to construct 12 “multi-purpose” (or “multi-use”) buildings around the state.

Denali’s experiment with such facilities has been a controversial program in the agency’s short history of only a decade. In 2007, Denali’s CFO notified OIG that she was suspending grant 94-DC-2003-I9 to the State of Alaska.³ The CFO’s letter to the state government indicated the following reasons for this administrative action:

The reasons for the suspension of funds are due to lateness of financial reporting, inaccuracy of financial reporting, no submissions of quarterly estimates, expenses for grants being charged to other grants, inaccuracy on cash versus accrual on financial reports, and inconsistent information from financial versus program staff at [state’s department].

OIG learned that construction of the buildings for at least two of the 12 locations had been started but never completed. One of the uncompleted buildings was at Tanacross.

CONCLUSIONS

Construction stopped five years ago, with the building never completed

The national norm for grant-financed buildings is construction by a contractor selected through arms-length competitive bidding. Grant-making agencies assume that the risk of an unfinished project will be minimized by a fixed price and a performance bond (unless the owner requests additional work, or the contractor encounters unforeseen site conditions).

However, the federal government will sometimes allow other approaches, and sub-award 84-0845 to Tanacross was one of them. The grant application was premised on the tribe’s use of its own subsidiary company (Dihthaad) and its own local workers (“force account labor”). The motivation was understandable, given the tribe’s high unemployment and the struggle with its subsistence (non-cash) economy. BIA’s latest online statistics (for 2005) show employment for less than half of the 67 tribal members available for work in Tanacross.

While Denali granted the tribe’s wish to do the job themselves, the tribe’s assertions of the building’s cost grew from just under \$670,000 (in 2001) to \$4.4 million (in 2005). In the end, the tribe spent over \$840,000 in federal funds but obtained only a concrete foundation and a pile of structural steel.

The tribe completed the building’s concrete foundation in the fall of 2004. The tribe’s November 2004 progress report to the state described the project’s status as follows:

³ In fact, this was only one of seven grants to the State of Alaska that Denali’s CFO suspended. While she has the authority to do this under the grant agreements, it seemed to OIG to be an atypical scenario in federal-state relations.

Foundation is complete. All footings, pilasters, grade beams and anchor bolts are installed. We are ready to receive and erect the building. The steel building has been paid for and arrangements for pick up and shipment are currently under way by our management & procurement contractor, Dihthaad Global Services, LLC.

In September 2009, OIG visited Tanacross and observed that no further construction has occurred in the past five years. Our photos (Exhibits 1 thru 5) show the unused foundation today.⁴

Over 70% (\$253,089) of the state's Denali-funded sub-award was paid to a Colorado vendor that supplied the structural steel frame for the building. That steel was delivered by truck to Tanacross in April 2005.

It is important to realize that this costly steel was not a raw material that required further processing before use in a building. Rather, the many pieces arrived in Tanacross as a custom-manufactured "kit" ready for assembly as the frame of a specific building (essentially a metallic barn-raising in waiting).

During OIG's September 2009 visit, we observed the many pieces from this steel purchase to be stacked amidst the weeds on the edge of Tanacross.⁵ The collection appears to have been left unused and undisturbed as the winters have come and gone over the past 4½ years. Our photos (Exhibits 6 thru 11) show this field of steel.

The tribe apparently has no plans to use the steel unless a government agency provides further funding. This expectation is not surprising given the tribe's past success in receiving federal grants. The tribe's financial statements for 2003 to 2005 (the years involved in Denali's grants) show that it annually received funding from 12 to 18 types of federal grants during that time period.⁶

In other words, though the \$253,089 kit lies in the weeds waiting for assembly, the tribe has no plans to raise its own barn unless paid to do so.

During OIG's visit, the tribe's president⁷ indicated that he did not even have a set of the architect's plans for constructing the building. He considers responsibility for the building's lack of completion to lie with prior leaders.

Grant recipients that receive over \$500,000 in annual federal funding are required to have an audit by a CPA firm. A summary of these audits appears on a well-known public website offered

⁴ Our GPS reading shows the foundation to be located at N 63° 22' 43.1" W 143° 21' 31.7" datum NAD 1927.

⁵ Our GPS reading shows the steel to be located at N 63° 22' 47.9" W 143° 21' 49.7" datum NAD 1927. A connex (metal storage container) at this same location contains related building materials, such as bales of insulation (see Exhibits 12-13).

⁶ The 2003-2005 financial statements are the ones issued for the Tanacross Village Council as reported on the federal government's public online database at <http://harvester.census.gov/fac/>.

⁷ More specifically, the current president of the Tanacross Village Council.

by the federal system.⁸ This public website indicates that the tribe⁹ at Tanacross had such audits for its fiscal years 1998 thru 2005. The website notes that the reporting CPA firm for the last audited year (2005) included a “going concern” explanatory paragraph in its audit report.

OIG obtained a copy of the CPA firm’s 2005 audit report from the records maintained by the State of Alaska’s single audit coordinator. The audit report states in part:

[T]he Council’s current liabilities exceed current assets by \$587,167 including deferred revenue in excess of cash by \$110,188. In addition, the Council’s liability, if any, for the unpaid debts of Dihthadd Global Services, LLC is not presently determinable. These conditions raise substantial doubt about its ability to continue as a going concern.

The 2005 financial statements that the CPA audited further indicate that Dihthaad has “ceased operations.”

The CPA firm was hired by the tribe — not OIG — and OIG has not attempted to “re-audit” that firm’s work. However, the tribe’s grant application was premised on use of its subsidiary, Dihthaad, to manage construction of the building funded by Denali. The last audit report filed with the federal system is further indication that the tribe is now unlikely to use the funded materials for their intended purpose.

Recommendation: Denali retains a reversionary interest in the unused steel that was purchased with a quarter-million federal dollars.¹⁰ However, Denali’s enabling act does not authorize the agency to directly dispose of federal property interests and reapply any proceeds to further projects. Congress would explicitly need to add such authority to Denali’s legislation.

Denali should thus do an MOU with GSA (the presumed servicer for federal property) to recover the reversionary interest. If GSA decides to do a public sale of the steel as “surplus,” the law appears to require deposit of the proceeds into the general U.S. Treasury as “miscellaneous receipts.” However, GSA may find that the Department of Defense can use the “excess” steel in military projects down the highway at Fort Greely (100 miles north) or at Gakona (100 miles west). Tanacross also has a mile-long airstrip that could support such logistics. Or, with GSA’s technical assistance, Denali could conceivably find a good home for this steel at another grantee.

The steel’s pricing warranted further scrutiny under federal cost standards

The state committed to the requirements of OMB Circular A-87 as a condition of receiving Denali’s money. That rule specifies the permissible purchases (“allowable costs”) under a federal grant. One key provision is that the cost for an item be “reasonable” in amount under the circumstances, an analysis that the rule discusses in its Attachment A, section C(2).

⁸ See <http://harvester.census.gov/fac/>.

⁹ These were audits of the 1998-2005 financial statements of the Tanacross Village Council.

¹⁰ See *City of Hydaburg v. Hydaburg Co-Op*, 858 P.2d 1131 (Alaska 1993); *In re Joliet-Will County Community Action Agency*, 847 F.2d 430 (7th Cir. 1988).

The tribe's application for sub-award 84-0845 was a lengthy one of over 150 pages. A section on the project's "design approach" included the following description:

With the Native Village of Tanacross subsidiary, Dihthaad Global Services, LLC, taking the lead, a relatively new concept for arctic building construction was selected and refined by their architect [firm name]. The key element of the building system is the use of Structural Insulated Panels, or SIP, over a "red iron skeleton" for a pre-engineered building. . . SIP panels will be attached to the "red iron" skeleton which will rise from a concrete slab on grade. . .

The grant application indicated the tribe's intent to spend \$49,000 on the 9,600 square-foot "red iron skeleton" for the building's "superstructure." Yet, at the tribe's request, the state's grant administrator approved payments of \$253,089 for this single item, that is, over 70% of the entire amount of the sub-award. In fact, the sub-award's entire budget line for "supplies and materials" was \$253,102.

A further red flag occurred when the Colorado attorney general represented customers, including the tribe, in a class-action consumer protection lawsuit brought against the steel manufacturer. The tribe accepted the offered settlement of about \$9,000, and the state's grant administrator then forwarded the settlement money on to Denali.

We understand the pressures on a tiny tribe in remote Alaska to accept any cash infusion offered by any branch of government. However, as noted above, Denali retained a reversionary interest in the steel that was purchased with a quarter-million of federal dollars. Neither Denali's staff nor the state's grant administrator apparently understood the need to consult the U.S. Department of Justice regarding the settlement offered by the Colorado attorney general.

Recommendation: Denali should request that GSA consult the Colorado attorney general and assess the extent to which a potential federal claim was compromised by the tribe's acceptance of the offered settlement.

Recommendation: In consultation with GSA, Denali should develop a grant condition that requires immediate notification of any litigation involving a Denali-funded project.¹¹ Denali should consider issuing this as part of a grants management "common rule" in the Code of Federal Regulations.

HOW WE INSPECTED THIS PROJECT

The state monitored this grant from its office in Fairbanks. OIG reviewed the extensive file maintained there for the Tanacross sub-award (literally 9½ pounds in weight and approximately 500 pages of paper). The state charged Denali \$6,996 for this administration. The state's grant manager answered our questions concerning these records.

OIG visited Tanacross in September 2009. The current president of the Tanacross Village Council showed us the construction site and related materials. OIG compared these observations

¹¹ OIG has previously recommended such a grant condition in our inspection reports for the Buckland power plant (2006) and the Sterling Landing tank farm (2007). These prior reports are available online at www.denali-oig.org.

to the architect's floor plan, sub-award terms, payment documentation, and photos submitted with progress reports. OIG's visit appears to be the first time that any Denali official has inspected the construction site.

It's important for readers to recognize that a project "inspection," such as this one, is narrower in scope and procedures than the classic financial "audit." One prominent originator of this type of inspector general review described it as follows:

*The idea is to prevent problems before they occur and to avoid vulnerabilities from becoming permanent features of programs. We usually initiate these reviews ourselves, but sometimes senior program managers request that we find out what is happening as grantees or government agencies struggle with the complex tasks of starting a new program — what seems to be working, what is not, what barriers grantees are facing, what, if anything, any of them have been able to do about problems which arise, what innovative practices grantees are experimenting with, and whether and how they are measuring progress, etc. . .*¹²

Our review was conducted in accordance with section 2 of Denali's standard grant assurances, sections 4(a) and 6(a) of the Inspector General Act, and the *Quality Standards for Inspections* issued by the federal Executive Council on Integrity and Efficiency.

Denali's management was provided a draft of this report, and we considered management's comments before publication of this final report.

MIKE MARSH, CPA, MPA, CFE, ESQ.
INSPECTOR GENERAL

(EXHIBITS 1 THRU 14 APPEAR ON THE FOLLOWING TWO PAGES)

¹² George F. Grob, "Inspections and Evaluations: Looking Back, and Forward Too," *Journal of Public Inquiry* (spring/summer 2004), page 11.



EXHIBIT 1 — FOUNDATION (SEPT. 2009)



EXHIBIT 2 — FOUNDATION (SEPT. 2009)



EXHIBIT 3 — FOUNDATION (SEPT. 2009)



EXHIBIT 4 — FOUNDATION (SEPT. 2009)



EXHIBIT 5 — FOUNDATION (SEPT. 2009)



EXHIBIT 6 — FIELD OF STEEL (SEPT. 2009)



EXHIBIT 7 — FIELD OF STEEL (SEPT. 2009)



EXHIBIT 8 — FIELD OF STEEL (SEPT. 2009)



EXHIBIT 9 — FIELD OF STEEL (SEPT. 2009)



EXHIBIT 10 — FIELD OF STEEL (SEPT. 2009)



EXHIBIT 11 — FIELD OF STEEL (SEPT. 2009)



EXHIBIT 12 — STORAGE CONNEX (SEPT. 2009)



EXHIBIT 13 — STORAGE CONNEX (SEPT. 2009)



EXHIBIT 14 — SUBSIDIARY'S SHED (SEPT. 2009)