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SEMIANNUAL REPORT TO THE CONGRESS

FY 2012 – SECOND HALF

OFFICE OF THE INSPECTOR GENERAL

DENALI COMMISSION

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Memo

To: Mike Marsh, Inspector General, Denali Commission

From: Joel Neimeyer, Federal Co-Chair, Denali Commission

Subject: FY2012 (Second Half) Semi-Annual Report to Congress

Date: December 4, 2012

This memo is written in response to the above referenced document. I appreciate the opportunity to provide input on the document. The following is offered.

1. In response to receiving the draft FY2012 (Second Half) Semi-Annual Report to Congress, I have directed staff to suspend the requirement for renewal and replacement accounts for FY2013 grants.

2. Furthermore, I have directed Commission staff to thoroughly review all of the Commission records and the records of our bulk fuel program partners to determine which communities did open an account.

3. Once this information is obtained, the matter will be brought to the Commissioners for their consideration and guidance – in a similar manner as to the Commission's private enterprise policy that was highlighted in the FY2011 (Second Half) Semi-Annual Report to Congress.

MEMORANDUM FOR FEDERAL CO-CHAIR NEIMEYER

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

Subject: Semiannual report to the agency head and Congress for the second half of FY 2012

The Inspector General Act requires the Office of Inspector General (OIG) at the Denali Commission (Denali) to prepare a semiannual report to the agency head and Congress. The discussion below constitutes this report for the second half of FY 2012.

This is the third[1] in our series of such reports on the long-term complications from some Denali policies — and what course corrections could be beneficial.

Section 4(a)(5) of the Inspector General Act directs inspector generals to:

> *keep the head of such establishment and the Congress fully and currently informed, by means of the reports required by section 5 and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by such establishment, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action [emphasis added].*

Section 5(a) of the Inspector General Act directs that this semiannual report include the following:

> *(1) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of such establishment disclosed by such activities during the reporting period;*
> *(2) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified pursuant to paragraph (1) . . . [emphasis added]*

[1] Our *Semiannual Report to Congress* (Nov. 2011) analyzed the agency's longstanding "private enterprise policy," and OIG concluded that the policy had outlived its usefulness. Our *Semiannual Report to Congress* (May 2011) discussed some unsettled appropriation law issues concerning the agency's funding for rural electrification. OIG has a pending request for a GAO determination of these issues. See GAO, *Denali Commission—Use of Oil Spill Liability Trust Fund,* # B-323365 (pending for decision). Our semiannual reports are published at *www.denali-oig.org.*

THE PERIOD'S MOST SIGNIFICANT PROBLEM

For this OIG reporting period, the most "significant problem" has been the unfruitful search for a collection of Denali-required bank accounts. Over the past decade, many grantees were required to open these savings accounts as a condition of receiving Denali projects. While $100 million could potentially be involved, any amount in the millions is obviously significant to an agency with an annual base appropriation of only around $10 million.

In March 2012, we first alerted the agency's management to this serious issue. And our conversation with management continues — as do our inquiries and theirs in the search for the much-needed answer.

But the bank accounts still remain missing in action — an unsolved mystery that we detail below as the focus of this semiannual report.

In July 2012, Congress amended Denali's enabling act to enlarge the agency's authority to obtain more diversified funding from both federal and non-federal sources.[2]

In September 2012, a bill was introduced to further amend Denali's enabling act. This bill (H.R. 6478) would effectively transfer governance to beneficiaries of the agency's funding and immunize them from the application of federal oversight laws.

But we recommend that Congress put reauthorization — and any further amendments — on hold until the fate of the missing bank accounts has been resolved for all concerned.

OIG PHOTO TAKEN JULY 24, 2012

EXHIBIT 1
REPUTED CONCEPTION SITE
OF THE DENALI COMMISSION

The uncertain status of these bank accounts is just one of various complications[3] that have surfaced from Denali's decade of experimentation with non-traditional grant conditions. These

[2] See section 1520 of P.L. 112-141.

[3] For instance, another complication is the uncertain nature of the title that subrecipients receive when the state builds them a Denali-funded tank farm. Denali requires a detailed security agreement that gives it creditor-type enforcement powers over the facility's lifespan of several decades. Per a 1993 decision by the Alaska Supreme Court concerning a grant from the Commerce Department, an arrangement like Denali's may leave it with the responsibilities of a long-term "reversionary interest" — while the recipient gets only "nominal title." See *City of Hydaburg v. Hydaburg Cooperative Association,* 858 P.2d 1131 (Alaska 1993).

Another example is the security agreement's provision that any dispute will be decided under state laws in the state court system. However, the Comptroller General has cautioned Denali that *"it is a well-established principle that only Congress can*

well-meaning conditions were intended to promote local "sustainability" and negate perpetual dependence. Unfortunately, Denali's methods of implementation may have inadvertently triggered years of responsibility for the Government where none would normally arise.

OVERVIEW OF THE AGENCY'S WORK

The Denali Commission (Denali) is one of the seven "regional commissions" that Congress has created to distribute federal grants throughout rural America. However, unlike the other "regional" commissions, the Denali Commission focuses only on a single state (Alaska). While Alaskans no doubt appreciate the undivided attention, the downside for national accountability is the absence of multi-state competition as a check and balance.

As detailed in a recent article by the state economist (see Appendix A), federal grants and contracts are big business in Alaska. The goal of the interest groups that represent Alaskan beneficiaries[4] is, of course, to maximize federal funding and minimize federal strings (also known as bureaucracy, inflexibility, restrictions, and red tape). And, according to local lore, this was precisely the vision of the late founding senator when he first discussed the possibility of a Denali Commission at the very remote "bush" site in Exhibit 1.[5]

Because the enabling act surfaced in a 1998 conference committee, there is little legislative history for a more formal record of the agency's origins. Nevertheless, Congress has given the tiny agency (≈ 20 FTEs at this point) around $1 billion in funding over its 14-year lifespan.

THE AGENCY'S LARGEST PROGRAM

Rural electrification is the largest program that Congress has funded at the Denali Commission (≈ $480 million).

Denali has made large grants to the State of Alaska to install power plants and tank farms throughout the "bush." Such grants to the State have totaled around $240 million.

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waive an executive agency's sovereign immunity." See GAO, *Denali Commission—Authority to Receive State Grants,* # B-319246 (Sept. 1, 2010) at *www.gao.gov.*

[4] Examples of these interest groups would be the Alaska Municipal League (small cities), the Associated General Contractors, the Alaska Federation of Natives, and the state government itself.

[5] The remote site in Exhibit 1 is now abandoned and difficult to approach closer, due to the rotting boardwalk over the spongy muskeg. It's on a backwater slough of the Kuskokwim River about two miles east of the Kwethluk airstrip. The site's GPS position is approximately N 60.794° W 161.38°. We photographed this site during our July 2012 motorboat trip up the Kuskokwim River to inspect projects in small settlements. The popular History Channel television program, *Tougher in Alaska,* had a "Frozen Freeway" episode about the challenge of using the frozen Kuskokwim River to truck fuel to a Denali-funded tank farm at Kwethluk.

Around 60 small cities are among the various beneficiaries of these grants to the State for power plants and tank farms. Since the State uses its Denali grants to construct these facilities, Denali attaches some very long-term requirements for the cities as a condition of their sub-awards.

Under traditional construction grants, the federal funder has no direct relationship to sub-recipients. From a legal perspective, the Government is not deemed to be in "privity" with subrecipients. Liability for the claims of subrecipients lies with the grantee that made the sub-awards. And the grant is normally concluded when the building gets built, the bills get paid, and the grantee closes out its award to the subrecipient.

But the rules change when a federal agency, like Denali, chooses to directly regulate subrecipients with detailed requirements. For the grants in question, cities have been required to sign a form of security agreement[6] with Denali that extends for the life of the facility (30 to 40 years). And that security agreement incorporates by reference the requirements in a "business operating plan" specific to the facility being constructed.

At least through 2010, Denali's standard practice has been to require the bank accounts in question through provisions in both the security agreement and the incorporated business plan. In practice, the latter typically includes around 20 pages that detail how the bank account will be serviced over the life of the facility.

THE DECADE-LONG PROMISE OF "SUSTAINABLE" PROJECTS

In 2004, OMB conducted an in-depth, publicly-reported review of Denali's performance (technically known as the PART). Denali's management at the time made the following ambitious representation to OMB concerning the agency's grants:

> *Sustainability is the foundation on which all investments made by the Commission are based. The Commission adopted a Sustainability Resolution in its first years that outlines the ways in which grantees must pass strict measures of business planning, operations and maintenance review, and other procedures to ensure that the federal investment will be sustained for the life expectancy of such a facility and have sufficient funds for renewal and replacement of the facility in the future. . . [emphasis added]*[7]

OMB's report is referring to Denali resolution 01-15, which was adopted back in 2001 and entitled *"Sustainability for Denali Commission Funded Infrastructure Projects"* (see Appendix B). One provision of this resolution states that *"[s]ustainability, by definition, includes all costs associated with management, operation and maintenance, renewal and replacement (after the*

[6] Denali has traditionally labeled this document as its "Secondary Operator Agreement." However, in substance it functions like a classic security agreement that gives a creditor an enforceable property interest in the event of a default.

[7] See section 3.4 of OMB's assessment of the Denali Commission reported at *www.expectmore.gov* (accessed Oct. 15, 2012).

design life has been achieved) necessary to maintain an acceptable level of service [emphasis in original]."

In 2008, Denali reaffirmed its overall "sustainability policy," which defined the concept as follows:

> *For the purposes of Denali Commission funded infrastructure projects, sustainability is defined as the ability of a recipient or applicant to demonstrate the capacity, both administratively and financially, to provide for the long-term operation and maintenance (typically a 30 year life cycle) of a facility. . . [S]ustainability includes all costs associated with management, operation and maintenance, renewal and replacement necessary to maintain a given level of service. [emphasis added]*[8]

APPLICATION OF "SUSTAINABILITY" TO POWER PLANTS AND TANK FARMS

Resolution 01-05 was implemented in April 2002 through Denali's 1,400-word policy entitled *"Rural Alaska Energy Infrastructure Criteria for Sustainability"* (attached as Appendix C). The policy asserts that *"[a]fter the project has been placed in service, the Denali Commission will be responsible for monitoring compliance with the sustainability criteria and for enforcement of its terms . . ."*

One part of the policy's "Criteria for Sustainability of Bulk Fuel Facilities" requires the following:

> *The bulk fuel storage facility is being operated in substantial conformance with a Commission approved business and work plan where adequate revenue will be available to cover all expenses and provide for renewal and replacement of plant to be financed by debt, equity, or a combination of debt and equity, plus a margin that is consistent with its long-range financial needs. A renewal and replacement fund will be established and sufficient funds will be accrued to cover the projected costs of major repairs, renovations, renewals, and replacement of major plant components. Owners may anticipate that interest earnings from the Trans Alaska Pipeline Liability Fund (TAPL) will be available over the long term to help finance bulk fuel plant replacement and expansion. [emphasis added]*

The policy's "Criteria for Sustainability of Electric Utility Systems" has a similar provision:

> *A renewal and replacement fund will be established and sufficient funds will be accrued to cover the projected costs of major repairs, renovations, renewals, and replacement of major plant components.*

[8] See *www.denali.gov.*

Thus, for power plants and tank farms, the backbone of Denali's quest for "sustainability" is its ambitious requirement for a "renewal and replacement fund."

THE BANK ACCOUNTS IN QUESTION

Over the past decade, Denali has required small cities to open a "renewal and replacement" bank account as a condition[9] of getting their power plants and tank farms. The condition includes a table of the amount that the city must deposit each year to assure that it can repair — and eventually replace — the facility over its useful life of 30 to 40 years.

The theory is that the amounts in these savings accounts will — many years down the road — be sufficient to replace the facilities that Denali originally funded. If this assumption works perfectly in practice (unlikely, of course), the total in such accounts will hypothetically approach the millions that Denali has passed through the State. But missing accounts for even a fraction of this optimal total are obviously still worth our scrutiny.

DENALI'S COMMITMENT TO MONITOR THE BANK ACCOUNTS

The grant condition specifies various reporting requirements in support of Denali's monitoring of these bank accounts. Cities agree to (1) open a savings account acceptable to Denali, (2) send Denali periodic bank statements, (3) send Denali an annual "audit" or "financial review" conducted by a CPA, and (4) send Denali an annual report form on the facility's operations.

This latter requirement is detailed as follows:

> *The Primary Operator will provide an annual report of operations to the Commission and the AEA [the State], within 90 days of the end of the Primary Operator's fiscal year, using the Commission's "Denali Commission Annual Report Form." The annual report should include a summary description of O&M and R&R projects; annual O&M and R&R budgets, expenditures and account balances; and, any other information appropriate to the Facility. The Commission will review the reports and the annual financial audits/reviews of Facility operations and will actively monitor the Primary Operator's ability to operate consistent with guidelines outlined in this Plan. [emphasis added]*

And cities agree in advance to some very decisive enforcement by Denali if the latter is dissatisfied with their use of the facilities:

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[9] For the grants in question, cities have been required to sign a form of security agreement with Denali, labeled as a "Secondary Operator Agreement," that extends for the life of the facility. That security agreement incorporates by reference the requirements in a "business operating plan." The grant requirement for a "renewal and replacement" savings account is detailed in these two documents.

> *If the Commission determines, in the exercise of its sole discretion, that the Primary Operator has failed or is unable to operate the Facility in accordance with the Plan and this Agreement and that this failure or inability significantly threatens the long-term economic sustainability of the Facility, the Commission may contract with and utilize a Secondary Operator.*
>
> *The Commission has the sole right to transfer the full custody and control of the assets and business operations of the Facility, including but not limited to, the cash, the receivables and the inventory of the Facility, to the Secondary Operator and assign the Secondary Operator responsibility for partial or total management of the Facility. . .*
>
> *[T]he Utility acknowledges and agrees that the Commission may appoint any qualified entity or entities to serve as Secondary Operator. . .*
>
> *If the Commission employs the Secondary Operator, the Commission shall oversee the operations of the Secondary Operator to make sure that it is conducting its operations reasonably, in a cost-efficient manner, and consistent with the needs and interests of the community as well as the general public interest.*

We have quoted Denali's enforcement commitments at tedious length to assure that readers can directly appreciate that the agency has, in effect, offered itself as a form of guardian, trustee, guarantor, or receiver for decades long into the future.

SUPPORT FOR COMPLIANCE OVER THE DECADES AHEAD

To further encourage "sustainability," Denali's agency head and two private parties incorporated a nonprofit entity entitled "Rural Alaska Fuel Services" (RAFS). While this nonprofit was started back in 2003,[10] it is still active and indicates over 90 users on its current website.[11] In fact, its latest corporate filing with the state[12] shows that its board of directors includes one of the former Denali employees that the current agency head mentions in his response to this Semiannual Report.

The RAFS website bears a recent copyright (2011) and advertises itself as *"a not-for-profit corporation organized to contract for the operation and maintenance of rural Alaskan bulk fuel storage facilities constructed by the Denali Commission and granted to selected communities."*

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[10] See the Articles of Incorporation filed with the State of Alaska on Sept. 12, 2003 (*http://commerce.alaska.gov*).

[11] See *www.rafs.net* (accessed Nov. 17, 2012).

[12] See the 2011 Biennial Report filed with the State of Alaska on Oct. 10, 2011 (*http://commerce.alaska.gov*).

The website indicates that grantees *"[m]ust set aside renewal and replacement funds"* and that one benefit of joining RAFS is a *"[r]educed renewal and replacement contribution."*

More specifically, the website indicates the following among the services that RAFS provides for grantees:

> *"Oversee all affairs related to operating the bulk fuel storage facility."*
>
> *"Maintain all facility records."*
>
> *"Assist local fuel operators with tank farm accounting and financial services."*
>
> *"Manage the Renewal and Replacement Fund as required by the Denali Commission."*
>
> *"Assist in preparation and submission of necessary reports and documents."*

DENALI'S LACK OF RECORDS

Since Denali imposed the requirement, our starting point was to simply ask its personnel to produce their records of the bank accounts for our inspection. However, our interviews of five Denali employees (including the agency head and CFO) produced bank statements for only one city and one tribal entity. The interviewed employees asserted that Denali has no system for the monitoring that its policies represent the agency will provide.

We then interviewed personnel at the component of the State that has received the grants in question. This included the head of this state agency,[13] a deputy director, its controller, and its contractor that drafted the sub-awards with the conditions required by Denali. Those interviewed had no records of the bank accounts and asserted that Denali's policies left any monitoring squarely with Denali itself. They were certain, though, that such accounts had indeed been opened.

We have no reason to question the accuracy or candor of the State's response to our inquiries. Though the state agency is technically Denali's grantee, we note that the same high-level state executive is both a member of this state agency's board of directors and a member of Denali's own statutory board.[14]

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[13] Alaska Energy Authority.

[14] Per Denali Commission Act sec. 303(b)(1)(A), the state's governor can designate a person for the Secretary of Commerce to appoint to Denali's statutory board. State commissioner Susan Bell is the governor's designee for Denali's board, as well as a member of the board of directors for the Alaska Energy Authority. See *www.denali.gov* and *www.akenergyauthority.org*.

We also interviewed the CEO of the RAFS nonprofit that Denali was involved in starting. He indicated that RAFS has no records of the bank accounts in question. While the website advertises that RAFS can service such accounts, users apparently haven't requested it.

DIRECT INQUIRIES OF FINANCIAL INSTITUTIONS

Copies of Denali's instructions for these accounts are attached as Appendices D and E. Readers can see that Denali's directions have explicitly steered the small cities to four local financial institutions for the deposit of the "renewal and replacement" payments:

First National Bank of Alaska
Wells Fargo Bank of Alaska (formerly National Bank of Alaska)
West Star Escrow
Alaska Municipal League Joint Insurance Association

Thus, our next step was to inquire of the four financial institutions. This seemed a reasonable approach since Denali's instructions have explicitly provided that:

> *The Denali Commission has negotiated terms with two Financial Institutions that will allow for the unique guidelines of these R&R accounts. . . Tell them you need to establish a "Denali Commission Renewal and Replacement Account."* [see Appendix D]

> *The Denali Commission has negotiated terms with two Financial Institutions and the Alaska Municipal League/Joint Insurance Association that will allow for the unique guidelines of these R&R accounts. . . Tell them you need to establish a "Denali Commission Renewal and Replacement Account."* [see Appendix E]

Both of these documents also provide for Denali's access to records of the accounts:

> *Account must allow for Denali Commission and other Auditing agencies to monitor deposit and withdrawal activity (Monthly Reports on account activity must be sent to Denali Commission).* [see Appendix D]

> *Account must allow for Denali Commission and other Auditing agencies to monitor deposit and withdrawal activity (A copy of your year-end balance statement must be sent to the Denali Commission as part of your annual report).* [see Appendix E]

While this access condition would seem to negate any privacy concerns, we nevertheless issued subpoenas to three of the four institutions identified in Denali's instructions.[15]

[15] Per Inspector General Act sec. 6(a)(4), we served OIG subpoenas on Wells Fargo, West Star Escrow, and the First National Bank of Alaska.

Despite the statements that Denali had "negotiated terms" for a customized form of account, officials at the First National Bank and Wells Fargo responded to both our interviews and our subpoenas with assertions that their banks had no such type of account. On the other hand, they assured us that we were welcome to subpoena all bank records for any specific city if we chose to do so.

Similarly, the responding official at West Star Escrow asserted that his firm had no such type of account. The firm simply acts as a local agent that forwards mortgage payments out of state.

The response by the Alaska Municipal League Joint Insurance Association was a bit more complex. The staff there referred us to the Alaska Municipal League Investment Pool as the entity that keeps accounts for small cities.

The Investment Pool's home page publicly lists its members,[16] and we noted that 15 of the member-cities have received Denali-funded power plants or tank farms through the State of Alaska. Nevertheless, the Pool's investment adviser[17] was not aware of any accounts of the type we were seeking.

The head of the Alaska Municipal League has from the start been an ex-officio member of Denali's statutory board.[18] And the current head of the Alaska Municipal League is also an official for the Investment Pool.[19] We thus assume that her investment adviser for the Pool would be knowledgeable concerning the existence of any Denali "renewal and replacement" accounts in the Pool's portfolio.

Our Conclusion (Disclaimer) Concerning the Missing Accounts

The accounts in question were potentially established by around 60 small cities. They presumably reflect some substantial portion of the $240 million that the Denali Commission has awarded to the State for power plants and tank farms over the past 14 years. Even accounts with just 10% of this total would be a significant resource for the beneficiaries' future use.

Despite the millions of dollars that potentially exist in these Denali-required accounts, we regret that we are unable to conclude this inspection[20] with an inventory of the accounts or even some conclusions concerning their existence. Denali has not provided us with the records necessary to

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[16] See *www.amlip.org* (accessed Oct. 14, 2012).

[17] See *http://apcm.net/amlip.php* and *www.akml.org/Investment_Pool.html* (accessed Oct. 15, 2012).

[18] See Denali Commission Act sec. 303(b)(1)(C).

[19] See *www.amlip.org* and *www.akml.org* (accessed Oct. 14, 2012). The Investment Pool's website shows the head of the Alaska Municipal League as a member of the Pool's board of directors. However, the Pool's corporate filing with the State shows her as the Pool's "registered agent."

[20] Denali OIG's review of this matter was an inspection performed pursuant to section 2 of the standard grant assurances in OMB Form 424B, sections 4(a) and 6(a)(2) of the Inspector General Act, and the CIGIE *Quality Standards for Inspections.*

complete our inspection, and we must unfortunately issue a "disclaimer" as the end result of our inspection procedures.

Nevertheless, none of the possible explanations would seem to be positive ones. Perhaps the "missing" accounts, unknown to Denali, are quietly accumulating their decades of interest as designed. So long as successive generations of trustworthy city officials remember the accounts, they remain an untapped resource in waiting for a future hour of need. But if forgotten as the years go by, the effect for the public can be same as if the accounts had been lost, abandoned, or wasted — or simply disappeared.

Perhaps the accounts were opened — but drained — long ago. Perhaps cities obediently signed the requirement, but immediately disregarded it as a mere funding ritual.[21] If so, the backbone of Denali's long-advertised "sustainability" was in practice little more than an urban legend.

This unsolved mystery is a very serious one. Denali has long touted the "sustainability" of its projects,[22] and the required bank accounts are a key element of the "sustainability policy" that Denali has incorporated into its grants for rural electrification.

From a legal perspective, Denali's abandoned commitment to police these accounts presents a potential liability to the Government if the funds have been misused or disappeared. So long as grant-related property continues to have value, the Government as a general rule retains a reversionary interest in its use for the intended purpose.[23]

Denali's insistence that the funded facilities serve for three to four decades may have been a Faustian bargain — if Denali now wishes to abandon its implied oversight promises as overly ambitious. Or, to put it another way, the Government shouldn't make promises to the public that the Government isn't equipped to keep.

Congress and the federal courts have given federal agencies a large dose of immunity from lawsuits. Federal agencies that make grants are not normally liable for any harm caused by their grantees, or by sub-grantees down the funding chain.[24]

However, the immunity of federal agencies can be compromised under certain circumstances. While rigorous monitoring of grants is desirable, immunity can disappear if the federal agency's zeal for compliance crosses the line into daily management of a grantee's operations. Denali should carefully consider the potential impact on federal immunity if it uses its sustainability

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[21] This seems unlikely since it could arguably constitute a "false claim" on a grant application in violation of 31 USC 3729.

[22] For instance, see Denali Commission's *2001 Annual Report* at *www.denali.gov.*

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

[24] See *United States v. Orleans,* 425 U.S. 807 (1976); *Thompson v. United States,* 504 F. Supp. 1087 (D.S.D. 1980); *D.R Smalley & Sons, Inc. v. United States,* 372 F.2d 505 (Ct. Cl. 1967).

policy to justify intensive involvement in a grantee's business decisions during the decades after construction has been completed and the grant closed out.

Our *Semiannual Report to Congress* a year ago offered a similar caution in connection with Denali's "private enterprise policy."[25] Even if interventions that rise to the level of a de facto "receivership" might save a forgotten facility, the price tag for the federal rescue may include a loss of federal immunity.

OUR RECOMMENDATIONS

There is no need for the public memory of Denali's accomplishments to decay into the American folklore of "secret" bank accounts for remote government projects. Though we have concluded our inspection with a disclaimer, this is still a scenario that Denali's management can successfully resolve.

We recommend the following 8 steps at this point:

1. Since Denali lacks the capacity to monitor and enforce, the requirement that cities service "renewal and replacement" accounts should be suspended at this point.

2. For all cities that have received the grants, Denali should record a legal notice releasing the federal interest in the accounts and notify the cities that the funds are now theirs to use consistent with local law.

3. OMB encourages agencies to publish their own "common rules" of administrative requirements applicable to all grants.[26] Denali should adopt a common rule that requires any "renewal and replacement" accounts to be described in the disclosure notes of a city's financial statements.

4. OMB publishes a "compliance supplement" of agency-specific procedures for the "single audits" of grantees that annually receive $500,000.[27] Denali should request OMB to add a procedure that requires CPAs to inquire about any "renewal and replacement" accounts when auditing Denali grants for rural electrification.

5. Denali's rural electrification program receives funding transferred from the USDA Rural Utilities Service (RUS). The latter periodically sends a field accountant to review Denali's use of the transfers. Denali's agency head should request that RUS include the identification of "renewal and replacement" accounts in its review procedures.

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[25] See Denali OIG, *Semiannual Report to the Congress* (Nov. 2011), pages 11-13, at *www.denali-oig.org.*

[26] See 2 CFR 1.220.

[27] See Part 4 of OMB Circular A-133 Compliance Supplement 2011.

6. Denali has the authority under its enabling act to hire "temporary and intermittent" experts.[28] Denali should hire such a temporary employee to conduct an inventory of all "renewal and replacement" accounts from projects whose grants have already been closed out.

7. Denali's agency head should issue a preservation directive that suspends all destruction of paper grant files until the inventory of the bank accounts has been completed. Denali currently plans to shred the files for its grants that have been closed for three years.

8. Congress should not reauthorize the Denali Commission — or amend its enabling act — until the fate of the missing bank accounts has been resolved.

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

[28] See Denali Commission Act sec. 306(e).

APPENDIX A

Article: Neal Fried, "Federal Spending in Alaska,"
Alaska Economic Trends (Feb. 2012)

By NEAL FRIED, Economist

Federal Spending in Alaska

Funding and employment a major part of state economy

The federal government has been Alaska's largest employer since the days before statehood, generating approximately a third of all jobs in the state. That means Alaska has a lot to lose as proposed federal budget cuts over the next 10 years could top $1.5 trillion — the largest spending cuts since the end of World War II.

There aren't yet enough data to determine what these federal cuts will mean for Alaska, but a picture of the U.S. government's role in our economy will make it easier to measure the effects in the future.

Importance waxes and wanes

Although the federal government has always been a dominant economic player in the state, its influence has waxed and waned over the decades. During the 1970s and 1980s, many other pieces of Alaska's economy grew faster than the federal sector — for example, the oil industry, fishing, tourism, and the service sector — diminishing federal influence on the state's economy.

That decline accelerated in the 1990s with the closures of military bases and downsizing of base and civilian staff. In 1994 and 1995, total federal expenditures fell in Alaska. The University of Alaska Anchorage estimates that the federal government was responsible for a third of the state's gross product in 1965, but by 1998, that had fallen to 13 percent. The downward trajectory appeared permanent a decade ago, but to everyone's surprise, things changed.

Origin of federal spending data

The U.S. Census Bureau's Consolidated Federal Funds Report is the most comprehensive annual report published on federal expenditures for all 50 states, boroughs, census areas, counties, and other geographic areas.

The most recent edition, for 2010, was published in September 2011. It covers all dollars spent, from a small $1,011 for tribal courts to $887 million for medical assistance.

Without the Consolidated Federal Funds Report, we wouldn't be able to measure the federal influence on Alaska's economy. In addition to the report's usefulness when comparing geographic areas, it's a good source for trends analysis because it has been produced since 1983.

1 Alaska is No. 1 Among States

Per-capita federal funds, 2010

Rank	State	2010	Rank	State	2010
1	Alaska	$17,762	13	Louisiana	$11,738
2	Virginia	$17,008	14	South Dakota	$11,676
3	Maryland	$16,673	15	West Virginia	$11,609
4	Connecticut	$15,662	16	Pennsylvania	$11,489
5	Hawaii	$15,331	17	Rhode Island	$11,172
6	New Mexico	$13,578	18	Maine	$11,024
7	Kentucky	$13,198	19	Wyoming	$11,019
8	North Dakota	$12,930	20	Montana	$10,873
9	Massachusetts	$12,593	21	Tennessee	$10,852
10	Vermont	$11,834	22	Mississippi	$10,588
11	Alabama	$11,820	23	Washington	$10,475
12	Missouri	$11,746		**U.S. Average**	**$10,460**

Source: U.S. Census Bureau, Consolidated Federal Funds Report

The federal government booms

The 2000s brought big increases in federal spending — accelerated by the attacks of Sept. 11, 2001 — and Alaska's well-positioned congressional delegation took advantage of that growth. According to the annual Consolidated Federal Funds Report, the U.S. government spent $17,762 for every man, woman, and child in Alaska in 2010, putting the state at No. 1 for per capita federal expenditures — 69.8 percent above the national average. (See Exhibit 1.)

These per capita figures are noteworthy, but so is the total dollar amount. In 2010, the U.S. spent $12.6 billion in Alaska — a $6.6 billion increase over the year 2000 (see Exhibit 2), or 110 percent

more. In contrast, federal spending grew by 83 percent in the 1990s. Overall, Alaska represented 0.2 percent of the nation's population in 2010, and 0.4 percent of all federal expenditures.

Wages, salaries topped spending categories

The most dramatic rise in federal expenditures in Alaska has been in salaries and wages — the largest spending category — which doubled over the past decade. (See Exhibits 3 and 4.) In 2010, Alaska ranked second for per capita federal wages and salaries at $5,710 — five times the national average. (See Exhibit 5.)

Average salaries also increased, and the typical civilian federal worker earned $68,484 in 2010 — considerably more than the $47,724 earned by the average Alaska worker.

Much of the growth in wages and salaries is attributable to the military's expansion, and the U.S. Census Bureau also assembled a large temporary workforce to conduct the decennial census. However, none of these changes fully explain the rise.

Growth in other funding categories

Although grants grew more slowly than all other categories, they were the second-largest federal expenditure category in Alaska. Alaska ranks first among states for per capita grant spending — twice the national average — and federal grant money in the state budget went from $1.9 billion in 2001 to a peak of $3.5 billion in 2009. (See Exhibits 5 and 6.)

Alaska ranks fourth in procurement, the other big federal spending category, with most of it tied to the military. The remaining categories also grew rapidly, but are much smaller and play lesser roles in Alaska than elsewhere in the nation.

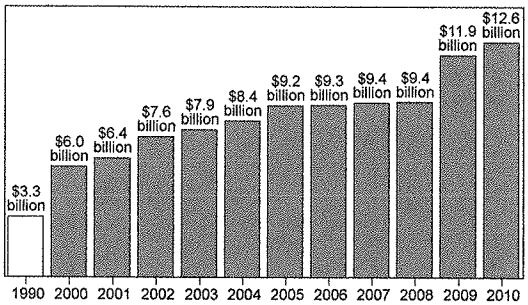
It's important to remember that not all federal spending is equal. For example, the economic effect of a Social Security check or salary tends to be significantly higher than dollars spent on procurement. A Social Security check is typically spent immediately in the state, whereas a large share of procurement money goes to equipment manufactured and purchased outside Alaska.

Defense is the largest federal employer

In 2010, 40,000 Alaskans were on the federal payroll. The Department of Defense is the largest employer, with 29,714 combined uniformed and civilian workers in the state.

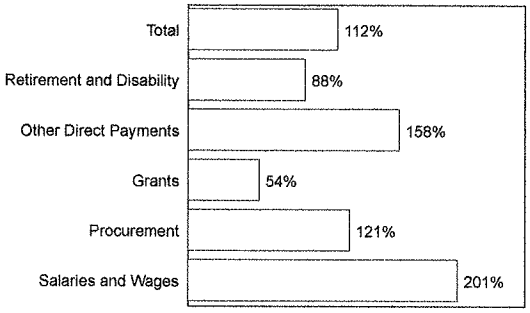
In 2010, there were 7,313 civilian jobs on bases or other military property, ranging from highly specialized professionals working for the Corps of Engineers to retail personnel working for the commissaries and base exchanges.

2 Federal Funds on the Rise
Alaska, 1990 to 2010



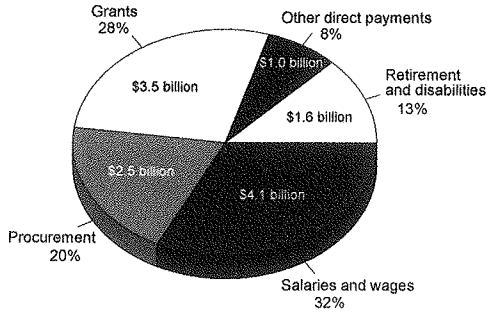
Source: U.S. Census Bureau, Consolidated Federal Funds Report

3 Categories in Alaska
Federal fund growth, 2000 to 2010



Source: U.S. Census Bureau, Consolidated Federal Funds Report

4 Expenditure Categories
Federal dollars to Alaska, 2010



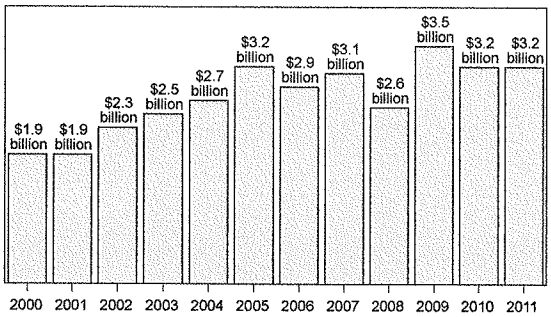
Source: U.S. Census Bureau, Consolidated Federal Funds Report

5 Alaska's Rank
Per-capita federal funds

	2010 rank
Total Expenditures	1
Salaries and Wages	2
Grants	1
Procurement	4
Other Direct Payments	50
Retirement and Disability	49

Source: U.S. Census Bureau, Consolidated Federal Funds Report for Fiscal Year 2010

The State's Budget 6
Federal money, 2000 to 2011



Sources: State of Alaska, Legislative Finance Division, State Fiscal Years 2000 to 2011

The total federal civilian workforce (including civilians working for the Department of Defense) was 17,544 in 2010, with a payroll of $1.2 billion. (See Exhibits 7 and 8.)

The largest all-civilian agency

When the Department of Defense is excluded, the next top five agencies in Alaska employ more than three-quarters (76 percent) of all civilian federal workers. (See Exhibit 7.) The largest civilian agencies are the Department of the Interior, the United States Postal Service, and the departments of Transportation, Homeland Security, Agriculture, Commerce, Veterans Affairs, and Health and Human Services.

Considering the Department of the Interior is the state's largest property owner, it's not surprising that its presence is second only to the Department of Defense. The Department of the Interior controls over 50 percent of the state's landmass, and most of its mission is to manage these federal lands and their resources. The big branches within the Department of the Interior are the National Park Service, the Bureau of Land Management, and the Fish and Wildlife Service.

7 Federal Civilian Jobs and Payroll
Alaska, by agency, 2010

	Employment	Total payroll
U.S. Department of Defense, civilian only	7,313	$433,039,395
U.S. Department of Interior	2,710	$189,248,483
U.S. Postal Service	1,562	$102,925,325
U.S. Department of Transportation	1,309	$131,765,745
U.S. Department of Homeland Secruitiy	1,118	$80,812,698
U.S. Department of Agriculture	1,089	$77,688,131
U.S. Department of Commerce	944	$68,412,838
U.S. Department of Veterans Affairs	627	$41,822,502
U.S. Department of Health and Human Services	292	$21,730,053
U.S. Department of Justice	207	$22,107,409
U.S. Court System	121	$7,907,401
Social Security Administration	72	$4,617,724
General Service Adminstration	51	$633,337
U.S. Department of Housing and Urban Development	39	$3,916,234
Environmental Protection Agency	37	$3,509,894
U.S. Department of Labor	22	$1,664,240
All other agencies	31	$2,601,092
Total	17,544	$1,194,402,501

Source: Alaska Department of Labor and Workforce Development, Reseach and Analysis Section

The other major agencies

The U.S. Postal Service is the second-largest federal civilian employer in Alaska, although it's typically the largest elsewhere in the nation. Alaska has a special relationship with the USPS, which injects additional federal funds into Alaska's economy by paying air carriers to move goods such as groceries to roadless areas. This unique system is called "by-pass mail," and in 2010 its federal subsidy was $70 million.

Carrying mail is the largest piece of business for many of the state's air carriers that operate in rural areas. Without U.S. mail, Alaska's air transportation system would be very different and much smaller than it is today.

The state's geographic distances also dictate the size of the Department of

Transportation, the third-largest civilian agency. The Federal Aviation Administration is its dominant player, as air transportation in Alaska is more intensive than anywhere else in the country.

Although the Department of Homeland Security is a relatively new agency, it ranks fourth in size. It was born in 2003 through the consolidation of other agencies and creation of the Transportation Security Administration. The U.S. Coast Guard is traditionally part of Homeland Security, but in time of war, the Coast Guard becomes militarized — in this article, Coast Guard personnel are part of the uniformed defense workforce.

Although agriculture is a small industry in the state, the Department of Agriculture is the fifth-largest federal civilian agency. This is because the Forest Service dominates this department in the state and controls approximately 22 million acres, largely made up of the Chugach and Tongass national forests.

The Department of Health and Human Services was historically one of the largest agencies in Alaska, but it now ranks eighth behind the departments of Commerce and Veterans Affairs. Prior to 2000, it had more than 1,000 employees — most of these worked for the Indian Health Service, specifically at the Alaska Native Medical Center in Anchorage. In 1998, the federal government turned the medical center over to the Alaska Native Health Consortium, made up of the Alaska Native Tribal Health Consortium and the Southcentral Foundation, and most of the center's 1,400 federal employees became part of the private-sector workforce. By 2010, these two organizations combined employed nearly 3,000 private-sector employees along with a small contingent of federal workers. In this case, privatization reduced the size of the federal workforce, but federal funding increased.

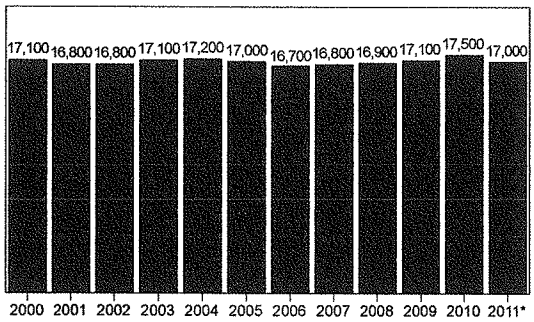
The shifts in Alaska's military

The Army represents over half of the state's armed forces. (See Exhibit 9.) It's followed by the Air Force and then the Coast Guard, which is the smallest group nationally but with a disproportionally large presence in Alaska. Total military personnel and their families make up 8 percent of the state's population, and most live in Anchorage, Fairbanks, and Kodiak.

Alaska's military population fell significantly during the 1970s through the 1990s. The drop in troop levels between 1970 and 1980 marked the end of the Vietnam War, but it also represented the transition from mandatory military service to an all-volunteer army. In addition, the realignment campaign of the 1990s resized military strength to match modern warfare. The ensuing base closures and reorganization of military units in the 1990s meant Alaska lost nearly 24 percent of its military population, which hit rock bottom in 2001.

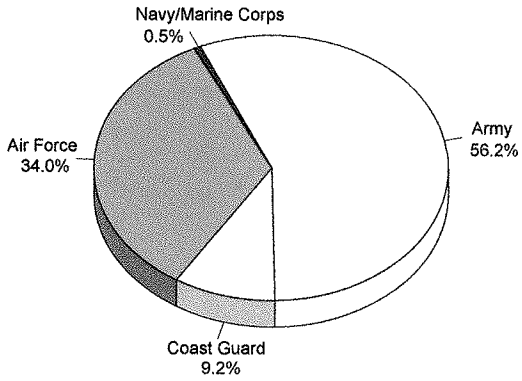
The trend reversed in 2003 after the attacks of Sept. 11, 2001, and the military regained its status as one of the state's dynamic economic forces. By 2007, the active duty count had climbed to 23,141: a 36 percent increase over 2001, or 6,099 additional troops. (See

8 Federal Civilian Jobs
Alaska, 2000 to 2011



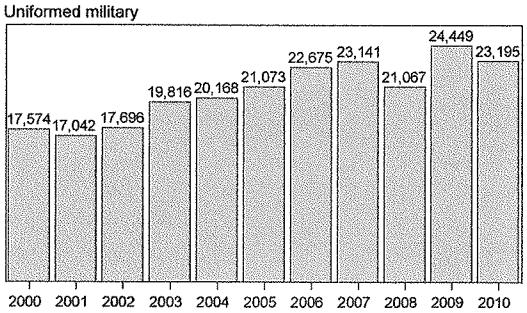
*Estimated based on first three quarters of 2011
Source: Alaska Department of Labor and Workforce Development, Research and Analysis Section

9 The Army Dominates
Alaska armed services, 2010



Sources: The Defense Manpower Data Center, Jan. 31, 2011

10 Military Grew in Alaska
2000 to 2010



Sources: ALCOM; and Alaska Department of Labor and Workforce Development, Research and Analysis Section

Exhibit 10.) All of these increases were in the Army — since 2000, its numbers have more than doubled. By 2010, 23,195 uniformed personnel lived in the state and worked for all branches of the armed forces, and defense represented 41 percent of all federal spending in the state.

The increases in construction money that followed were even more pronounced. The University of Alaska Anchorage estimated defense construction added up to more than $1 billion in 2010 and 2011. According to these same reports, defense spending hit $730 million in 2006, its biggest year, and never fell below half a billion dollars in any year since UAA began reporting data in 2004. These defense dollars became the bread and butter for a large segment of the state's construction industry.

Military outsourcing has grown

Outsourcing has grown over the years and as a result, private contractors play a big role at military installations. Civil functions on bases, ranging from janitorial services to highly specialized technical support, are often contracted to private companies. No reliable numbers are available, but total defense contract awards in Alaska totaled $2.1 billion in 2008. Some of the large beneficiaries are listed in Exhibit 12.

11 Active Duty Military in Alaska
By borough or census area, 2000 and 2010

Area	July 1, 2010	July 1, 2000	Percent of population in 2010
Alaska	23,195	17,574	3.3%
Aleutians West Census Area	4	40	0.1%
Anchorage, Municipality of	12,787	8,630	4.4%
Denali Borough	99	132	5.4%
Fairbanks North Star Borough	8,166	6,861	8.4%
Juneau, City and Borough of	267	192	0.9%
Kenai Peninsula Borough	93	97	0.2%
Ketchikan Gateway Borough	241	222	1.8%
Kodiak Island Borough	950	913	7.0%
Nome Census Area	1	23	0.0%
Petersburg Census Area	28	20	0.7%
Sitka, City and Borough of	187	183	2.1%
Southeast Fairbanks Census Area	209	166	3.0%
Valdez-Cordova Census Area	163	95	1.7%

Note: These numbers are based on the assignment location and not the place of residence.
Sources: U.S. Census Bureau; and Alaska Department of Labor and Workforce Development, Research and Analysis Section

Top Military Contractors 12
Alaska, 2009

Contractor	Contract value
Arctic Slope Regional Corporation	$150,765,000
Lakeshore Engineering Services	$129,481,000
Lynden Incorporated	$107,799,000
API	$62,471,000
Davis Watterson JV	$59,273,000
Tatitlek Support Services	$58,796,000
Tyco International	$57,212,000
Doyon Utilities	$56,732,000
Chugach Alaska	$50,350,000
Pepsico Holdings	$49,935,000

Source: U.S. Department of Defense, Atlas/Data Abstract for the U.S. and Selected Areas, Fiscal Year 2009

Guard and retirees also key

In 2009, 4,747 Alaskans were in the Reserves and the National Guard with a payroll of nearly $91 million. And according to the Census Bureau, 15 percent of the state's adult population were veterans — the highest concentration of veterans in the nation. In 2009, military retirees received $170 million in benefits.

Impact around the state

The federal government is a strong presence in every corner of the state through direct employment, funding, or both. Per capita expenditures and employment vary dramatically by area, and with the exception of Juneau, the areas with the highest rates tend to be rural. Most do not have a large military or strong federal employment — instead, most money flows into these areas as grants to local health care and social services organizations, tribal governments, and housing authorities. Transfer payments — such as retirement, welfare, housing assistance, and medical — are also important sources of federal money.

Military and federal civilian workforces play a larger role in urban areas such as Juneau, Kodiak, Fairbanks, and Anchorage. Federal employment is high in the Denali Borough because of Denali National Park and Clear Air Station. And for the Matanuska-Susitna Borough, which ranks last in per capita expenditures, the figures are somewhat misleading. A significant number of Mat-Su residents work for the federal government or are active duty in Anchorage, so these expenditures are counted in Anchorage.

APPENDIX B

Denali Commission Resolution No. 01-15 Regarding Sustainability of Funded Projects (Sept. 20, 2001)

DENALI COMMISSION
510 L Street, Suite 410
Anchorage, Alaska 99501

(907) 271-1414 Fax (907) 271-1415 Toll Free 1-888-480-4321

RESOLUTION NO. 01-15
A RESOLUTION REGARDING SUSTAINABILITY FOR DENALI COMMISSION FUNDED INFRASTRUCTURE PROJECTS

WHEREAS, the Commission is charged with developing infrastructure to serve rural Alaskan communities, with preference given to those that are economically distressed and with particular regard to health and safety needs; and

WHEREAS, the Commission recognizes that healthy and safe communities depend on sustainable infrastructure; and

WHEREAS, one of the Commission's GUIDING PRINCIPLES states that projects must be sustainable, and sustainability is one of the Commission's CORE VALUES; and

WHEREAS, the U.S. Congress, through legislation drafted by Senator Ted Stevens, has directed the Commission to ensure that all infrastructure projects demonstrate sustainability as a prerequisite for Denali Commission funding; and

WHEREAS, both the U.S. Congress and the Alaska State Legislature have strongly advised the Denali Commission to avoid the creation of un-funded future liabilities for either the State or Federal governments; and

WHEREAS, the cost of constructing, operating, maintaining, renewing, and replacing infrastructure in rural Alaska is considerably more expensive than infrastructure in urban Alaska or the 48 contiguous states; and

WHEREAS, most communities in rural Alaska are economically distressed with unemployment levels several times the national average, and with income levels a fraction of the national level; and

WHEREAS, the high cost of services in rural Alaska and the operation and maintenance of rural infrastructure is currently assisted by a number of programs including the Power Cost Equalization Program, Low Income Heating and Electric Assistance Program, Remote Maintenance Worker Program, Rural Utility Business Advisor Program, government subsidized loans, and other means; and

WHEREAS, operating efficiencies and cost reduction can be achieved through a variety of means including, simplification and standardization, increasing the scale or regionalization of utility systems or other infrastructure system in order to achieve the required management capacity, and combining fuel orders to acquire economies of scale; and

WHEREAS, consistent application of sound business principles is a fundamental prerequisite to sustainable infrastructure or services; and

WHEREAS, life cycle cost of infrastructure increases dramatically when sustainability principles are not applied:

NOW THEREFORE BE IT RESOLVED, that the Denali Commission reconfirms its commitment to sustainability for Commission funded infrastructure projects as a CORE VALUE and as a GUIDING PRINCIPLE with the following understanding:

- Sustainability, by definition, includes **all** costs associated with management, operation and maintenance, renewal and replacement (after the design life has been achieved) necessary to maintain an acceptable level of service.

- The high cost of infrastructure in rural Alaska makes it infeasible for the total costs of all services in all communities to be borne by local users, however, **to the extent feasible**, user rates should include all costs necessary to achieve sustainability.

- All practical steps should be taken, including simplification of projects, standardization of infrastructure, combining of utilities, regionalization of utility management structures, bulk purchase of fuels, training and development of management personnel and other actions that reduce the cost of sustainable infrastructure.

- Before Denali Commission funding is applied to the construction of any infrastructure project there must be a sound business plan. The Denali Commission considers sound business planning as a key process in defining sustainability to ensure funded infrastructure projects will be operated and maintained and demonstrating how all costs, which are necessary to assure a sustainable project or level of service, will be covered.

- All parties to the Commission within their spheres of responsibility, as individual entities or in collaborative efforts, will seek to reduce the cost of sustainable rural utilities and support subsidies that are demonstrated as necessary to ensure that basic infrastructure and essential services are available in rural Alaska at an affordable cost.

CERTIFICATION

We, the undersigned, hereby certify that the Denali Commission is comprised of seven members (or their duly appointed alternate), of whom six, constituting a quorum, were present at a meeting duly and regularly called, noticed, convened and held this 20th day of September, 2001, and that the foregoing Resolution was duly adopted at said meeting by the affirmative vote of seven members (Jeff Staser voting proxy for Jim Sampson), and opposed by 0 members, and that said Resolution has not been rescinded or amended in any way.

DATED this 20th day of September, 2001

SIGNED

Jeff Staser
Federal Co-Chair

for Fran Ulmer
State Co-Chair

APPENDIX C

Denali Commission Policy
Rural Alaska Energy Infrastructure
Criteria for Sustainability
(April 26, 2002)

Denali Commission Policy
Rural Alaska Energy Infrastructure
Criteria for Sustainability

Issued April 26, 2002

Ownership of infrastructure facilities funded by the Denali Commission (hereafter "Commission") may be divided between Primary and Secondary Owners. For example, in the case of bulk fuel tank farms, one entity may own the underlying land, foundation, dike, liner, fill lines and several tanks. This entity is referred to herein as the "Primary Owner." Other entities may own specific tanks and related equipment within the facility and may operate and maintain such tanks and equipment pursuant to a Commission approved lease agreement or occupancy agreement with the Primary Owner. These other entities are referred to herein as "Secondary Owners." Compliance with the attached sustainability criteria is the responsibility of the Primary Owner. If any of the Secondary Owners are out of compliance with these criteria, it is the responsibility of the Primary Owner to enforce the provisions of its lease agreements or occupancy agreements so that full compliance is achieved.

Failure to comply with the attached sustainability criteria will result in the transfer of project assets to an agreed upon "Secondary Operator" to protect the assets and provide sustainable service. A Secondary Operator is an organization that, in the judgment of the Denali Commission, either meets these sustainability standards or is capable of meeting them, and is willing to mentor the primary owner and if necessary take responsibility for the operation and maintenance of the subject assets. For example, the Yukon Fuel Company and Crowley Marine Services are potential Secondary Operators for bulk fuel facilities that the Commission considers sustainable.

Before construction funds will be advanced, the following conditions must be met:

1. Community leadership must be consulted and educated on the sustainability requirement;
2. Community leadership must be consulted and educated on any long-term implications the community will experience as a result of the new facility, such as changes in the retail price of fuel or electric service, water, sewer, solid waste disposal, etc.;
3. Community leadership must be consulted and educated on available design alternatives, and should be empowered to make the trade-off decisions that affect the reliability and cost of the project for their community;
4. Primary Owners must have a business and work plan that is approved by the Denali Commission that includes provision for adequate preventive and scheduled maintenance, an annual budget showing expenditure detail and adequate sources of revenue, a ten-year capital replacement and expansion plan, and a ten-year financial forecast. The Commission's design and construction agent (e.g. Alaska Energy Authority) will be responsible for helping Primary Owners prepare the business and work plan required in advance of project construction.

5. The Primary Owner and a Secondary Operator must agree in writing to the assistance the Secondary Operator will provide the Primary Owner, and to cooperate on the transfer of project assets if required by the Denali Commission in the event that the Primary Owner is found to be out of compliance with the sustainability criteria. Such cooperation must include payment from the Primary Owner to cover the incremental costs incurred by the Secondary Operator to operate and maintain the assets. With the original Secondary Operator's consent, other Secondary Operators may be considered in the future. The Denali Commission will assist in preparing the transfer agreement between the Primary Owner and the Secondary Operator.

After the project has been placed in service, the Denali Commission will be responsible for monitoring compliance with the sustainability criteria and for enforcement of its terms, including any future transfer of operational responsibility for project assets. Within the limits of available training funds, the Denali Commission will provide financial support for needed training and assistance, including mentoring provided by the Secondary Operator to meet these sustainability criteria.

Attachments: The Criteria For Sustainability of Bulk Fuel Facilities
The Criteria for Sustainability of Electric Utility Systems

The Criteria For Sustainability of Bulk Fuel Facilities:

1. The bulk fuel storage facility is being operated in substantial conformance with a Commission approved business and work plan where adequate revenue will be available to cover all expenses and provide for renewal and replacement of plant to be financed by debt, equity, or a combination of debt and equity, plus a margin that is consistent with its long-range financial needs. A renewal and replacement fund will be established and sufficient funds will be accrued to cover the projected costs of major repairs, renovations, renewals, and replacement of major plant components. Owners may anticipate that interest earnings from the Trans Alaska Pipeline Liability Fund (TAPL) will be available over the long term to help finance bulk fuel plant replacement and expansion.

2. The bulk fuel storage facility is in compliance with the laws and regulations that govern its operation.

3. Adequate preventive and scheduled maintenance is provided, facility inspections and leak tests are conducted as required by regulation, and the facility is kept in good condition and repair.

4. The Primary Owner maintains separate accounts for the tank farm operation and arranges for annual financial audits of these accounts. The audits are conducted by qualified, independent auditors and consistently find that there are no significant financial irregularities.

5. The Primary Owner is not in default with respect to any of its financial obligations, including debts, taxes, or other established liabilities.

6. Fuel surcharges and other means of generating revenue for tank farm operations payable by each tank farm occupant are based exclusively on the cost of such operations and are proportional to each tank farm occupant's use of the facility.

7. Adequate business insurance is in place that covers all significant risks. Self-insurance will be allowed for specific risks provided the Primary Owner can clearly demonstrate how adequate funds would be made available in a timely fashion to satisfy possible claims.

8. A credible business and work plan for the facility is prepared or updated no less frequently than once every five years. The business and work plan includes provision for adequate preventive and scheduled maintenance, an annual budget showing expenditure detail and adequate sources of revenue, a ten-year capital replacement and expansion plan, and a ten-year financial forecast.

9. Formal agreements are in place between the Primary Owner and any Secondary Owners that provide for the proper operating procedures and necessary maintenance to occur within the facility at all times, and that commit the Secondary Owners to cooperate as necessary with the Primary Owner in meeting the sustainability criteria set forth above.

The Criteria For Sustainability of Electric Utility Systems:

1. The utility is operating in substantial conformance with a business and work plan under a margin that is consistent with its long-range financial needs. A renewal and replacement fund will be established and sufficient funds will be accrued to cover the projected costs of major repairs, renovations, renewals, and replacement of major plant components.

2. The utility system is in compliance with the laws and regulations that govern its operation.

3. The utility provides for adequate preventive and scheduled maintenance of its facilities, and keeps its facilities in good condition and repair.

4. The utility arranges for annual financial audits that are conducted by qualified, independent auditors and which consistently find no significant financial irregularities.

5. The utility is not in default with respect to any of its financial obligations, including debts, taxes, or other established liabilities.

6. Rates are based on cost of service such that no customer class subsidizes another to a significant extent, and the risks of possible loss of large consumers are minimized by power sales agreements that protect the economics of a utility's operations.

7. The utility maintains adequate business insurance covering all significant risks. Self-insurance will be allowed for specific risks provided the utility can clearly demonstrate how adequate funds would be made available in a timely fashion to satisfy possible claims.

8. The utility has a credible business and work plan that is updated no less frequently than once every five years and that includes provision for adequate preventive and scheduled maintenance, a ten-year capital replacement and expansion plan, a ten-year financial forecast, and a rate structure analysis.

9. In the case of joint ventures, the utility has sufficient management control or other contractual safeguards with respect to the construction and operation of jointly owned facilities to ensure that the utility's interests are protected and the utility lender's credit risk is minimized.

10. Where rates or investment decisions are subject to approval by regulatory authorities, there is reasonable expectation that such approvals regarding development of the project will be forthcoming.

APPENDIX D

Denali Commission Instructions to Grantees Concerning Renewal and Replacement Accounts (2005)

ATTACHMENT B

How to Establish a Renewal and Replacement Account for Denali Commission Funded Public Infrastructure

Background

Under the guidelines of Denali Commission funding a community is required to have a business plan that outlines how the Denali Commission funded project will be operated and maintained. One of the conditions required in the business plan is a community established Renewal and Replacement (R&R) Account. An R&R account will provide a mechanism for the community to save money for the inevitable renewal and replacement costs associated with the facility.

General Guidelines of a Renewal and Replacement Account

- Allows community to make monthly deposits
- Must be an interest bearing account
- Only allows withdrawal of funds for Renewal and Replacement costs of the facility.
    - Requires a Resolution from the community certifying funds are being used for Renewal and Replacement expenses related to the facility that was partially or wholly funded by the Denali Commission.
- Account must allow for Denali Commission and other Auditing agencies to monitor deposit and withdrawal activity (Monthly Reports on account activity must be sent to Denali Commission)

Financial Institutions

The Denali Commission has negotiated terms with two Financial Institutions that will allow for the unique guidelines of these R&R accounts. Other institutions that will allow accounts that meet the guidelines above are acceptable.

	First National Bank	Wells Fargo
Contact Person	Lorraine O'Neal Sr. Escrow Officer First National Bank Operations Center 1751 Gambell St. Anchorage, AK 99501 Phone: (907) 777-3424 Fax: (907) 777-3446	Jackie Zuspan Escrow Manager Wells Fargo 301 West Northern Lights Blvd. Anchorage, AK 99503 Phone: (907) 265-2162 Fax: (907) 265-2170
Type of Account	Escrow Managed "First Investment" Account	Escrow Managed "Regular Savings" Account
Set-Up Fee	$30.00	$35.00
Annual/Monthly Fee	$50.00 Annual Fee and $5 monthly fee until account balance is above $2,500	$3 Monthly Fee until account balance is above $300
Disbursement Fee	$25.00 each time a community requests funds (through approved resolution)	$5.00 each time (for a Money Order) when a community requests funds (through approved resolution)

Check Writing	None	None
Reports	Monthly Report to Denali Commission on Deposit and Withdrawal activity (.50 Charge)	Monthly Report to Denali Commission on Deposit and Withdrawal activity (No Charge)
Requirement for Withdrawal of Funds	Approved Resolution Identical to Attached Template must be submitted to Escrow Department	Approved Resolution Identical to Attached Template must be submitted to Escrow Department
Interest	First Investment Account Tiered depending on balance of account (based on current Treasury Bill). Below are 1/02/02 rates: $0-$2,499 .557% $2,500-$4,999 .778% $5,000-$24,999 .825% $25,000-$49,999 .846% $50,000-$99,999 .887% $100,000+ .917%	Based on the Regular Savings account: 5/20/02 rate = 1%

To establish an account:

1. **Contact one of the representatives above**
2. **Tell them you need to establish a "Denali Commission Renewal and Replacement Account"**
3. **Sign the Account Agreement for the institution.**
4. **Pay set-up fee and fill out other general information to establish account**

Sample documents attached include:

- Business plan language that requires R&R accounts
- Account agreements (between institution and community) templates
- Example of the resolution that is required to withdraw funds from a R&R account

APPENDIX E

Denali Commission Instructions to Grantees Concerning Renewal and Replacement Accounts (2010)

How to Establish a Renewal and Replacement Account for Denali Commission Funded Public Infrastructure

Background

Under the guidelines of Denali Commission funding, a community is required to have a business plan that outlines how the Denali Commission funded project will be operated and maintained. One of the conditions required in the business plan is a community established Renewal and Replacement (R&R) Account. An R&R account will provide a mechanism for the community to save money for the inevitable renewal and replacement costs associated with the facility.

Generally, the Business Operating Plan states: *"The ... R&R account must be an interest-bearing, savings account, which requires two signatories and a resolution from the governing body for withdrawals. When the cash balance of the R&R account makes an escrow account more cost effective (at least when the balance reaches $100,000); then the R&R account must be transferred to an interest-bearing invested escrow account that is acceptable to the Denali Commission."*

General Guidelines of a Renewal and Replacement Escrow Account

- Allows utility to make monthly deposits
- Must be an interest bearing account
- Only allows withdrawal of funds for Renewal and Replacement costs of the facility.
    - Requires a Resolution from the governing body certifying funds are being used for Renewal and Replacement expenses related to the facility that was partially or wholly funded by the Denali Commission.
- Account must allow for Denali Commission and other Auditing agencies to monitor deposit and withdrawal activity (A copy of the R&R year-end bank statement must be sent to the Denali Commission as part of your Annual Report.)

Financial Institutions for R&R Escrow Accounts

The Denali Commission has negotiated terms with two Financial Institutions and the Alaska Municipal League/Joint Insurance Association that will allow for the unique guidelines of these R&R accounts. Other institutions that will allow accounts that meet the guidelines above are acceptable.

First National Bank	West Star Escrow	Alaska Municipal League/ Joint Insurance Association (City-owned facilities only)
Manager First National Bank Operations Center 1751 Gambell St. Anchorage, AK 99501 Phone: (907) 777-3424 Fax: (907) 777-3446	Manager 3201 C Street, Suite 112 Anchorage, AK 99503 Phone: (907) 265-2160 Toll Free: 1-888-859-3557 Fax: (907) 265-2170	AML/JIA 807 G Street, Suite 356 Anchorage, AK 99501 Phone: (907) 258-2625 Fax: (907)279-3615 Web: http://www.akml.org/

To establish an account:

1. **Contact one of the representatives above.**
2. **Tell them you need to establish a "Denali Commission Renewal and Replacement Account".**
3. **Sign the Account Agreement for the institution.**
4. **Pay set-up fee and fill out other general information to establish account.**

Attachments:

A. Sample Resolution
B. Sample Business Operating Plan Language
C. Sample Business Operating Plan R&R Cashflow