
Denali Commission

OFFICE OF INSPECTOR GENERAL
SEMIANNUAL REPORT TO CONGRESS



April 2020 - September 2020

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FROM THE INSPECTOR GENERAL

I am pleased to present the Denali Commission Office of Inspector General's (OIG's) *Semiannual Report to Congress* for the period of April 1, 2020 through September 30, 2020.

This is the second semiannual report issued by my office. This is the first full six-month semiannual report as my appointment as Inspector General took effect January 19, 2020. The past eight months have been filled with unprecedented challenges for both the Commission in carrying out its mission and for the Office of Inspector General in conducting oversight. Despite the challenges, the Commission staff has demonstrated their commitment to fulfilling its mission of providing grants to provide critical infrastructure needs in rural Alaska.

This report summarizes work that was initiated or completed during this semiannual period on critical Commission activities. There have been some unique challenges for the Commission aside from the challenges presented by the COVID-19 pandemic. The Federal Co-Chair departed the Commission at the end of April leaving the Commission once again in a state of transition. This has been offset in some measure by the return of a prior interim Federal Co-Chair thereby providing a modicum of continuity and stability.

Despite the uncertainty caused by COVID-19, I remain firmly committed to executing the OIG's mission of promoting the integrity, efficiency and effectiveness of the Commission's programs and operations and to reporting my findings and recommendations to Congress and the Commission. I look forward to collaborating with Commission management to assist the Commission in addressing the challenges it faces in its unique and important mission of providing job training and other economic development services in rural communities with a specific focus on promoting rural development, and providing power generation, transition facilities, modern communication systems, water and sewer systems and other infrastructure needs in rural Alaska. I appreciate the significant support that I continue to receive from the Commissioners and staff, as well as Congress. I look forward to continuing to work closely with all the Commission's stakeholders to accomplish this mission.



RODERICK H. FILLINGER
Inspector General

EXECUTIVE SUMMARY

This Semiannual Report, submitted pursuant to Section 5 of the Inspector General Act of 1978, as amended, summarizes the major activities and accomplishments of the Denali Commission Office of Inspector General (OIG) for the period April 1, 2020 through September 30, 2020.

During the semiannual reporting period, the most significant activities of the OIG are noted below. Additional details pertaining to each activity can be found in subsequent sections of this report.

Audits and Reviews Highlights

During this reporting period, the OIG performed three audits and reviews including: (1) Top Management and Performance Challenges Facing the Commission in Fiscal Year (FY) 2020; (2) Audit of the Commission's Fiscal Year 2019 Financial Statements; and (3) Audit of the Commission's FY 2019 compliance with FISMA.

On June 29, 2020, the OIG issued a letter on the top management and performance challenges facing the Denali Commission in FY 2020. The OIG maintained the Commission's challenge: Continue Implementing Strategic Plan to Fulfill the Commission's Statutory Purpose with Significant Decreases in Funding. The OIG also added three challenges for FY 2020: *Rebuilding trust among Denali Commission employees through significant changes in management; Appointment of a new Federal Co-Chair; and Management through COVID-19.*

SB & Company, LLC (SBC), under contract with the OIG, completed an audit of the Commission's FY 2019 financial statements in accordance with applicable standards. SBC issued an unmodified opinion on the financial statements and noted material weaknesses in internal controls over financial reporting. SBC also performed an audit of the Commission's FY 2019 compliance with FISMA. This report was not made public.

Looking Ahead

The OIG plans to complete the following audits and reviews during the first half of FY 2021:

1. Audit of the Commission's FY 2020 financial statements;
2. Audit of the Commission's FY2020 compliance with FISMA;
3. Audit of Purchase Card Program and Risk Assessment;
4. Review of Commission's compliance with section 522 of the Consolidated Appropriations Act, 2005, as amended, for privacy and data protection procedures and policies;
5. Audit of the Commission's compliance with the DATA Act; and
6. Review of FY2019 improper payment reporting.

DENALI COMMISSION OVERVIEW

The Denali Commission Act of 1998 (Denali Commission Act) established the Denali Commission (Commission) to deliver a wide range of services to Alaska in the most cost-effective manner by reducing administrative and overhead costs. As part of the Denali Commission Act, the Commission provides job training and other economic development services in rural communities, with a focus on promoting development in rural Alaska and on providing key infrastructure, such as power generation and transition facilities, modern communication systems, and water and sewer systems.

Since its enactment, the Denali Commission Act has been updated several times, expanding the Commission's mission to include the planning and construction of health care facilities and the establishment of the Denali Access System Program to support surface transportation infrastructure and waterfront transportation projects.

The Commission oversees three program areas: Energy, Village Infrastructure Protection, and Special Projects and Initiatives.

OVERSIGHT AREAS

Energy

Recognizing the critical role energy plays in the quality of life and economic development of Alaska's rural communities, the Commission has made energy its primary infrastructure theme since it was created in 1998.

The Energy Program funds the design and construction of replacement bulk fuel storage facilities, upgrades to community power-generation and distribution systems (including interties), and energy efficiency related initiatives. The Commission primarily works with the Alaska Energy Authority, Alaska Village Electric Cooperative, and Alaska Native Tribal Health Consortium to prioritize projects based on need. Other key partners include the U.S. Department of Energy – Office of Indian Energy, U.S. Department of Agriculture – Rural Utilities Service, State of Alaska Department of Commerce, Community and Economic Development, and Rural Alaska Fuel Services.

Village Infrastructure Protection

In 2015, the White House directed the Commission to establish a Village Infrastructure Protection (VIP) Program to assist rural Alaskan communities that are threatened by erosion, flooding, and permafrost degradation. The goal of the VIP program is to mitigate the impact of these threats with respect to safety, health, and the protection of infrastructure.

The basis for the program is Government Accountability Office (GAO) Report 09-551 that was published in 2009. The report identified 31 rural Alaska communities that face significant damage to infrastructure, and/or relocation due to these threats. The state of Alaska has also done significant research on this problem through an Immediate Action Workgroup established by Governor Sarah Palin in 2007.

One of the villages imminently threatened is Newtok, where permafrost degradation acting in combination with Ninglick River currents has resulted in a riverbank erosion rate of 70 feet per year. Numerous homes, the school, and the airport will be destroyed within the next 2 to 4 years. Relocating the community to safer ground is the only alternative.

The Commission's primary program partners are the following:

- Alaska Native Tribal Health Consortium, which is providing overall project management services for the Newtok Relocation Program;
- U.S. Army Corp of Engineers and University of Alaska Fairbanks, which are developing an overall Statewide Threat Assessment; and
- Several agencies within the state of Alaska, such as the Alaska Energy Authority and the Division of Community and Regional Affairs.

Special Projects and Initiatives

In 2012, a provision was added to the Commission's authorizing statute that allows other federal agencies to transfer funds to the Commission whereupon the funds, regardless of source, become no-year funds available until expended. In recent years, the Commission has used this tool to assist other agencies to implement projects and initiatives in rural Alaska that are complementary to the Commission's mission. Examples include funds from the Centers for Disease Control and Prevention for rural Alaska health and drinking water related studies.

The Commission's approved FY 2019 work plan included up to \$250,000 of discretionary funds for health care, housing, and/or work force development projects. In 2019, \$224,000 was awarded for a medical center in Petersburg. The Commission's FY2020 work plan did not include this funding.

Organization

The Commission is organized into three direct components and a fourth program: Programs, General Counsel, and Financial Operations. The fourth, Grant Solutions, is based on agreements entered into under Programs and Financial Operations with other Federal agencies.

OFFICE OF THE INSPECTOR GENERAL

The Office of Inspector General (OIG) is an independent office established under the provisions of the Inspector General Act of 1978, as amended (hereafter referred to as the IG Act). The IG Act, as amended by the Inspector General Empowerment Act of 2016, safeguards OIG access to agency information and mandates additional reporting to increase transparent in government operations.

The IG Act gives the Inspector General the authority and responsibility to:

1. Conduct and supervise audits and investigations of the Commission's programs and operations
2. Provide leadership, coordination, and recommend policies for activities designed to promote economy, efficiency, and effectiveness in the administration of the Commission's programs and operations; and prevent and detect fraud, waste, and abuse of the Commission's programs and operations; and
3. Keep the Federal Co-Chair, Commissioners, and Congress fully and currently informed about problems and deficiencies, as well as the necessity for corrective actions.

During the semi-annual period, the OIG completed two audits.

COMPLETED WORKS

Top Management and Performance Challenges Facing the Denali Commission in FY 2020

On June 29, 2020, the OIG issued their report on the top management and performance challenges facing the Commission in FY 2020. The OIG maintained the Commission's challenge: *Continue Implementing Strategic Plan to Fulfill the Commission's Statutory Purpose with Significant Decreases in Funding*. The Commission has made progress toward developing strategies to fulfill its statutory purpose by implementing a strategic plan for FYs 2018–2022 and awarding more grants that focus on maintenance and facilitation. However, due to the current budget environment, the Commission needs to continue implementing the strategies identified in its strategic plan of focusing on facilitation and maintenance of existing infrastructure to fulfill its statutory purpose with significantly decreased funding

The OIG also added three challenges for FY 2020: *Rebuilding trust among Denali Commission employees through significant changes in management; Appointment of a new Federal Co-Chair; and Management through COVID-19.*

Rebuilding trust among Denali Commission employees through significant changes in management. The Denali Commission faces the challenge of repairing employee trust and morale from the turbulent year of significant senior management turnover. Low employee morale can be destructive in a business setting and can lead to dissatisfaction, poor productivity, absenteeism, and turnover. The Denali Commission currently has 14 employees, and the effects of low employee morale may be more apparent given the low number of employees. With the loss of personnel during FY2019, the Denali Commission has had to hire new personnel and familiarize them with processes and procedures to fulfill the roles and knowledge of the former employees. As more employees potentially leave the Denali Commission, this knowledge transfer will become more difficult. Lastly, low employee morale may impact the Denali Commission's ability to attract a new Federal Co-Chair.

Appointment of a new Federal Co-Chair. Given the political turmoil in the United States, a delay in appointing a new Federal Co-Chair may affect the ability of the Commission to have clarity in the direction of the mission provided through strategic leadership. Leadership vision and policy decisions to implement that vision are more difficult for an interim to effectuate, even when that leadership is provided by a respected and proven interim. While the Denali Commission does not control the process or timing of the appointment of a new Federal Co-Chair, this nevertheless presents a management challenge for it.

Management through COVID-19. COVID-19 has caused unprecedented global social and economic disruption including one of the largest global recessions since the Great Depression. Further, COVID-19 has caused many businesses to close and lay off employees. As a result, the Federal government has taken significant action to provide economic stimulus to both businesses and citizens. The management of these stimulus programs may provide the Denali Commission opportunities to expand its grant base and provide Alaskans the stimulus funds needed. The challenge for the Denali Commission is the execution of these grant agreements while the Federal government continues to

reevaluate the rules and regulations related to the grants. The Denali Commission also is challenged by reopening its operations in a safe manner to protect both employees and guests of the Denali Commission.

Audit of the Denali Commission's Fiscal Year (FY) 2019 Financial Statements

SBC completed an audit of the Commission's FY 2019 financial statements in accordance with the Government Accountability Office's Government Auditing Standards and Office of Management and Budget (OMB) Bulletin 17-03, *Audit Requirements for Federal Financial Statements*. SBC issued an unmodified opinion on the financial statements and noted material weaknesses in internal controls over financial reporting.

SBC noted during their 2019 audit that during the year-end close process, management did not perform a review of the journal entries and underlying support used to record grant payables and thus actual amounts recorded did not reconcile to grantee confirmations of activity. SBC also noted certain other payable activity that was not recorded for the financial statements. As a result, an audit entry of approximately \$4.4 million was required to properly state the financial statements.

SBC noted during their 2019 audit that a grant was awarded subsequent to September 30, 2019, to an entity in which the now former Federal Co-Chair of the Commission is the current executive director of the entity. These actions by the former Federal Co-Chair may be violations of 18 U.S.C. § 207. SBC noted no documentation or other considerations in the grant file related to the grant being awarded to an entity that is led by the former Federal Co-Chair of the Commission within two months of the former Federal Co-Chair's departure from the Commission even though the issue was raised with senior leadership.

Audit of the Denali Commission's FY 2019 Compliance with FISMA

SBC completed an audit of the Commission's FY 2019 compliance with the Federal Information Security Modernization Act (FISMA) in accordance with OMB Memorandum 18-02, *Fiscal Year 2018-2019 Guidance on Federal Information Security and Privacy Management Requirements*.

PLANNED AUDITS AND MANAGEMENT REVIEWS

Audit of the Denali Commission's Fiscal Year (FY) 2020 Financial Statements

SBC is currently performing an audit of the Commission's FY 2020 financial statements in accordance with the Government Accountability Office's Government Auditing Standards and Office of Management and Budget (OMB) Bulletin 17-03, *Audit Requirements for Federal Financial Statements*.

Audit of the Denali Commission's FY 2020 Compliance with FISMA

SBC is currently performing an audit of the Commission's FY 2020 compliance with the Federal Information Security Modernization Act (FISMA) in accordance with OMB Memorandum 18-02, *Fiscal Year 2018-2019 Guidance on Federal Information Security and Privacy Management Requirements*.

Audit and Risk assessment of the Denali Commission's Charge Card Program

SBC is currently performing the audit and risk assessment of the Commission's charge card program in accordance with the *Government Charge Card Abuse and Prevention Act of 2012*.

Review of Commission's compliance with section 522 of the Consolidated Appropriations Act, 2005, as amended, for privacy and data protection procedures and policies

SBC is currently performing the review of the Commission's privacy and data protection policies and procedures in accordance with Consolidated Appropriations Act of 2005, Division H, Section 522, as amended; Section 208 of the 2002 E-Government Act; Privacy Act of 1974; and OMB memorandums.

Audit of the Commission's compliance with the DATA Act

SBC is currently performing an audit of the Commission's data submission for compliance with the DATA Act. The objective is to gain an understanding of the processes, systems, and controls which Commission has implemented or plans to implement to report financial and payment data in accordance with the requirements of the DATA Act. The IPA will use the Audit Plan prepared for the IG community to execute the IG reviews required by the DATA Act.

Review of the Denali Commission's Compliance with FY 2019 Improper Payments Requirements

SBC is currently performing the review of the Commission's compliance with FY2019 improper payments requirements in accordance with the requirements of the Improper Payments Information Act of 2002 as amended by the Improper Payments Elimination and Recovery Act of 2010 and the Improper Payments Elimination and Recovery Improvement Act of 2012 and the Office of Management and Budget Circular A-123, Appendix C, "Requirements for Effective Estimation and Remediation of Improper Payments," as amended.

INVESTIGATIONS

The Commission OIG receives and investigates allegations of fraud, waste, abuse and misconduct within Commission programs and operations. The Commission OIG investigations can give rise to administrative, civil and criminal penalties. Based on investigations conducted, the Commission OIG issues reports that set forth the allegations and an objective description of the facts to Commission management regarding administrative and civil matters. Investigations which uncover potential criminal activity are referred to the Department of Justice. As of the end of the semiannual reporting period, the OIG has two ongoing investigations.

OIG Hotline

To facilitate reporting of allegations, the Commission OIG maintains a hotline (see "Contacting the Office of Inspector General"). Callers who have general questions or concerns that do not fall within the OIG's jurisdiction are referred to other entities, such as other Commission offices, Federal agencies, Federal offices of inspectors general, and local or state governments.

During the semiannual reporting period, we received 10 hotline inquiries.

REPORT ON INSTANCES OF WHISTLEBLOWER RETALIATION

For this semiannual reporting period, the OIG found no instances of whistleblower retaliation to report.

Liaison Activities

The IG is a member of the CIGIE, which was established on October 14, 2008, pursuant to the Inspector General Reform Act of 2008. The IG attended regular meetings of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) and served as an adjunct instructor for the CIGIE Training Institute's Audit, Inspection & Evaluation Academy.

Reporting Requirements of the Inspector General Act of 1978, as Amended

The reporting requirements of the Inspector General Act of 1978, as amended, are listed in the following table along with the location of the required information. The work “None” appears where this is no data to report under a particular requirement.

| Reference | Reporting Requirements | Page |
|--------------------------|--|------|
| Section 4(a)(2) | Review of legislation and regulations | 16 |
| Section 5(a)(1) | Significant problems, abuses, and deficiencies relating to the administration of programs and operations | None |
| Section 5(a)(2) | Recommendations with respect to significant problems, abuses, or deficiencies | None |
| Section 5(a)(3) | Significant recommendations included in previous reports on which corrective action has not been taken (Table 1) | 13 |
| Section 5(a)(4) | Matters referred to prosecutive authorities | None |
| Section 5(a)(5) | Summary of instances where information was refused | None |
| Section 5(a)(6) | Listing of reports by subject matter (Table 2) | 13 |
| Section 5(a)(7) | Summary of significant reports | 7 |
| Section 5(a)(8) | Statistical table – Reports with questioned costs (Table 3) | 13 |
| Section 5(a)(9) | Statistical table – Recommendations that funds be put to better use (Table 4) | 14 |
| Section 5(a)(10) | Summary of each audit, inspection, and evaluation report issued before this reporting period for which no management decision was made by end of the reporting period, no establishment comment was returned within 60 days; or for those with any outstanding unimplemented recommendations, including the potential aggregate cost savings (Table 5) | 14 |
| Section 5(a)(11) | Description and explanation of significant revised management decisions | None |
| Section 5(a)(12) | Significant management decisions with which the Inspector General disagrees | None |
| Section 5(a)(13) | Information under section 804(b) of the Federal Financial Management Improvement Act of 1996 | None |
| Section 5(a)(14)(15)(16) | Peer review activity on FLRA OIG and Peer review activity by FLRA OIG on another OIG (Appendix A) | 19 |
| Section 5(a)(17) | Statistical Table – Investigative Reports / Summary of Investigative Activity for the Reporting Period of October 1, 2019, to March 31, 2020 (Table 6) | 15 |
| Section 5(a)(18) | Description of metrics used for developing the data for the statistical table under Section 5(a)(17) | None |
| Section 5(a)(19) | Report on each investigation involving a senior Government employee where allegations of misconduct were substantiated | 20 |
| Section 5(a)(20) | Description of whistleblower retaliation | None |
| Section 5(a)(21) | Description of any attempt by establishment to interfere with the independence including budget constraints, resisted to or objected to oversight, delayed access to information | None |
| Section 5(a)(22) | Description of particular circumstances of each inspection, evaluation, and audit conducted that is closed and was not disclosed to the public; and investigation conducted by the Office involving a senior Government employee that is closed and was not disclosed to the public | 20 |

Second Half of FY 2020 Freedom of Information Act Requests

| Activity | Total |
|--|-------|
| Number of Freedom of Information Act (FOIA) Requests Received | 0 |
| Number of FOIA Requests Processed | 0 |
| Number Granted | |
| Number Partially Granted | |
| Number Not Granted | |
| Reasons for Denial | |
| No Records Available | 0 |
| Referred to Other Agencies | |
| Requests Denied in Full Exemption 3 | |
| Requests Denied in Full Exemption 5 | |
| Requests Denied in Full Exemption 7(A) | |
| Requests Denied in Full Exemption 7(C) | |
| Request Withdrawn | |
| Not a Proper FOIA Request | |
| Not an Agency Record | |
| Duplicate Request | |
| Other | |
| Requests for OIG Reports from Congress and Other Government Agencies | |
| Received | |
| Processed | |
| Number of OIG Reports/Documents Released in Response to Requests | |

Investigations Statistical Highlights for this Period

Table 1. Reports from Previous Periods with Unimplemented Recommendations

| Report Title | Unimplemented Recommendations |
|--------------|-------------------------------|
| None | None |

Table 2. Listing of Reported Issued

| Report Number | Subject Matter | Issue Date | Report Title | Questioned Cost | Unsupported Cost | Funds Put to Better Use |
|------------------------|----------------|------------|---|-----------------|------------------|-------------------------|
| Not Publicly Available | Audit | 6/29/2020 | Audit on the Commission's Compliance with FISMA | \$0 | \$0 | \$0 |
| 2020.02 | Audit | 6/29/2020 | FY 2019 Financial Statements Audit | \$0 | \$0 | \$0 |

Table 3. Reports with Questioned Costs

| Description | Number of Reports | Questioned Costs | Unsupported Costs |
|---|-------------------|------------------|-------------------|
| A. For which no management decision has been made by the commencement of the reporting period. | 0 | \$0 | \$0 |
| B. Which were issued during the reporting period. | 0 | \$0 | \$0 |
| Subtotals (A + B) | 0 | \$0 | \$0 |
| C. For which a management decision was made during the reporting period. | 0 | \$0 | \$0 |
| i. Dollar value of disallowed costs; and | 0 | \$0 | \$0 |
| ii. Dollar value of costs not disallowed. | 0 | \$0 | \$0 |
| D. For which no management decision was made by the end of the reporting period. | 0 | \$0 | \$0 |

Table 4. Recommendations That Funds Be Put to Better Use

| Description | Number of Reports | Unsupported Cost |
|---|--------------------------|-------------------------|
| A. For which no management decision has been made by the commencement of the reporting period. | 0 | \$0 |
| B. Which were issued during the reporting period. | 0 | \$0 |
| Subtotals (A + B) | 0 | \$0 |
| C. For which a management decision was made during the reporting period. | 0 | \$0 |
| i. Dollar value of recommendations that were agreed to by management; and | 0 | \$0 |
| ii. Dollar value of recommendations that were not agreed to by management. | 0 | \$0 |
| D. For which no management decision has been made by the end of the reporting period. | 0 | \$0 |

Table 5. Summary of Reports for Which No Establishment Comment Was Returned within 60 Days of Providing the Report

| Fiscal Year | Number of Reports with Unimplemented Recommendations | Number of Unimplemented Recommendations | Dollar Value of Aggregate Potential Cost Savings |
|--------------------|---|--|---|
| 0 | 0 | 0 | \$0 |

Table 6. Listing of Investigative Reports/ Summary of Investigative Activity for the Reporting Period of April 1, 2020, to September 30, 2020

The data contained in this table was compiled from the OIG's investigations records.

| Investigative Caseload | Number |
|--|---------------|
| Cases Open at Beginning of Period | 1 |
| Cases Completed but Not Closed* at Beginning of Period | 0 |
| Cases Opened During Period | 1 |
| Cases Closed During Period | 0 |
| Cases Completed but Not Closed at End of Period | 0 |
| Open Cases at End of Period | 2 |
| Investigative Reports Issued During the Reporting Period | 0 |

* A case is "completed" but not "closed" when the investigative work has been performed but disposition (such as corrective administrative action) is pending.

| Criminal and Civil Investigative Activities | Number |
|---|---------------|
| Referrals for Criminal Prosecution to DOJ | 1 |
| Accepted | 0 |
| Indictments/Information | 0 |
| Arrests | 0 |
| Convictions | 0 |
| Referrals for Criminal Prosecution to State and Local Prosecuting Authorities | 0 |
| Referrals for Civil Prosecution to DOJ | 0 |
| Accepted | 0 |
| Referrals for Civil Prosecution to State and Local Prosecuting Authorities | 0 |

The following section includes information that is required under the Inspector General Act that is not otherwise addressed in this report, along with supplemental information on select reporting topics.

Section 4(a)(2): Review of Legislation and Regulations

This section requires the Inspector General of each agency to review existing and proposed legislation and regulations relating to that agency's programs and operations. Based on this review, the Inspector General is required to make recommendations in the semiannual report concerning the impact of such legislation or regulations on (1) the economy and efficiency of the management of programs and operations administered or financed by the agency or (2) the prevention and detection of fraud and abuse in those programs and operations. This review includes legislation that could affect the Denali Commission, or the oversight work of offices of inspectors general. During this reporting period, the following legislation was monitored and reviewed for potential effect on future work conducted in oversight of the Commission:

H.R. 8337 - Continuing Appropriations Act, 2021 and Other Extensions Act (Pub. L., 116-159)

On October 1, 2020, the President signed H.R. 8337, the Continuing Appropriations Act 2021, into law. This law provides continuing appropriations to federal agencies. It extends funding for the Denali Commission at the same level as fiscal year 2020 through December 11, 2020.

S. 3287 – CFO Vision Act of 2020

Senator Enzi introduced the CFO Vision Act of 2020 in February. On July 22, it was reported out of the Committee on Homeland Security and Governmental Affairs (HSGAC) with an amendment in the nature of a substitute. The bill makes changes impacting Inspector General obligations under 31 USC 3521, which contains the requirement that IGs audit their agency's financial statements.

Under the proposed bill, as part of the financial statement audit, the auditor must:

- evaluate the design of the internal control of the agency over financial reporting and key financial information,
- determine whether those controls have been implemented,
- perform sufficient tests of those controls to conclude whether they are operating effectively and support a low level of assessed internal control risk, and
- communicate controls that the auditor concludes are not suitably designed and implemented or are not operating effectively, as appropriate under GAGAS.

The OIG is continuing to review and monitor this legislation.

S. 4476 – Congressional Whistleblower Protection Act

On August 6, 2020, Senator Feinstein introduced S. 4476, and it was referred to HSGAC. The bill provides protections for employees of, former employees of, and applicants for employment with Federal agencies, contractors, and grantees whose right to petition or furnish information to Congress is interfered with or denied.

The bill would amend 5 USC Section 7211, by replacing “employees” with “covered individuals” and add a section on remedies including subsections on administrative remedies and private right of action. Separate provisions are contained for FBI employees, intelligence community employees, and contractors. The OIG will continue to monitor this legislation as part of its role to oversee whistleblower protections.

H.R. 6395 - William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021

The House National Defense Authorization Act for Fiscal Year 2021 (NDAA) would amend whistleblower provisions, both those under Title 41 and Title 10. The amendments would clarify that those protections override nondisclosure agreements and require entities to certify to the relevant agency that they have provided required training. OIGs would be required to update their respective websites.

Representative Connolly and Representative Fitzpatrick submitted an amendment, Amendment 280, to clarify to whom such complaints can be made, who OIG must submit its ROI to, when an agency may order corrective action, and which entities must train employees. Amendment 280 will also make corresponding changes to 10 USC § 2409.

Amendment 213, offered by Representative Porter, would amend the Federal Vacancies Reform Act to require that the first assistant to the IG serve as acting IG. If the first assistant position is vacant, the President may direct another officer or employee from the IG community, serving in a position paid at GS-15 or above, to serve as acting IG. The time limitations of the Federal Vacancies Reform Act would otherwise apply.

Section 573(b) - amends the IG Act to include causes for removal of an Inspector General. If an IG removal occurs fewer than 30 days after the President communicates the reasons in writing, the legislation establishes a requirement for the IG to report to CIGIE on the facts and circumstances of each investigation involving a senior government employee (as defined in Section 5 of this Act) being conducted by that IG at the time of such removal. In the context of removal, the legislation mandates a report to CIGIE identifying any instances in which an investigation or matter involving a senior government employee is closed prior to its completion, with a description of the reasons for closing the investigation or matter.

It also requires that CIGIE investigate the reasons for removal; publish a report on the reasons for removal and whether the reasons are in accordance with the removal for cause provisions; review any investigation that was being conducted by the Inspector General at the time of such removal; and submit to relevant congressional committees a report that includes the determination of whether an investigation being conducted by the removed IG motivated the removal.

There is no comparable provision in S.4049, the Senate version of the NDAA. H.R. 8099, noted below, contains the same language on removal of IGs and subsequent reporting requirements.

H.R. 8047 – Demanding Unconditional Accountability under the law for Inspectors General Act or the “Dual IG Act”

On August 14, 2020, Representative Keating introduced the DUAL IG Act, and it was referred to the Committee on Oversight and Reform (COR). This bill amends Section 3 of the IG Act by adding at

the end the following: “(h) In the event of a vacancy in the position of any Inspector General appointed by the President, by and with the advice and consent of the Senate, an acting Inspector General performing the functions and duties of such vacant position may not perform the functions and duties of any other position within the Government.”

H.R. 8099 – Diversity in Defense Act of 2020

Representative Brown introduced the Diversity in Defense Act of 2020 on August 25, 2020. The bill was referred to the House Armed Services; Transportation and Infrastructure; and COR committees. Section 10(a) establishes a Special Inspector General for Racial and Ethnic Disparities in the Armed Forces and Section 10(b) amends the Inspector General Act. The changes to the Inspector General Act are the same as summarized above under H.R. 6395, Section 573(b).

H.R. 7949 - Sensible Management of Archives, Records, and Technologies Government Act” or the “SMART Government Act”

Representative Cline introduced H.R. 7949 on August 7, 2020, and it was referred to COR. The bill would add an initial and annual requirement for the Inspector General of each agency to submit a certification to Congress that the agency developed a data consolidation and optimization strategic plan to “consolidate and optimize data centers at the agency”.

The strategic plan must include annual metrics, estimation of the annual costs related to the development and operation of data centers, and an estimation of the annual savings related to implementation of the strategic plan. The bill was referred to the Committee on Oversight and Reform. The OIG will continue to monitor this legislation in view of the Commission’s efforts to update and revise its systems of records.

Section 5(a)(1) and 5(a)(2): Significant Problems, Abuses, and Deficiencies, and Resulting Recommendations for Corrective Action

These sections require a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations disclosed during the reporting period and the resulting recommendations for corrective action. There were no significant problems, abuses, or deficiencies found during the reporting period, and no resulting recommendations for corrective action were issued.

Section 5(a)(3): Prior Significant Recommendations Unimplemented

This section requires identification of each significant recommendation described in previous semiannual reports for which corrective action has not been completed. Section 5(b) requires that the Commission transmit to Congress statistical tables showing the number and value of audit reports for which no final action has been taken, as well as an explanation of why recommended action has not occurred, except when the management decision was made within the preceding year. We have no prior significant unimplemented recommendations.

Section 5(a)(4): Matters Referred to Prosecutorial Authorities

This section requires a summary of matters referred to prosecutorial authorities and the resulting prosecutions and convictions. One additional matter was referred to prosecutorial authorities for

which a declination was received on July 14, 2020. This matter is currently under administrative review. There is one pending matter under criminal investigation that was previously referred to the Department of Justice.

Sections 5(a)(5) and 6(c)(2): Information or Assistance Refused

These sections require a summary of each report to the Commissioners when access, information, or assistance has been unreasonably refused or not provided. We were not refused access, information, or assistance.

Section 5(a)(10): Prior Audit Reports Unresolved

This section requires: a summary of each audit report, inspection report, and evaluation report issued before commencement of the reporting period (A) for which no management decision has been made by the end of the reporting period, an explanation of why a decision has not been made, and a statement concerning the desired timetable for delivering a decision on each such report; (B) for which no establishment comment was returned within 60 days of providing the report to the establishment; and (C) for which there are any outstanding unimplemented recommendations, including the aggregate potential cost savings of those recommendations. There are no reports for which no management decision was made by the end of the reporting period or for which no establishment comment was returned within 60 days of providing the report to the establishment.

Section 5(a)(11): Significant Revised Management Decisions

This section requires an explanation of the reasons for any significant revision to a management decision made during the reporting period. There were no significant revised management decisions during this period.

Section 5(a)(12): Significant Management Decisions with Which OIG Disagreed

This section requires information concerning any significant management decision with which the inspector general disagrees. There were no significant management decisions with which the previous or current inspector general disagreed.

Section 5(a)(13): Noncompliance with Federal Financial Management Systems

Agencies are required to implement and maintain financial management systems that comply substantially with federal financial management systems requirements, applicable federal accounting standards, and the U.S. Government Standard General Ledger at the transaction level. If an agency does not comply with federal financial systems, it is required to establish a remediation plan. This section requires the reporting of instances and reasons when an agency has not met target dates established in the remediation plan. There were no instances of noncompliance with federal financial management systems.

Section 5(a)(14) and 5(a)(15): Results of Peer Review Received by OIG

These sections require an appendix containing the results of any peer review conducted by another inspector general during the reporting period and a list of outstanding recommendations. As of this reporting period, the Denali Commission OIG has not been peer reviewed, and there are no outstanding recommendations. The previous interim Inspector General had a peer review complete

as part of their overall Office of Inspector General operations. For more information on the peer review of the previous interim Inspector General, please see the Office of Inspector General of the Department of Commerce website at www.oig.doc.gov. The next planned peer review of the Denali Commission OIG is during fiscal year 2021.

Section 5(a)(16) Results of Peer Review Conducted by OIG

This section requires a list of any peer reviews conducted of another inspector general during the reporting period, including a list of any outstanding recommendations made from any previous peer reviews. As of this reporting period, the Denali Commission OIG has not conducted a peer review, and there are no outstanding recommendations.

Sections 5(a)(17) and 5(a)(18): Investigations, Criminal Prosecutions, and Criminal Indictments and Metrics Used to Develop Statistical Data of Investigations, Criminal Prosecutions, and Criminal Indictments

These sections require a statistical table and a description of the metrics used to develop the data related to (1) the number of investigative reports issued, (2) number of persons referred to the Department of Justice for criminal prosecution, (3) number of persons referred to state and local authorities for criminal prosecution, and (4) number of criminal indictments and criminal information resulting from any prior referrals to prospective authorities. There were no investigations, criminal prosecutions, or criminal indictments.

Section 5(a)(19): Substantiated Investigations of Senior Government Employees

This section requires a detailed description of each investigation involving a senior government employee where allegations of misconduct were substantiated, including a detailed description of (1) the facts and circumstances of the investigations and (2) the status and disposition of the matter—including, if referred to or declined by the Department of Justice, the date of referral or declination. There are no substantiated allegations of misconduct involving a senior government employee.

Section 5(a)(20): Instances of Whistleblower Retaliation

This section requires a detailed description of any instance of whistleblower retaliation, including (1) information about the official found to have engaged in retaliation and (2) the consequences the agency imposed to hold the official accountable. There were no instances of whistleblower retaliation.

Section 5(a)(21): Interference with Inspector General Independence

This section requires a detailed description of any attempt by the Commission to interfere with the independence of the inspector general, including (1) budget constraints designed to limit OIG capabilities and (2) incidents where the establishment has resisted OIG oversight or delayed OIG access to information, including the justification of the establishment for such action. There were no instances of the Commission attempting to interfere with the independence of the OIG.

Section 5(a)(22): Closed Inspector General Matters Not Publicly Disclosed

This section requires a detailed description of the particular circumstances of each (1) inspection, evaluation, and audit conducted by OIG that is closed and was not publicly disclosed and (2) investigation conducted by OIG involving a senior government employee that is closed and was not

disclosed to the public. There are no closed inspections, audits, evaluations or investigations involving a senior government employee that were closed and not disclosed to the public.