

5.1.3

RECEIVED
OCT 1992

EXXON VALDEZ OIL SPILL TRUSTEE COUNCIL
FINANCIAL OPERATING PROCEDURES

EXXON VALDEZ OIL SPILL
TRUSTEE COUNCIL
ADMINISTRATIVE RECORD

Attached are the Exxon Valdez Oil Spill Trustee Council Financial Operating Procedures. The affixed pages shall constitute the initial procedures for financial management to ensure coordination and cooperation among the Trustee Council members. Approved by the members of the Trustee Council.

Charles E. Cole Date 9.21.92 Mike Barton Date 9/21/92

CHARLES E. COLE
Attorney General
State of Alaska

MICHAEL A. BARTON
Regional Forester
Alaska Region - USDA Forest Service

Carl L. Rosier Date 9/21/92

Curtis V. McVee Date 9-21-92

CARL L. ROSIER
Commissioner
Alaska Department of Fish and Game

CURTIS V. MCVEE
Special Assistant to the Secretary
U.S. Department of the Interior

John A. Sandor Date 9/21/92

Steven Pennoyer Date 9-21-92

JOHN A. SANDOR
Commissioner
Alaska Department of Environment
Conservation

STEVEN PENNOYER
Director, Alaska Region
National Marine Fisheries Service

EXXON VALDEZ OIL SPILL RESTORATION PROGRAM

FINANCIAL OPERATING PROCEDURES

September 14, 1992

PREFACE

The objective of the Financial Operating Procedures is to ensure public trust and accountability while maximizing the Trustees' ability to use Exxon settlement funds for approved restoration activities. A flow chart of the Financial Operating Procedures is included as Appendix A. The principles and processes stated herein are based on the authorities conveyed by the Exxon Valdez Consent Decrees and all memoranda of agreement between the State and Federal governments. Financial management of Exxon settlement funds will be accomplished based on the following principles:

Maximum use will be made of existing agency administrative structures. Each of the Trustee agencies has established administrative personnel and financial management systems that will be used to the maximum extent possible. In addition to these procedures, activities carried out by a State or Federal agency will be conducted in accordance with existing agency operating procedures. Detailed Federal procedures are contained in Appendix F.

Federal and State agencies will use their administrative structures and process in support of the Administrative Director's office. These administrative services include such functions as contracting for office space, personnel services, payment of utilities, purchasing, and so on. Memoranda of agreement will be established, as necessary, between State and Federal agencies to ensure support is provided without interruption to the office of the Administrative Director. Additional memoranda for other purposes will be negotiated when necessary.

General administration expenses will be kept to a minimum and applied in a consistent manner by the Trustee agencies.

ANNUAL BUDGET

The Trustee Council will annually prepare and approve a current-year budget based on the Federal fiscal year (October 1-September 30). It is recognized that the 1992 expenditure work plan is a transition to the federal fiscal year; it is intended that budget decisions will conform to the federal fiscal year beginning October 1, 1992.

The following constitutes the annual Trustee Council expenditure work plan:

- a) A budget for the office of the Administrative Director that includes salaries, benefits, travel, office space, supplies and materials, contractual services, utilities, general administration expenses, and such other items as may be necessary for the efficient operation of the Trustee Council, and the Restoration Team and its working groups. The proposed budget will be presented on the same budget forms as those used by any other project (for example, Forms 2A and 2B, shown in Appendix B).
- b) A budget for the Restoration Team and all working groups will be presented as one project. Under that project, the Restoration Team and each standing working group will be budgeted as sub-projects. Each sub-project will show the cost of personnel, travel, contractual services, commodities, equipment,

and general administration expenses. Authorized personnel will be identified by position title, the number of months budgeted, and the total salary and benefit costs for those months budgeted. In addition, a budget for the Finance Committee will be prepared separate from the Restoration Team and its working groups. The proposed budgets will be presented on the same budget forms as those used by any other project (shown in Appendix B).

c) A budget for each field project will be summarized on budget forms shown in Appendix B.

While some projects may be completed in one year, others require funding over multiple years. Information must be provided on budget forms showing total estimated costs for completing the project. Expenditures are authorized by the Trustee Council annually. Funding a project for one year does not obligate the Trustee Council to provide funding for the same project in future years.

Instructions will be prepared by the Finance Committee for distribution to State and Federal agencies involved in developing project budgets explaining how to complete the budget forms. These forms are intended to collect information necessary for the Trustee Council and staff members to evaluate all funding proposals, and to meet standards of accountability customary to the State and Federal governments during and after implementation of the proposed project.

CALCULATION OF PROJECT COSTS

Proposals for expenditure made to the Trustee Council will be presented on the budget forms established by the Finance Committee, including budgets for the Administrative Director, the Restoration Team and its working groups, and all other projects.

General administration costs may be included for all separate budgets funded through the Trustee Council. There are two types of general administration costs that may be incorporated into project budgets:

1. 15 percent of each project's direct personnel cost, and
2. Up to 7 percent of the first \$250,000 of each project's contract costs, plus 2 percent of project contract costs in excess of \$250,000.

These general administration funds are intended to pay indirect costs, such as office space, office utilities, fixed telephone charges, and all normal agency services for administering procurement, personnel, payroll, accounting, auditing and so on. A rate is used because measuring specific use of these services is expensive. For Trustee agencies which are actively involved in the restoration activities but do not have projects, the Trustee Council may approve a budget to cover agency services necessary to fund their involvement.

The rates for contracts relate to the costs for monitoring and supervising contractors, a cost that does not increase proportionally with the size of the contract. These rates are somewhat less than normal for Federal agencies.

In addition, project budgets may include proposed expenditures in specific line items: personnel, travel, contractual, commodities/supplies, equipment and capital outlay. All budgets, including those for the Restoration Team and its working groups, may have such costs. The Restoration Team will evaluate each budget proposal to determine if the expenditures listed in the specific line items are acceptable in nature and amount.

ANNUAL BUDGET FORMULATION PROCESS

Formal proposals for funding must be made in the following manner. Forms 2A and 2B must be used to describe the costs associated with a proposed project. If more than one agency is involved, or if there are distinct sub-projects (such as working groups associated with the Restoration Team), then a 2A form must be used (excluding the detailed position information) to summarize the project costs, and the 3A and 3B form must be used to describe the portion of the project assigned to each agency or to each sub-project. Such detail is essential for financial accountability.

The standards and format for justifying a project are the responsibility of the Restoration Team, working in conjunction with the Finance Committee. Such information must be attached behind the budget forms. Project plans supporting project budgets should include appropriate measures of performance to ensure intended results are achieved.

Each agency shall prepare budget documents for all spending for which it will be responsible. This includes projects or sub-projects related to field projects; the Administrative Director and associated staff, and any means for providing support for the Administrative Director or the Trustee Council; the Restoration Team and its working groups; and the Finance Committee. These rules also apply when a project is proposed by a member of the public.

Prior to the presentation of the proposed projects to the Trustee Council, the Financial Committee will review them. This review will include an evaluation of compliance with these Financial Operating Procedures, and will be limited to the budget and fiscal management aspects of the proposed projects. The Finance Committee may submit its written comments and recommendations to both the Restoration Team and the Trustee Council.

In a public meeting, annually, the Trustee Council will consider projects proposed for funding and issue a proposed work plan for public review and comment. After the expiration of the period for public review and comment, the Trustee Council, in open session and with opportunity for comment, will review the proposed work plan and may make such changes in it as the Trustee Council deems appropriate. The Trustee Council will annually approve a final work plan.

Upon final approval of the budget by the Trustee Council, approved budget documents will be available to the public through the offices of the Administrative Director. Approved budget information will also be available through review and notification procedures adopted by the State and Federal governments.

BUDGET IMPLEMENTATION

Both the State and Federal governments allow for certain adjustments in funding amounts during the budget period. The Trustee Council agrees that a certain amount of funding flexibility is necessary when projects are being carried out, and that limited amount of funding transfers between projects may be appropriate. The rules governing transfers are as follows:

- a) The Trustee Council authorizes agencies to transfer funds between projects up to the cumulative amount of \$25,000 or up to 10% of the annual spending level for each affected project, whichever is less. Calculation of these limits is based on the amounts authorized by the Trustee Council. The limits on funding transfers are set with the understanding that such transfers will not alter the underlying scope or objectives of the project, and

apply to both increasing and decreasing project funding. In addition, it is the responsibility of each agency, for future verification and audit, to record authorization to make such transfers and the purpose of each funding change.

For multi-agency projects, the concurrence of the lead agency must be obtained before moving funding into or out of a sub-project. Funding may be moved among the three State agencies and the three Federal agencies, and between State and Federal agencies, according to the limits shown above, if agencies responsible for projects gaining and losing funds agree to the transfer. Changes in authorized funding for each project must be reported on the next quarterly expenditure report, using Form 4, shown in Appendix B.

b) The Trustee Council may approve transfers in amounts greater than that authorized in a) above, without public notification other than a general agenda item in its public meetings, so long as such transfers do not change the scope or objectives of the projects. Transfers are subject to current State or Federal financial operating procedures and laws. Agencies must send requests for such transfers, using Form 5, shown in Appendix B, to the Administrative Director for submission to the next Trustee Council meeting. Approval must be obtained before the transfer is made.

c) The Trustee Council may increase or decrease the funding for an approved project that changes the scope or objective of the project, create a new project, or terminate an approved project during the budget year only after public notification of the proposed changes prior to the meeting. Such decisions by the Trustee Council will be made in a public meeting after giving the public an opportunity to comment on proposed changes, both at the meeting and through written comments submitted prior to the meeting. Public notification of the meeting will include a brief description of the project and the proposed change.

d) Project managers may transfer, within a single project, budgeted funds between object classes (such as personnel, travel, and contractual costs), and may change detailed items of expenditure, including specific personnel, to accommodate circumstances encountered during budget implementation. Such transfers are reported by agencies in the quarterly expenditure reports, simply by recording expenditures in the object classes where each expenditure was actually made. However, agencies may be subject to normal budget and administrative procedures regarding transfers established by the State or Federal government.

TRANSFER OF EXXON SETTLEMENT FUNDS FROM THE COURT REGISTRY

Upon completion of public review and comment on the proposed annual work plan, the Federal members of the Trustee Council shall submit to their Departments, through normal channels, the Federal portion of the budget then agreed upon by the Trustee Council for appropriate review and approval. It is expected that such review, including that of the Office of Management and Budget, will be completed within 30 days of receipt in Washington. Similarly, with respect to the State portion of the budget, State members of the Trustee Council will take appropriate action to comply with State requirements. Upon notification of Federal Executive Branch approval of the Federal portion of the budget and similar notification from the State Executive Branch, the Trustee Council will request the State of Alaska Department of Law and the U.S. Department of Justice to petition the Court for release of settlement funds (See

Appendix E) and the transfer of these funds, respectively, to the U.S. Department of the Interior Natural Resource Damage Assessment and Restoration (NRDA&R) Fund and to an account designated by the State of Alaska.

If the review process of either government results, in the opinion of one government, in an undue delay in filing a petition with the Court which would adversely impact it, the Trustee Council will, upon written request of the concerned government, provide appropriate consent for a joint petition to the Court for funds to be used for the activities identified in the budget approved by the Trustee Council for that concerned government.

When calculating the amount of funds requested from the Court, interest previously earned from settlement funds held by the Federal and State governments and unobligated balances will be subtracted from the spending plans approved by the Trustee Council.

ACCOUNTING AND REPORTING

Trustee agencies will maintain accountability for the expenditure of Exxon settlement funds using generally accepted accounting principles and Federal and State accounting procedures. As a minimum, these procedures will identify expenditures as approved in the annual work plan with supporting documentation. State and Federal agencies shall account separately for their respective portion of each project.

Within thirty days following the end of each calendar quarter, State and Federal agencies will report expenditures and obligations recorded at the end of the quarter to the Administrative Director. Agencies will submit expenditure/obligation reports (Form 4, shown in Appendix B) to the Administrative Director's office (where multi-agency or multi-sub projects will be consolidated) for review by the Finance Committee. Following review and approval by the Finance Committee, the Administrative Director will submit this information to the Trustee Council at its next meeting. The first report should be for the quarter ending September 30, 1992.

By November 30 of each year, agencies will report to the Administrative Director expenditures/obligations for the twelve month period ending September 30. The expenditure report should be generated from normal computerized accounting reports and must include at least the same level of detail as provided on the budget forms 2A and 2B. This requirement is in addition to the audit requirements described below. If an agency is responsible for a portion of a project, it will report on the sub-project assigned to it.

The Administrative Director, with assistance of the Restoration Team and the Finance Committee, will submit to the Trustee Council, by December 31, an annual accomplishment and expenditure report; reports of cash balances as of September 30 of the NRDA&R Fund, Federal agency and equivalent State accounts; and interest earned for the Federal fiscal year from funds contained within those accounts. In addition, the Finance Committee will report the September 30 balance of the Federal/State of Alaska Joint Fund held by the Registry of the Court.

The Federal government will adopt internal rules governing the information required to transfer cash received from the Court Registry, through the NRDA&R Fund, to Federal agencies incurring expenditures. The estimated expenditures will provide the basis for transfer of Exxon settlement funds from the NRDA&R Fund to the appropriate agency accounts. Money held in the NRDA&R Fund will earn, and retain, interest.

State agencies, operating under a unified accounting system, will draw from the account containing funds transferred from the Court Registry. Quarterly disbursements will not be necessary, and all unexpended funds received from the court will earn interest and be retained in the fund established to account for the settlement funds.

AUDITS

Accountability for the expenditure of settlement funds is of critical importance to maintaining public trust and confidence. Each Federal agency and the State of Alaska have Federally and State-approved audit functions, respectively. Periodic audits of Exxon settlement expenditures and financial controls will be conducted in accordance with established policy. The Finance Committee will report to the Trustee Council an annual schedule of audits, and any complaints by auditors of lack of cooperation from agencies being audited. The Finance Committee will recommend audits be performed by private accounting firms, when necessary. Further, the Finance Committee will review completed audits to bring significant issues, or the absence of such issues, to the attention of the Trustee Council. The Finance Committee will deliver at least one copy of all completed audits to the Administrative Director's office, which will be available to the public. Additional Federal procedures are contained in Appendix F.

MANAGEMENT OF EQUIPMENT

Generally, all equipment purchased with Exxon Valdez settlement funds, at a cost of \$500 or more, and other sensitive items as defined by State and Federal procedures, will be monitored by the Trustee Council.

Agencies shall use normal agency procedures for identifying equipment. By December 31 of each year, agencies must report to the Administrative Director all such equipment which is still functioning or has value. Agencies must also report all such equipment which during the previous fiscal year ceased to function or have value. These pieces of equipment need not be reported in future years.

Pending legal consultation, additional detailed provisions governing the use and disposal of such equipment will be forthcoming.

FINANCE COMMITTEE CHARTER

Membership is composed of three State representatives, three Federal representatives, and the Administrative Director (ex officio). A representative is appointed by each Trustee Council member.

The Finance Committee reports to the Trustee Council. The Finance Committee is to develop necessary financial procedures, enforce adherence to those procedures adopted by the Trustee Council, and ensure that specific actions of the Administrative Director, Restoration Team and its working groups, and State and Federal agencies conducting activities funded through the Trustee Council, meet or exceed financial management standards for accountability, efficiency and effectiveness. Such standards may be customary or specifically established by the Trustee Council, but must be sufficient to maintain public trust.

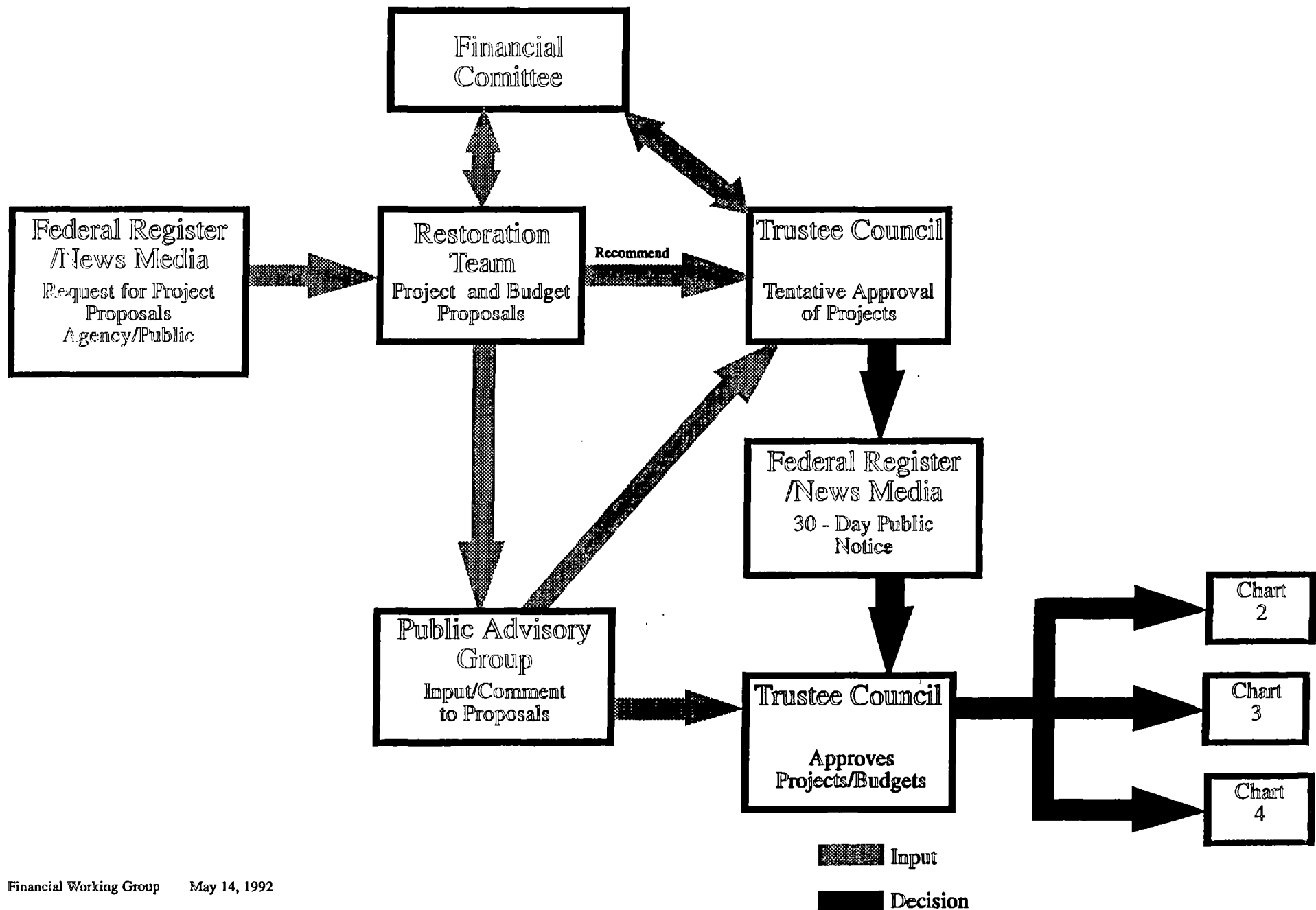
It is in the best interest of the Trustee Council that the Finance Committee, though independent of the Restoration Team, work cooperatively with the Restoration Team. The Restoration Team, whenever appropriate, will be informed of Finance Committee concerns and will be involved in remedying conditions giving rise to those concerns.

The Finance Committee is responsible for reporting directly to the Trustee Council on the following issues:

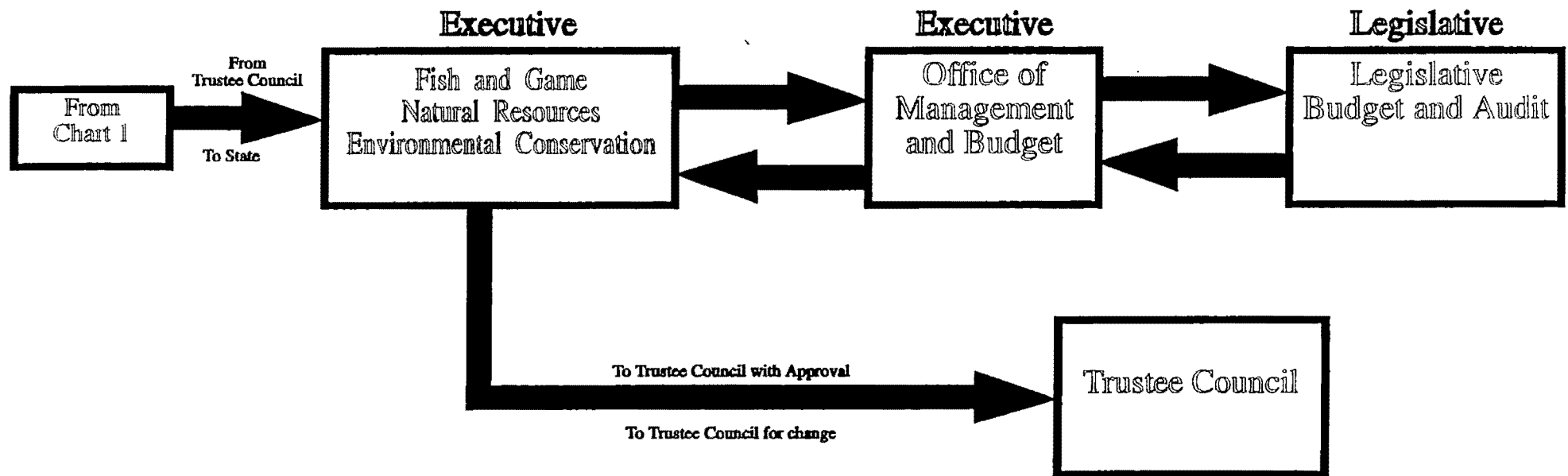
<u>Issue</u>	<u>When</u>
1. Recommend audits for scheduling, present a schedule of audits, report presence or absence of problems warranting Trustee Council attention.	Annually, by December 31
2. Ensure the proposed annual budget, information and documentation are reasonably complete, and agencies can reasonably carry out financial management of the project.	Annually, at the same time as the Restoration Team presents the proposed budget.
3. Ensure expenditure reporting is occurring as required, and there are no obvious discrepancies or difficulties with project implementation.	Quarterly, and annually
4. Report interest earned in NRDA&R Fund and State accounts.	Annually, by Dec. 31, and when funds are requested from the Court.
5. Propose amounts agencies should be reimbursed for past oil spill related costs, and required documentation on those costs.	1992

APPENDIX A
FINANCIAL OPERATING PROCEDURES
FLOW CHARTS

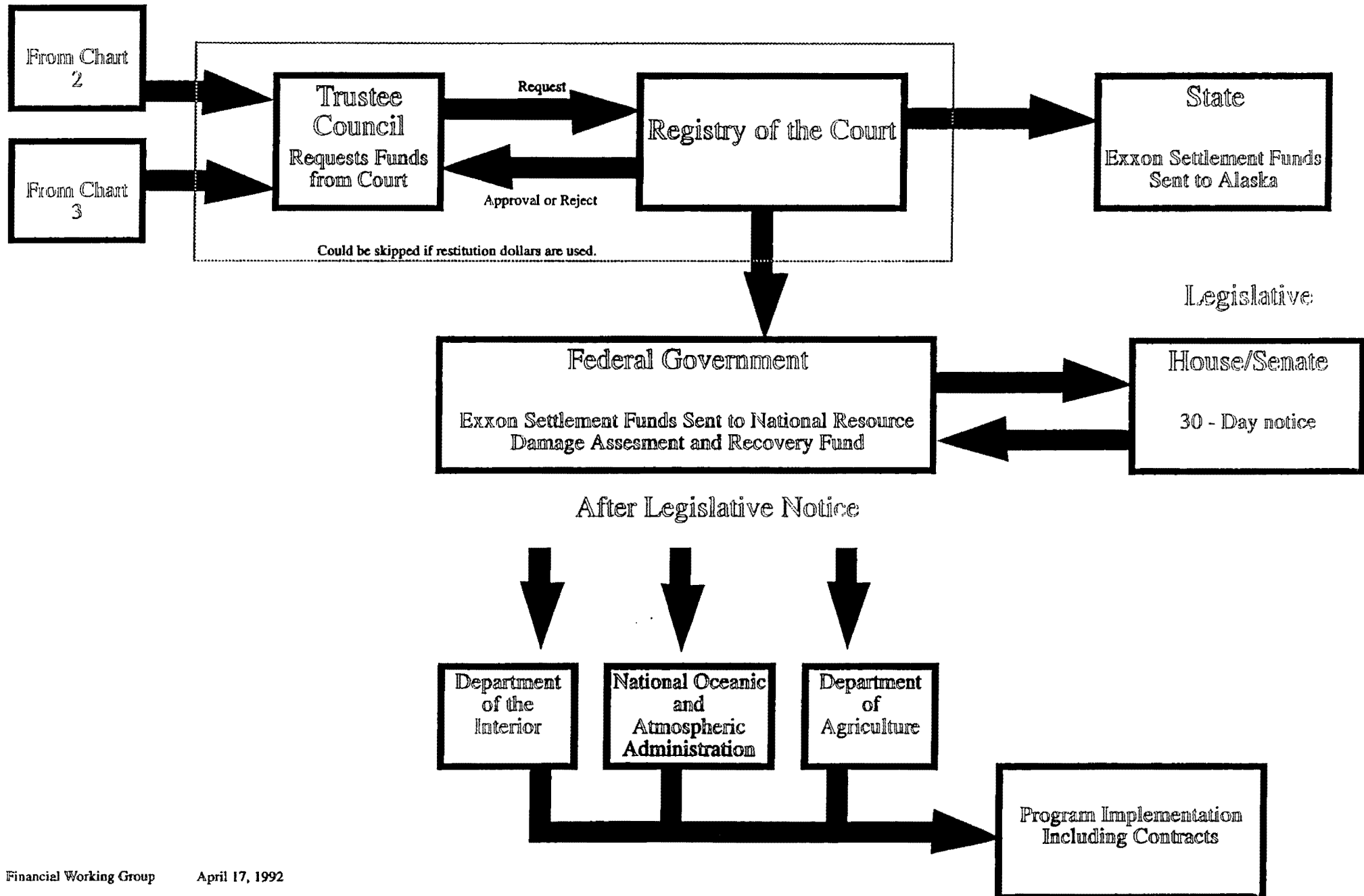
APPENDIX A FINANCIAL OPERATING PROCEDURES (CHART 1)



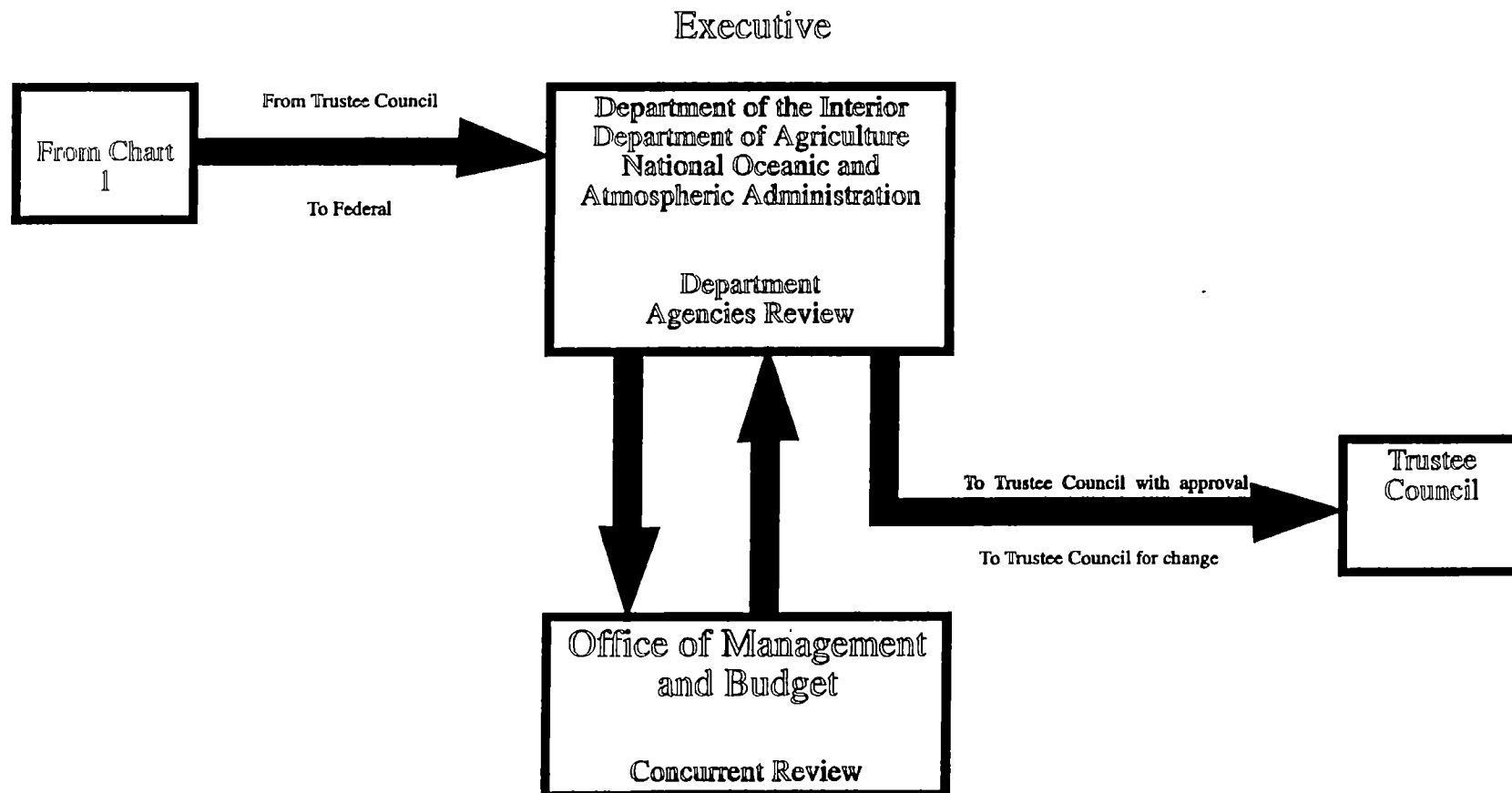
APPENDIX A
FINANCIAL OPERATING PROCEDURES: STATE PROCESS
(CHART 3)



APPENDIX A
FINANCIAL OPERATING PROCEDURES
(CHART 4)



APPENDIX A
FINANCIAL OPERATING PROCEDURES: FEDERAL PROCESS
(CHART 2)



APPENDIX B

BUDGET FORMS

Budget forms, which will be used to display information for all projects proposed for funding through the Trustee Council, are shown on the following pages. Appropriate technical adjustments will be made every year.

EXXON VALDEZ TRUSTEE COUNCIL

Project Number	Project Title	Agency	Approved 1-Oct-92 28-Feb-93	Proposed 1-Mar-93 30-Sep-93	Total FY 93	

17-Jul-92

1993

page of

FORM 1A
PROJECT SUMMARY

EXXON VALDEZ TRUSTEE COUNCIL

Agency	Project Number	Project Title	Approved 1-Oct-92 28-Feb-93	Proposed 1-Mar-93 30-Sep-93	Total FY 93	

17-Jul-92

1993

page of

FORM 1B
AGENCY SUMMARY

EXXON VALDEZ TRUSTEE COUNCIL

Project Description:

Budget Category	Approved 1-Oct-92 28-Feb-93	Proposed* 1-Mar-93 30-Sep-93	Total FY 93	FY 94	FY 95	FY 96	FY 97	Sum FY 98 & Beyond
Personnel			\$0.0					
Travel			\$0.0					
Contractual			\$0.0					
Commodities			\$0.0					
Equipment			\$0.0					
Capital Outlay			\$0.0					
Sub-total	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
General Administration			\$0.0					
Project Total	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Full-time Equivalents (FTE)								
Amounts are shown in thousands of dollars.								

Budget Year Proposed Personnel:

Position	Months Budgeted	Cost	Comment
----------	--------------------	------	---------

* FY 93 is a transition year from the previously used oil fiscal year to the federal fiscal year. This new project also includes proposed funding for January and February, 1993.

17-Jul-92

1993

page of

Project Number:
Project Title:
Agency:

FORM 2A
PROJECT
DETAIL

EXXON VALDEZ TRUSTEE COUNCIL

Travel:

Contractual:

Commodities:

Equipment:

17-Jul-92

1993

page

of

Project Number:

Project Title:

Agency:

FORM 2B

PROJECT

DETAIL

1

Project Description:

Budget Category	Approved 1-Oct-92 28-Feb-93	Proposed* 1-Mar-93 30-Sep-93	Total FY 93	FY 94	FY 95	FY 96	FY 97	Sum FY 98 & Beyond
Personnel			\$0.0					
Travel			\$0.0					
Contractual			\$0.0					
Commodities			\$0.0					
Equipment			\$0.0					
Capital Outlay			\$0.0					
Sub-total	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
General Administration			\$0.0					
Project Total	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Full-time Equivalents (FTE)					Amounts are shown in thousands of dollars.			

[illegible]

* FY 93 is a transition year from the previously used oil fiscal year to the federal fiscal year. This new project also includes proposed funding for January and February, 1993.

17-Jul-92

Project Number:	
Project Title:	
Sub-Project:	
Agency:	

FORM 3A
SUB-
PROJECT
DETAIL

1993

page of

Travel:

Contractual:

Commodities:

Equipment:

17-Jul-92

1993

page

of

Project Number:
Project Title:
Sub-Project:
Agency:

FORM 3B
SUB-
PROJECT
DETAIL

APPENDIX C

STATE OF ALASKA PROCEDURES FOR PUBLIC NOTIFICATION AND REVIEW OF ANNUAL BUDGET

The State of Alaska adheres to an annual budget process, with the Governor required to release a draft annual budget plan on December 15 preceding the beginning of the fiscal year on July 1. Since the Trustee Council will approve projects for the period October 1 to September 30, the State will include in its budget process three months of one Federal fiscal year (July 1 to September) and nine months of the second Federal fiscal year (October 1 to June 30).

State of Alaska institutions are involved in the operations of the Trustee Council and the spending of settlement funds in three respects. First, heads of three executive branch agencies serve on the six-member Trustee Council. Second, members of the Alaska State Legislature have an interest in particular projects proposed for funding by the Trustee Council. Third, the Alaska State Legislature, in practice, authorizes all spending made by an executive branch agency, regardless of the source of the funds. The following process relates to the third aspect only.

After the Trustee Council makes its final budget decisions, the Alaska Office of Management and Budget will prepare, assisted if necessary by State agencies, documents reflecting Trustee Council approved spending plans for projects or sub-projects to be carried out by State agencies. These documents will include a project description, line-item proposed expenditures, and information on state employees to be paid from the project. No projects to be carried out by Federal agencies will be subject to the State review and notification process.

The budget documents will be submitted for approval to the Legislative Budget and Audit Committee, as prescribed in Alaska Statute 37.07.080 (h). Authorization to spend will be recorded in the Alaska State Accounting System. Accounting documents establishing authorization to spend will be prepared by the State agency responsible for carrying out the project or sub-project, and approved by the Office of Management and Budget.

Data on expenditures made in the prior budget year, the current year authorization to spend, and spending approved by the Trustee Council for the upcoming budget year will be provided to the Alaska State Legislature, for information, through the normal budget process. Normal budget documents will identify such past and proposed expenditures with a unique funding source code, and State employees to be paid from settlement funds will be identified along with the amount they will be paid from the settlement funds. Budget structure changes, such as new budget request units or budget components, may be created with approval from the Office of Management and Budget to consolidate Trustee Council projects and sub-projects.

APPENDIX D

FEDERAL GOVERNMENT PROCEDURES FOR PUBLIC NOTIFICATION AND REVIEW OF ANNUAL BUDGET

During budget formulation, the President establishes general budget guidelines (OMB annual guidance) and fiscal policy guidelines. Under a multi-year planning system, policy guidance and planning ceilings are given to agencies for both the upcoming budget year and for the four following years. The budget guidelines also provide the initial guidelines for preparation of agency budget requests.

ANNUAL BUDGET FORMULATION PROCESS

As a subset of this procedure, the Restoration Team will provide budget/program recommendations to the Trustee Council for consideration that will reflect the requirements for the upcoming fiscal year. (For the 1994 Federal budget, it is expected that budgetary information will be received from the Trustee Council beginning in June 1992.) These recommendations will include for each agency, a list of projects and their associated project numbers and costs, including multi-year costs. The project list will be used by the Restoration Team in making recommendations to the Trustee Council.

Upon approval of the projects by the Trustee Council, the Financial Committee will ensure that the preparation and submission of all Federal budget estimates are in accordance with OMB Circular A-11.

PRESENTATION

Presentation of the annual budget request should be consistent across Federal Trustee Agencies and in accordance with OMB Circular A-11. A new title and code will be established within the Departments of Agriculture, Commerce, and Interior. These title and code designations (referred to as "Budget Activity") will be solely dedicated to Exxon Valdez oil spill assessment and restoration activities.

The Budget Activity will have three sub-activities that will provide detailed justification required by OMB for inclusion in the Congressional budget submission. Exxon Valdez oil spill budgetary requirements will be displayed by the Federal Trustee Agencies in the budget justification materials as follows:

- * Activity: Exxon Valdez Restoration Program
- * Subactivity: Damage Assessment Program
- * Subactivity: Restoration Program
- * Subactivity: Administration

TRANSFER OF EXXON SETTLEMENT FUNDS FROM THE COURT REGISTRY

Federal funds from the Court Registry will initially be transferred to and deposited in the Department of the Interior's (DOI) Natural Resource Damage Assessment and Restoration (NRDA&R) Fund. Therefore, the DOI annual budget estimate will reflect all Federal budgetary requirements anticipated at the time of submission for continuing activities, new activities, amounts necessary to meet specific financial liabilities imposed by law, and amounts to be transferred to Federal Trustees for Exxon Valdez oil spill-related program activities. The Federal Trustees will reflect in their individual budgets, the amount of the transfer from the NRDA&R Fund account, and will submit all required budget justification materials to OMB for clearance prior to transmittal to Congress.

CONTENT

Required budget materials for the initial and subsequent budget submissions are listed in OMB Circular A-11. These materials will be submitted in accordance with the detailed instructions in the sections indicated and the arrangements made by OMB representatives. OMB guidelines specify requirements that apply only to certain Federal Agencies or under certain circumstances.

FORMAT

As a general rule, approval for changes in budget structure should be requested by October 1, unless OMB specifies an earlier date. Changes in budget structure include establishment of new accounts, changes in account titles, account mergers, changes in the sequence of existing accounts, and new methods of financing. Specific information and format requirements will be determined in consultation with OMB representatives. Advance approval must be obtained before modifications are made to the standard justification material requirements used to present program and financial information.

CONGRESSIONAL NOTIFICATION

According to Public Law 102-229, which is dated December 12, 1991, "Making dire emergency supplemental appropriations...", among other provisions, provided "...That, for fiscal year 1992, the Federal Trustees shall provide written notification of the proposed transfer of such amounts to the Appropriations Committees of the House of Representatives and the Senate thirty days prior to the actual transfer of such amounts..."

"Such amounts" refers to amounts received by the United States for restitution and future restoration in settlement of United States v. Exxon Corporation and Exxon Shipping Company and deposited into the NRDA&R Fund prior to the transfer of funds to the other Federal Trustees and notice to OMB. Congressional notification will be by letter from the Federal Trustees to the Chairpersons of the House and Senate Appropriations Committees.

The notification will include, in summary form, an estimate of the Exxon settlement funds that are to be expended from the NRDA&R Fund by the Federal Trustees and the projects and activities for which the funds are to be used.

PL 102-229 also required "...That, for fiscal 1993 and thereafter, the Federal Trustees shall submit in the President Budget for each fiscal year the proposed use of such amounts."

Because this requirement was not incorporated into the President's 1993 Budget, due to time constraints, it is anticipated that the same requirement that was made for the Federal Trustees in 1992 will also be required by the Congress in 1993.

APPENDIX E

PROCEDURE FOR REQUESTING MONEY FROM THE COURT REGISTRY

The memorandum of agreement between the State and Federal governments requires a joint application to the Court for funds. The U.S. Department of Justice and the Alaska Department of Law will make the application upon authorization to do so by a unanimous vote of the Trustee Council. The Trustee Council will specify, in its vote, the amount to request from the Court for deposit in the Natural Resource Damage Assessment and Recovery (NRDA&R) Fund and the fund established by the State of Alaska. The Court will be asked to deliver monies separately to the two governments.

The Administrative Director shall assist, if necessary, the Department of Justice and the Department of Law prepare documents (primarily those concerning project descriptions) comprising the application for funds.

The Resolution Form (w/blanks) developed by State and Federal Attorneys is as follows:

RESOLUTION OF THE EXXON VALDEZ SETTLEMENT TRUSTEE COUNCIL

We, the undersigned, duly authorized members of the Exxon Valdez Settlement Trustee Council do hereby certify that, in accordance with the Memorandum of Agreement and Consent Decree entered as settlement of United States of America v. State of Alaska, No. A91-081 Civil, U.S. District Court for the District of Alaska, and after numerous public meetings, unanimous agreement has been reached to expend funds received in settlement of United States of America v. Exxon Corporation, et al., No. A91-082 Civil, U.S. District Court for the District of Alaska, and State of Alaska v. Exxon Corporation, et al., No. A91-083 Civil, U.S. District Court for the District of Alaska, for necessary natural resource damage assessment, restoration activities and administration from _____ to _____, according to the budgets appended hereto and totalling \$ _____. The moneys are to be distributed to the Trustee agencies according to the following schedule:

Alaska Department of Fish and Game \$
Alaska Department of Natural Resources
Alaska Department of Environmental Conservation _____
SUBTOTAL TO STATE OF ALASKA \$

U.S. Department of Agriculture \$
U.S. Department of the Interior
U.S. National Oceanic and Atmospheric Administration _____
SUBTOTAL TO UNITED STATES OF AMERICA \$

TOTAL BUDGET _____ to _____

We further certify that, by unanimous consent, we have requested the Attorney General of the State of Alaska and the Assistant Attorney General of the Environmental and Natural Resources Division of the United States Department of Justice to petition the United States District Court for the District of Alaska for withdrawal of the sum of \$ _____ from the Court Registry account established as a result of the governments' settlement with the Exxon companies.

Dated _____
MICHAEL A. BARTON
Regional Forester
Alaska Region
USDA Forest Service

Dated _____
CHARLES E. COLE
Attorney General
State of Alaska

Dated _____
CURTIS V. McVEE
Special Assistant
U.S. Department of the Interior

Dated _____
STEVEN PENOYER
Director, Alaska Region
National Marine Fisheries Service

Dated _____
CARL L. ROSIER
Commissioner
Alaska Department of Fish and Game

Dated _____
JOHN A. SANDOR
Commissioner
Alaska Department of Environmental
Conservation

APPENDIX F

ADDITIONAL FINANCIAL POLICIES AND PROCEDURES PERTAINING TO THE FEDERAL TRUSTEE DEPARTMENTS AND AGENCIES

As a result of differing financial/accounting policies and procedures utilized by the Federal and State governments, these additional policies set forth in this appendix apply solely to the Federal Trustee departments and agencies.

ANNUAL CERTIFICATION

Financial operating procedures and controls will be certified annually, similar to the process required by the Federal manager's Financial Integrity Act, the OMB Circular on Internal Control Systems. All Federal agencies and bureaus utilizing settlement funds will certify as of September 30, that such agency has operated in accordance with the financial operating procedures and that related controls have been implemented, and that based upon testing performed, the agency can provide reasonable assurance that financial operating procedures and controls are being complied with and are functioning as intended. This report will be completed annually, by October 31st. Such certification will take the form of a memorandum or letter, from each agency, to the Administrative Director for presentation to the Trustee Council and is available for public inspection.

BUDGET IMPLEMENTATION

For Federal agencies, the authority to move funds between object classes within a project is limited to a cumulative amount of \$25,000 or up to 10% of the annual spending level for that project. For amounts of greater value, the procedures for approval by the Trustee Council shall apply (see paragraphs b) and c) at page 4).

AUDITS

An important objective of the Federal Chief Financial Officers Act is the identification of performance measures and the systematic measurement and reporting of performance in each project or activity undertaken. Therefore, project plans are periodically assessed. Then, the project managers should self-certify that the results were achieved.

Finally, when audits of projects are conducted specific procedures, to be recommended by the Finance Committee, should be incorporated in the audit program to review and express an opinion on the accuracy of certified performance. All Federal agencies using settlement funds will self-certify projects (for its files only) at the end of each fiscal year.

EXXON VALDEZ OIL SPILL RESTORATION PROGRAM

FINANCIAL OPERATING PROCEDURES

PREFACE

The objective of the Financial Operating Procedures is to ensure public trust and accountability while maximizing the Trustees' ability to use Exxon settlement funds for approved restoration activities. A flow chart of the Financial Operating Procedures is included as Appendix A. The principles and processes stated herein are based on the authorities conveyed by the Exxon Valdez Consent Decrees and all memoranda of agreement between the State and Federal governments. Financial management of Exxon settlement funds will be accomplished based on the following principles.

Maximum use will be made of existing agency administrative structures. Each of the Trustee agencies has established administrative, personnel and financial management systems that will be used to the maximum extent possible. In addition to these procedures, activities carried out by a State or Federal agency will be conducted in accordance with existing agency operating procedures. Detailed Federal procedures are contained in Appendix G.

Federal and State agencies will use their administrative structures and process in support of the Administrative Director's office. These administrative services include such functions as contracting for office space, personnel services, payment of utilities, purchasing, and so on. Memoranda of agreement will be established, as necessary, between State and Federal agencies to ensure support is provided without interruption to the office of the Administrative Director. Additional memoranda for other purposes will be negotiated when necessary.

General administration expenses will be kept to a minimum and applied in a consistent manner by the Trustee agencies.

ANNUAL BUDGET

✓ The Trustee Council will annually prepare and approve a current-year budget based on the Federal fiscal year (October 1-September 30). It is recognized that the 1992 expenditure work plan is a transition to the federal fiscal year; it is intended that budget decisions will conform to the federal fiscal year beginning October 1, 1992.

The following constitutes the annual Trustee Council expenditure work plan:

July 7, 1992

a) A budget for the office of the Administrative Director that includes salaries, benefits, travel, office space, supplies and materials, contractual services, utilities, general administration expenses, and such other items as may be necessary for the efficient operation of the Trustee Council, and the Restoration Team and its working groups. The proposed budget will be presented on the same budget forms as those used by any other project (for example, Forms 2A and 2B, shown in Appendix B).

b) A budget for the Restoration Team and all working groups will be presented as one project. Under that project, the Restoration Team and each standing working group will be budgeted as sub-projects. Each sub-project will show the cost of personnel, travel, contractual services, commodities, equipment, and general administration expenses. Authorized personnel will be identified by position title, the number of months budgeted, and the total salary and benefit costs for those months budgeted. In addition, a budget for the Finance Committee will be prepared separate from the Restoration Team and its working groups. The proposed budgets will be presented on the same budget forms as those used by any other project (shown in Appendix B).

c) A budget for each field project will be summarized on budget forms shown in Appendix B.

While some projects may be completed in one year, others require funding over multiple years. Information must be provided on budget forms showing total estimated costs for completing the project. Expenditures are authorized by the Trustee Council annually. Funding a project for one year does not obligate the Trustee Council to provide funding for the same project in future years.

Instructions will be prepared by the Finance Committee for distribution to State and Federal agencies involved in developing project budgets explaining how to complete the budget forms. These forms are intended to collect information necessary for the Trustee Council and staff members to evaluate all funding proposals, and to meet standards of accountability customary to the State and Federal governments during and after implementation of the proposed project.

CALCULATION OF PROJECT COSTS

Proposals for expenditure made to the Trustee Council will be presented on the budget forms established by the Finance Committee, including budgets for the Administrative Director, the Restoration Team and its working groups, and all other projects.

General administration costs may be included for all separate budgets funded through the Trustee Council. There are two types of general administration costs that may be incorporated into project budgets:

- (1) 15 percent of each project's direct personnel cost. If, for a Trustee agency, the

percentages indicated in this paragraph and (2) immediately below are applied to all approved projects for that agency and do not result in a total of \$50,000, then the agency may choose to receive \$50,000. In this case, the agency would budget the 15% for all approved projects but receive additional funds in a separate budget to reach \$50,000.

- (2) Up to 7 percent of the first \$250,000 of each project's contract costs, plus 2 percent of project contract costs in excess of \$250,000.

These general administration funds are intended to pay indirect costs, such as office space, office utilities, fixed telephone charges, and all normal agency services for administering procurement, personnel, payroll, accounting, auditing and so on. A rate is used because measuring specific use of these services is expensive.

Regarding the rates stated above, the 15% rate is intended to be low, given that the average rate for State agencies, as determined by Federal auditors for Federal grants, averages approximately 20%. The \$50,000 minimum is an amount negotiated among the six Trustee agencies, determined to be the base level of support for a Trustee agency regardless of the number of projects or other funding the agency may be allocated by the Trustee Council. The rates for contracts relate to the costs for monitoring and supervising contractors, a cost that does not increase proportionally with the size of the contract. These rates are somewhat less than normal for Federal agencies.

In addition, project budgets may include proposed expenditures in the specific line items: personnel, travel, contractual, commodities/supplies, equipment and capital outlay. The Trustee Council may provide funds for such expenses if they are directly tied to the execution of the project and are costs that would not otherwise be incurred by the agency. All budgets, including those for the Restoration Team and its working groups, may have such costs. The Restoration Team, working in conjunction with the Finance Committee, will evaluate each budget proposal to determine if the expenditures listed in the specific line items are acceptable in nature and in amount.

ANNUAL BUDGET FORMULATION PROCESS

Formal proposals for funding must be made in the following manner. Forms 2A and 2B must be used to describe the costs associated with a proposed project. If more than one agency is involved, or if there are distinct sub-projects (such as working groups associated with the Restoration Team), then a 2A form must be used (excluding the detailed position information) to summarize the project costs, and the 3A and 3B form must be used to describe the portion of the project assigned to each agency or to each sub-project. Such detail is essential for financial accountability.

The Restoration Team is responsible for defining information it needs to evaluate any proposed

project and the format for presenting that information to the Restoration Team and the Trustee Council. Such information and format are separate from the budget forms and the information contained on budget forms. While the Restoration Team and Finance Committee must cooperate to ensure that the two sets of information are compatible with one another, the Restoration Team has the responsibility to collect sufficient information on activities each agency will carry out that a clear link can be made between project activities and specific project budgets.

Before projects are submitted to the Trustee Council for funding approval, the Finance Committee will review the projects to determine if costs are reasonable and if budget information is provided as required in the Financial Operating Procedures. The Finance Committee will not conduct detailed analyses but will adopt a perspective wherein a range of cost estimates and budget information will meet standards acceptable to the Trustee Council. The Finance Committee will report its findings, both positive and negative, to the Trustee Council.

Each agency shall prepare budget documents for all spending for which it will be responsible. This includes projects or sub-projects related to field projects; the Administrative Director and associated staff, and any means for providing support for the Administrative Director or the Trustee Council; the Restoration Team and its working groups; and the Finance Committee. These rules also apply when a project is proposed by a member of the public.

In a public meeting, the Trustee Council will consider the projects proposed for funding and will issue a draft annual work plan for public review and comment. After the public review period expires, the Trustee Council will again, in an open meeting with opportunity for public comment, review the tentative work plan, make changes as appropriate, and approve a final plan.

Upon final approval of the annual budget by the Trustee Council, approved budget documents will be available to the public through the offices of the Administrative Director. Approved budget information will also be available as part of the review and notification procedures adopted by the State and Federal governments.

BUDGET IMPLEMENTATION

Both the State and Federal governments allow for certain adjustments in funding amounts during the budget period. The Trustee Council agrees that a certain amount of funding flexibility is necessary when projects are being carried out, and that limited amount of funding transfers between projects may be appropriate. The rules governing transfers are as follows:

- a) The Trustee Council authorizes agencies to transfer funds between projects up to the cumulative amount of \$25,000 or up to 10% of the annual spending level for each affected project, whichever is less. Calculation of these limits is based on the amounts authorized by the Trustee Council. The limits on funding transfers are set with the understanding that such transfers will not alter the underlying scope or objectives of the

project, and apply to both increasing and decreasing project funding. In addition, it is the responsibility of each agency, for future verification and audit, to record authorization to make such transfers and the purpose of each funding change.

For multi-agency projects, the concurrence of the lead agency must be obtained before moving funding into or out of a sub-project. Funding may be moved among the three State agencies and the three Federal agencies, and between State and Federal agencies, according to the limits shown above, if agencies responsible for projects gaining and losing funds agree to the transfer. Changes in authorized funding for each project must be reported on the next quarterly expenditure report, using Form 4 shown in Appendix B.

b) The Trustee Council may approve transfers in amounts greater than that authorized in a) above, without public notification other than a general agenda item in its public meetings, so long as such transfers do not change the scope or objectives of the projects. Transfers are subject to current State or Federal financial operating procedures and laws. Agencies must send requests for such transfers, using Form 5, shown in Appendix B, to the Administrative Director for submission to the next Trustee Council meeting. Approval must be obtained before the transfer is made.

c) The Trustee Council may increase or decrease the funding for an approved project that changes the scope or objective of that project, create a new project, or terminate an approved project during the budget year only after public notification of the proposed changes prior to the meeting. Such decisions by the Trustee Council will be made in a public meeting after giving the public an opportunity to comment on proposed changes, both at the meeting and through written comments submitted prior to the meeting. Public notification of the meeting will include a brief description of the project and the proposed change.

d) Project managers may transfer, within a single project, budgeted funds between object classes (such as personnel, travel, and contractual costs), and may change detailed items of expenditure, including specific personnel, to accommodate circumstances encountered during budget implementation. Such transfers are reported by agencies in the quarterly expenditure reports, simply by recording expenditures in the object classes where each expenditure was actually made. However, agencies are subject to normal budget and administrative procedures regarding transfers established by the State or Federal government.

TRANSFER OF EXXON SETTLEMENT FUNDS FROM THE COURT REGISTRY

..... (At a time agreed upon) the Trustee Council will request the State of Alaska Department of Law and the U.S. Department of Justice to petition the Court for the release of settlement funds (see Appendix E) and their transfer to the U.S. Department of the Interior Resource

Damage Assessment and Restoration (NRDA&R) Fund and to an account to be designated by the State of Alaska.

When calculating the amount of funds requested from the Court, interest previously earned from settlement funds held by the Federal and State governments and unobligated balances will be subtracted from the spending plans approved by the Trustee Council.

ACCOUNTING AND REPORTING

Trustee agencies will maintain accountability for the expenditure of Exxon settlement funds using generally accepted accounting principles and Federal and State accounting procedures. As a minimum, these procedures will identify expenditures as approved in the annual work plan with supporting documentation. State and Federal agencies shall account separately for their respective portions of each project.

Within thirty days following the end of each calendar quarter, State and Federal agencies will report expenditures and obligations recorded at the end of the quarter to the Administrative Director. Agencies will submit expenditure/obligation reports (Form 4, shown in Appendix B) to the Administrative Director's office (where multi-agency or multi-subprojects will be consolidated) for review by the Finance Committee. Following review ~~and approval by the Finance Committee,~~ the Administrative Director will submit this information to the Trustee Council at its next meeting. The first report should be for the quarter ending September 30, 1992.

By November 30 of each year, agencies will report to the Administrative Director expenditures/obligations for the twelve month period ending September 30. The expenditure report should be generated from normal computerized accounting reports and must include at least the same level of detail as provided on the budget forms 2A and 2B. This requirement is in addition to the audit requirements described below. If an agency is responsible for a portion of a project, it will report on the sub-project assigned to it.

The Administrative Director, with the assistance of the Restoration Team and the Finance Committee, will submit to the Trustee Council by December 31 an annual accomplishment and expenditure report; reports of cash balances as of September 30 of the NRDA&R Fund, Federal agency and equivalent State accounts; and interest earned for the Federal fiscal year from funds contained within those accounts. In addition, the Finance Committee will report the September 30 balance of the Federal/State of Alaska Joint Fund held by the Registry of the Court.

The Federal government will adopt internal reporting rules governing the information required to transfer cash received from the Court Registry, through the NRDA&R Fund, to Federal agencies incurring expenditures. The estimated expenditures will provide the basis for transfer of Exxon settlement funds from the NRDA&R Fund to the appropriate agency accounts. Monies held in the NRDA&R Fund will earn, and retain, interest. The procedures for such transfers

are contained in Appendix F.

State agencies, operating under a unified accounting system, will draw from the account containing funds transferred from the Court Registry. Quarterly disbursements will not be necessary, and all unexpended funds received from the Court will earn interest and be retained in the fund established to account for the settlement funds.

AUDITS

Accountability for the expenditure of settlement funds is of critical importance to maintaining public trust and confidence. Each Federal agency and the State of Alaska have Federally- and State-approved audit functions, respectively. Periodic audits of Exxon settlement expenditures and financial controls will be conducted in accordance with established policy. The Finance Committee will report to the Trustee Council an annual schedule of audits, and any complaints by auditors of lack of cooperation from agencies being audited. The Finance Committee will recommend audits be performed by private accounting firms, when necessary. Further, the Finance Committee will review completed audits to bring significant issues, or the absence of such issues, to the attention of the Trustee Council. The Finance Committee will deliver at least one copy of all completed audits to the Administrative Director's office, which will be available to the public. Additional Federal procedures are contained in Appendix G.

MANAGEMENT OF EQUIPMENT

Generally, all equipment purchased with Exxon Valdez settlement funds, at a cost of \$500 or more, and other sensitive items as defined by State and Federal procedures, will be used for purposes directed by the Trustee Council. } *Charlie*

Agencies shall use normal agency procedures for identifying and accounting for equipment. By December 31 of each year, agencies must report to the Administrative Director all such equipment which is still functioning or has value. Agencies must also report all such equipment which during the previous fiscal year ceased to function or have value. These pieces of equipment need not be reported in future years.

Pending legal consultation, additional detailed provisions governing the use and disposal of such equipment will be forthcoming.

FINANCE COMMITTEE CHARTER

Membership is composed of three State representatives, three Federal representatives, and the

Administrative Director (ex officio). A representative is appointed by each Trustee Council member. [An individual may not serve on both the Restoration Team and the Finance Committee.]

but it is to coordinate closely with RT.

The Finance Committee reports to the Trustee Council. The Finance Committee is to develop necessary financial procedures, enforce adherence to those procedures adopted by the Trustee Council, and insure that specific actions of the Administrative Director, Restoration Team and its working groups, and State and Federal agencies conducting activities funded through the Trustee Council, meet or exceed financial management standards for accountability, efficiency and effectiveness. Such standards may be customary or specifically established by the Trustee Council, but must be sufficient to maintain public trust.

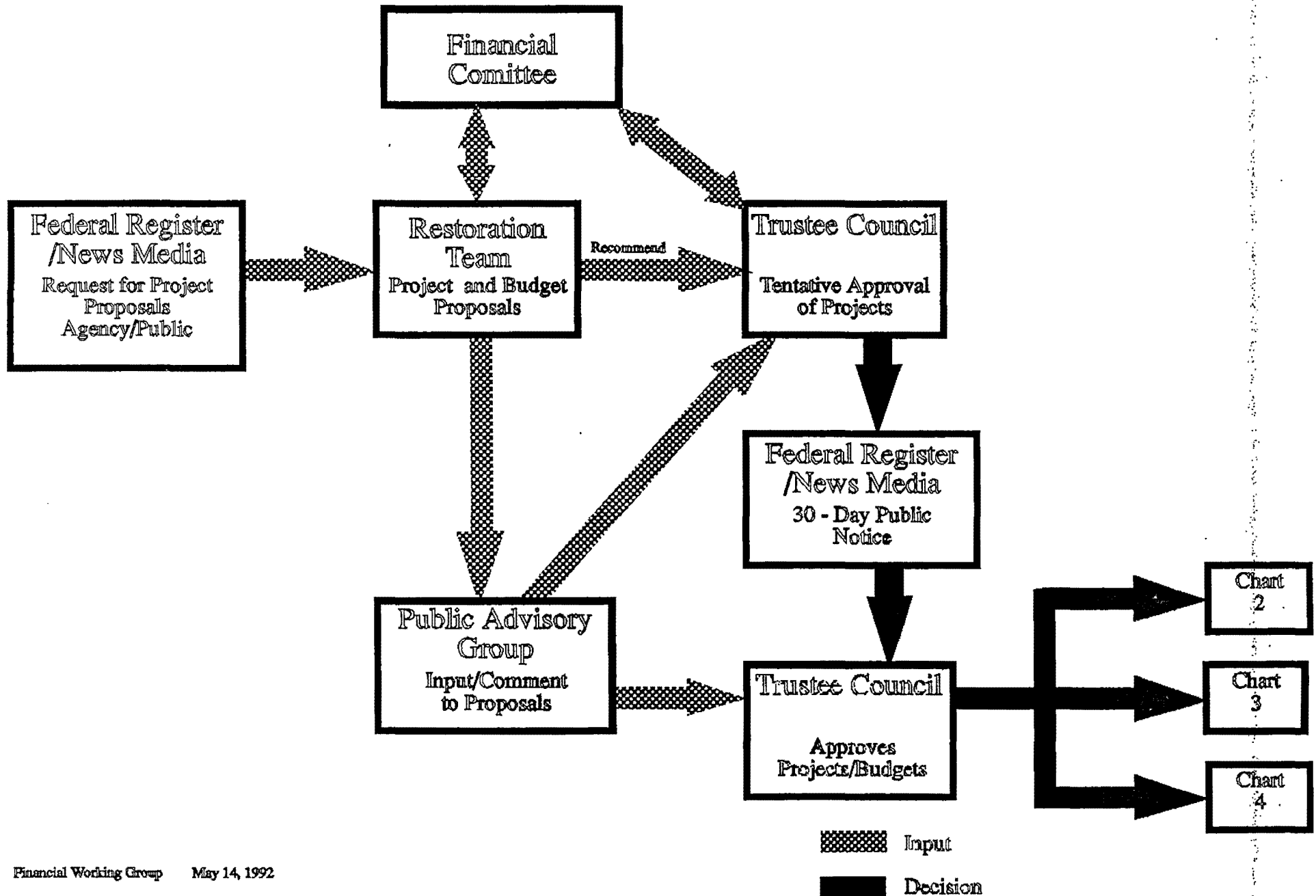
It is in the best interest of the Trustee Council that the Finance Committee, though independent of the Restoration Team, work cooperatively with the Restoration Team. The Restoration Team, whenever appropriate, will be informed of Finance Committee concerns and will be involved in remedying conditions giving rise to those concerns.

The Finance Committee is responsible for reporting directly to the Trustee Council on the following issues:

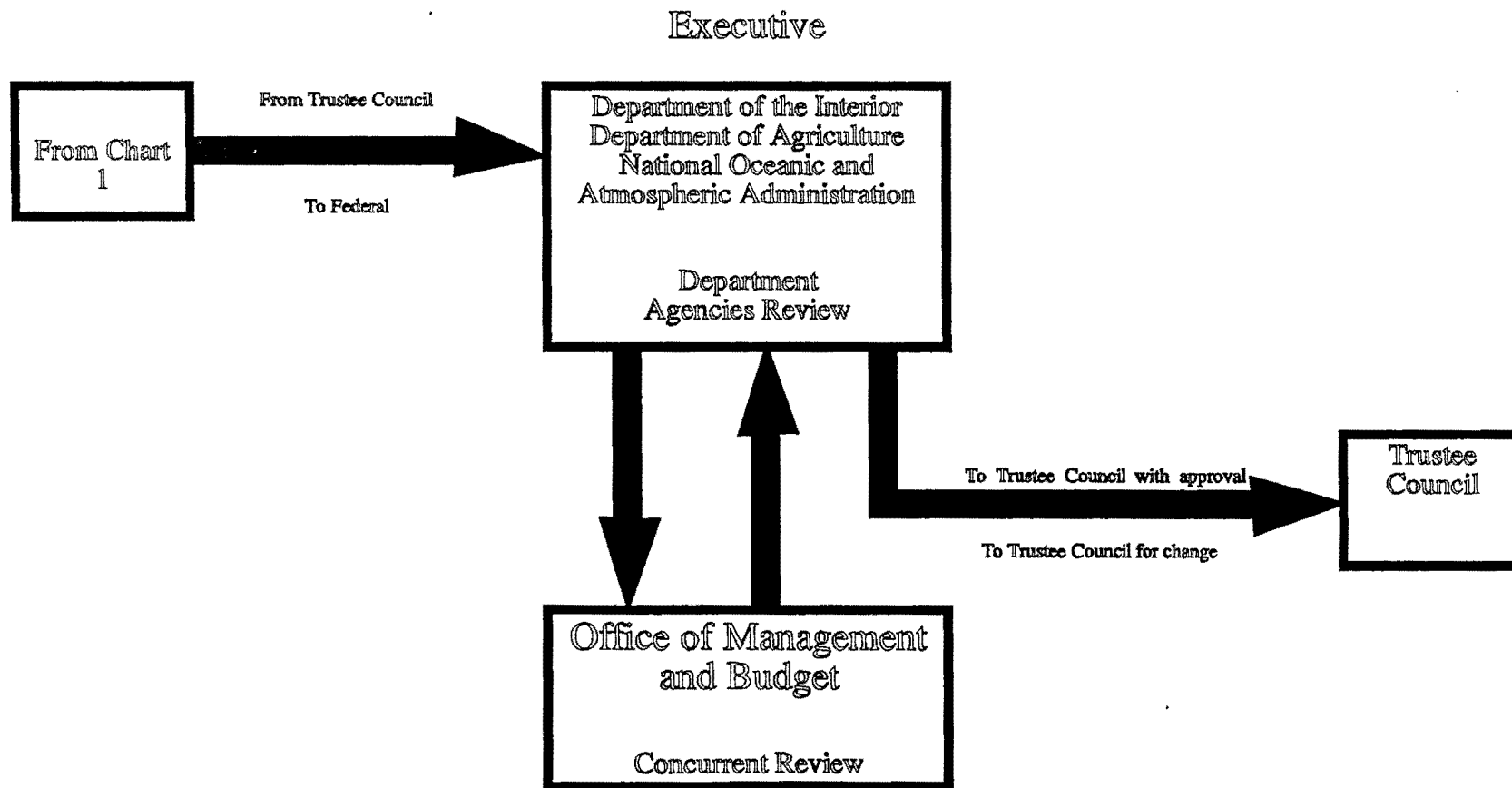
<u>Issue</u>	<u>When</u>
1. Recommend audits for scheduling, present a schedule of audits, report presence or absence of problems warranting Trustee Council attention.	Annually, by December 31
2. Ensure the proposed annual budget, information and documentation are reasonably complete, and agencies can reasonably carry out financial management of the project.	Annually, at the same time as the Restoration Team presents the proposed budget
3. Ensure expenditure reporting is occurring as required, and there are no obvious discrepancies or difficulties with project implementation.	Quarterly, and annually
4. Report interest earned in NRDA&R Fund and State accounts.	Annually by Dec 31, and when funds are requested from the Court
5. Propose amounts agencies should be	1992

reimbursed for past oil spill related
costs, and required documentation on
those costs.

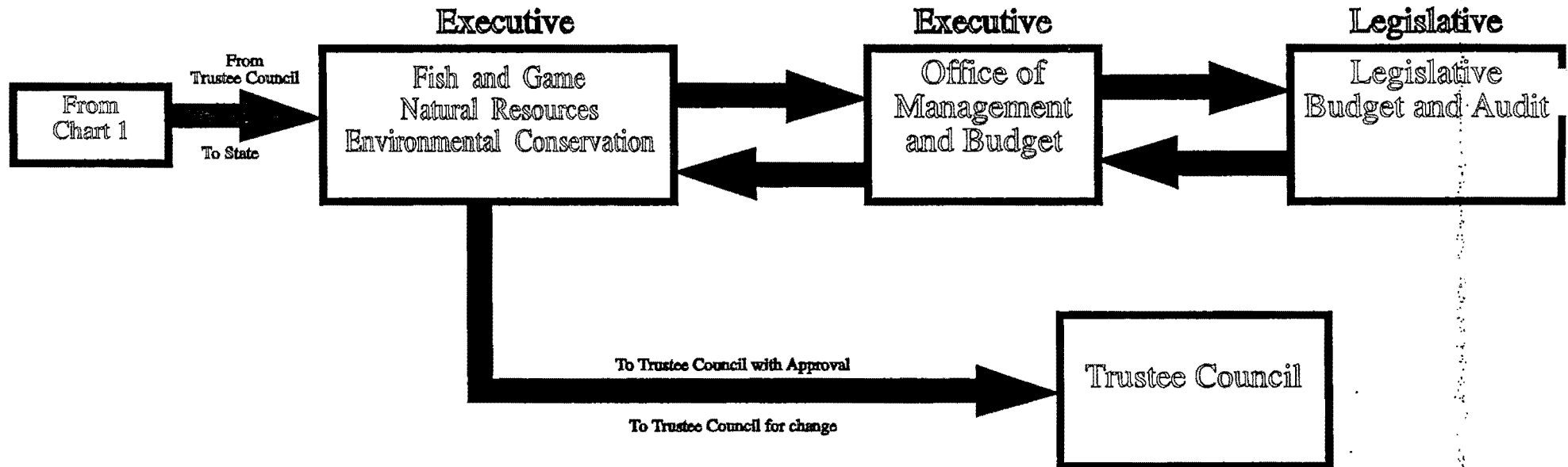
APPENDIX A FINANCIAL OPERATING PROCEDURES (CHART 1)



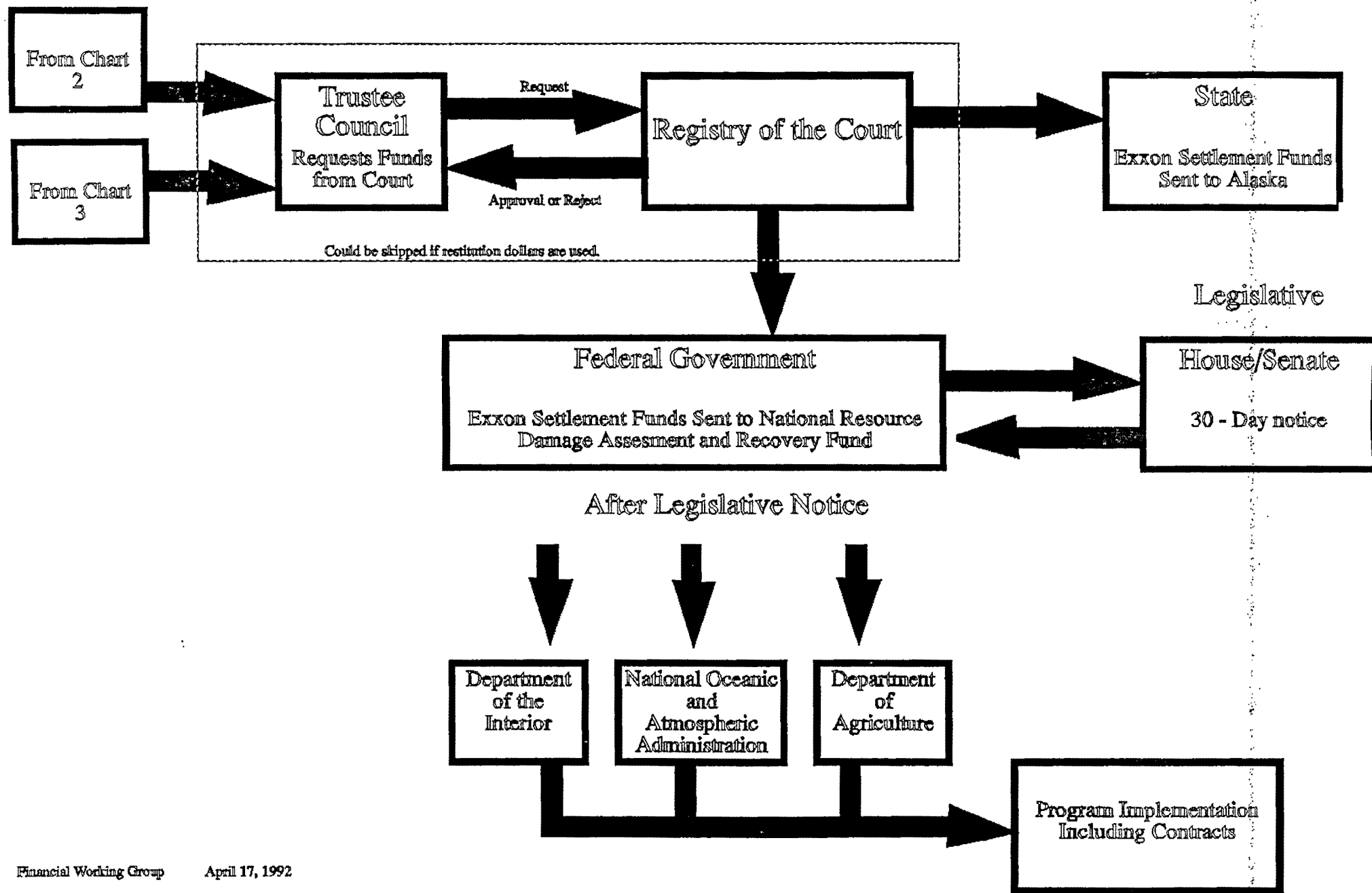
APPENDIX A
FINANCIAL OPERATING PROCEDURES: FEDERAL PROCESS
(CHART 2)



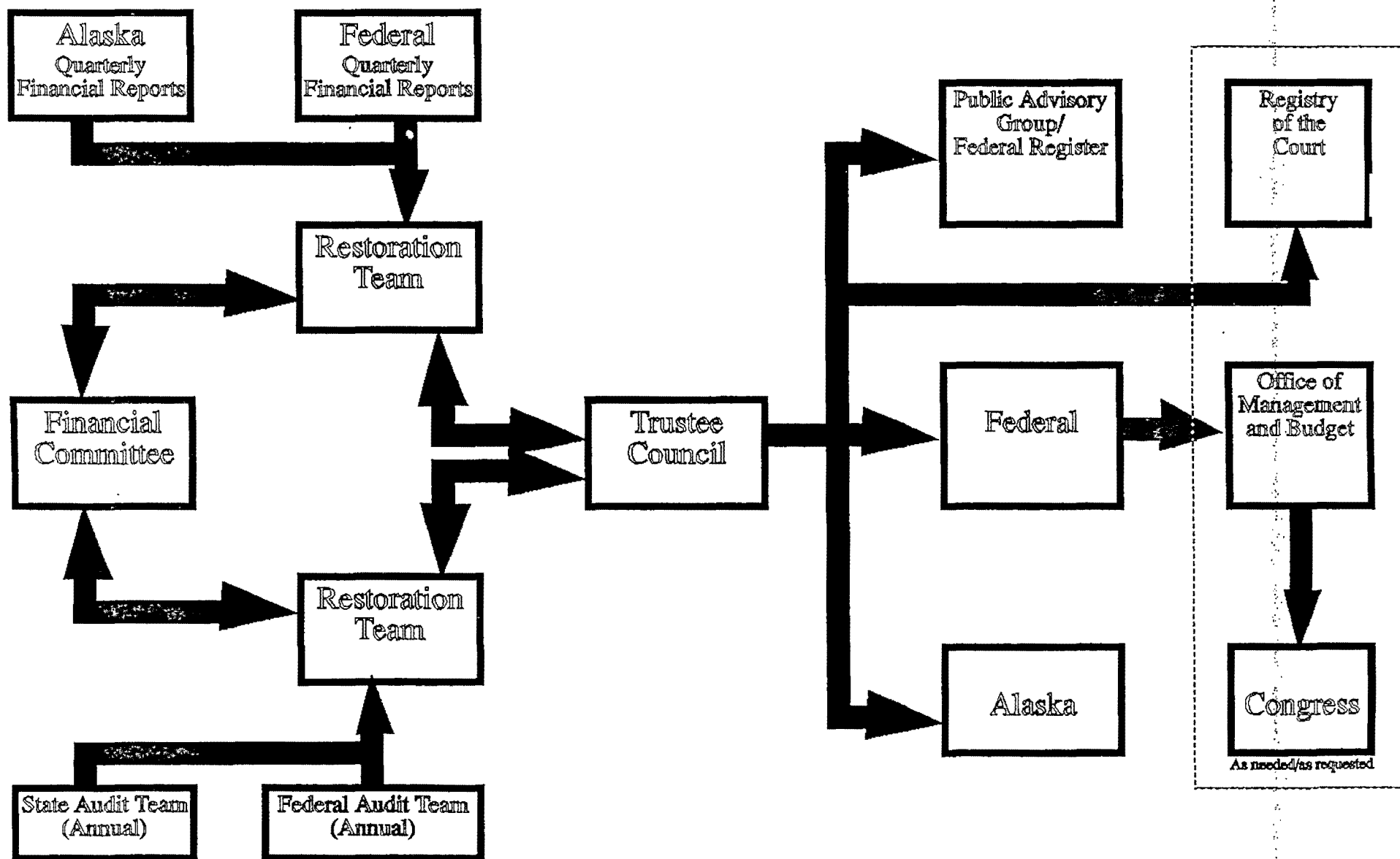
APPENDIX A
FINANCIAL OPERATING PROCEDURES: STATE PROCESS
(CHART 3)



APPENDIX A FINANCIAL OPERATING PROCEDURES (CHART 4)



APPENDIX G ACCOUNTING AND REPORTING PROCEDURES



APPENDIX B
BUDGET FORMS

Budget forms, which will be used to display information for all projects proposed for funding through the Trustee Council, are shown on the following pages. Appropriate technical adjustments will be made every year.

APPENDIX C

STATE OF ALASKA PROCEDURES FOR PUBLIC NOTIFICATION AND REVIEW OF ANNUAL BUDGET

The State of Alaska adheres to an annual budget process, with the Governor required to release a draft annual budget plan on December 15 preceding the beginning of the fiscal year on July 1. Since the Trustee Council will approve projects for the period October 1 to September 30, the State will include in its budget process three months of one Federal fiscal year (July 1 to September) and nine months of the second Federal fiscal year (October 1 to June 30).

State of Alaska institutions are involved in the operations of the Trustee Council and the spending of settlement funds in three respects. First, heads of three executive branch agencies serve on the six-member Trustee Council. Second, members of the Alaska State Legislature have an interest in particular projects proposed for funding by the Trustee Council. Third, the Alaska State Legislature, in practice, authorizes all spending made by an executive branch agency, regardless of the source of the funds. The following process relates to the third aspect only.

After the Trustee Council makes its final budget decisions, the Alaska Office of Management and Budget will prepare, assisted if necessary by State agencies, documents reflecting Trustee Council approved spending plans for projects or sub-projects to be carried out by State agencies. These documents will include a project description, line-item proposed expenditures, and information on state employees to be paid from the project. No projects to be carried out by Federal agencies will be subject to the State review and notification process.

The budget documents will be submitted for approval to the Legislative Budget and Audit Committee, as prescribed in Alaska Statute 37.07.080 (h). Authorization to spend will be recorded in the Alaska State Accounting System. Accounting documents establishing authorization to spend will be prepared by the State agency responsible for carrying out the project or sub-project, and ~~approved~~ by the Office of Management and Budget.

Reviewed

Data on expenditures made in the prior budget year, the current year authorization to spend, and spending approved by the Trustee Council for the upcoming budget year will be provided to the Alaska State Legislature, for information, through the normal budget process. Normal budget documents will identify such past and proposed expenditures with a unique funding source code, and State employees to be paid from settlement funds will be identified along with the amount they will be paid from the settlement funds. Budget structure changes, such as new budget request units or budget components, may be created with approval from the Office of Management and Budget to consolidate Trustee Council projects and sub-projects.

APPENDIX D

FEDERAL GOVERNMENT PROCEDURES FOR PUBLIC NOTIFICATION AND REVIEW OF ANNUAL BUDGET

During budget formulation, the President establishes general budget guidelines (OMB annual guidance) and fiscal policy guidelines. Under a multi-year planning system, policy guidance and planning ceilings are given to agencies for both the upcoming budget year and for the four following years. The budget guidelines also provide the initial guidelines for preparation of agency budget requests.

ANNUAL BUDGET FORMULATION PROCESS

As a subset of this procedure, the Restoration Team will provide budget/program recommendations to the Trustee Council for consideration that will reflect the requirements for the upcoming fiscal year. (For the 1994 Federal budget, it is expected that budgetary information will be received from the Trustee Council beginning in June 1992.) These recommendations will include for each agency, a list of projects and their associated project numbers and costs, including multi-year costs. The project list will be used by the Restoration Team in making recommendations to the Trustee Council.

Upon approval of the projects by the Trustee Council, the Financial Committee will ensure that the preparation and submission of all Federal budget estimates are in accordance with OMB Circular A-11.

PRESENTATION

Presentation of the annual budget request should be consistent across Federal Trustee Agencies and in accordance with OMB Circular A-11. A new title and code will be established within the Departments of Agriculture, Commerce, and Interior. These title and code designations (referred to as "Budget Activity") will be solely dedicated to Exxon Valdez oil spill assessment and restoration activities.

The Budget Activity will have three sub-activities that will provide detailed justification required by OMB for inclusion in the Congressional budget submission. Exxon Valdez oil spill budgetary requirements will be displayed by the Federal Trustee Agencies in the budget justification materials as follows:

- * Activity: Exxon Valdez Restoration Program
- * Subactivity: Damage Assessment Program
- * Subactivity: Restoration Program
- * Subactivity: Administration

TRANSFER OF EXXON SETTLEMENT FUNDS FROM THE COURT REGISTRY

Federal funds from the Court Registry will initially be transferred to and deposited in the Department of the Interior's (DOI) Natural Resource Damage Assessment and Restoration (NRDA&R) Fund. Therefore, the DOI annual budget estimate will reflect all Federal budgetary requirements anticipated at the time of submission for continuing activities, new activities, amounts necessary to meet specific financial liabilities imposed by law, and amounts to be transferred to Federal Trustees for Exxon Valdez oil spill-related program activities. The Federal Trustees will reflect in their individual budgets, the amount of the transfer from the NRDA&R Fund account, and will submit all required budget justification materials to OMB for clearance prior to transmittal to Congress.

CONTENT

Required budget materials for the initial and subsequent budget submissions are listed in OMB Circular A-11. These materials will be submitted in accordance with the detailed instructions in the sections indicated and the arrangements made by OMB representatives. OMB guidelines specify requirements that apply only to certain Federal Agencies or under certain circumstances.

FORMAT

As a general rule, approval for changes in budget structure should be requested by October 1, unless OMB specifies an earlier date. Changes in budget structure include establishment of new accounts, changes in account titles, account mergers, changes in the sequence of existing accounts, and new methods of financing. Specific information and format requirements will be determined in consultation with OMB representatives. Advance approval must be obtained before modifications are made to the standard justification material requirements used to present program and financial information.

CONGRESSIONAL NOTIFICATION

According to Public Law 102-229, which is dated December 12, 1991, "Making dire emergency supplemental appropriations...", among other provisions, provided "...That, for fiscal year 1992, the Federal Trustees shall provide written notification of the proposed transfer of such amounts to the Appropriations Committees of the House of Representatives and the Senate thirty days prior to the actual transfer of such amounts..."

"Such amounts" refers to amounts received by the United States for restitution and future restoration in settlement of United States v. Exxon Corporation and Exxon Shipping Company and deposited into the NRDA&R Fund prior to the transfer of funds to the other Federal Trustees and notice to OMB. Congressional notification will be by letter from the Federal Trustees to the Chairpersons of the House and Senate Appropriations Committees.

The notification will include, in summary form, an estimate of the Exxon settlement funds that are to be expended from the NRDA&R Fund by the Federal Trustees and the projects and activities for which the funds are to be used.

PL 102-229 also required "...That, for fiscal 1993 and thereafter, the Federal Trustees shall submit in the President Budget for each fiscal year the proposed use of such amounts."

Because this requirement was not incorporated into the President's 1993 Budget, due to time constraints, it is anticipated that the same requirement that was made for the Federal Trustees in 1992 will also be required by the Congress in 1993.

APPENDIX E

PROCEDURE FOR REQUESTING MONEY FROM THE COURT REGISTRY

The memorandum of agreement between the State and Federal governments requires a joint application to the Court for funds. The U.S. Department of Justice and the Alaska Department of Law will make the application upon authorization to do so by a unanimous vote of the Trustee Council. The Trustee Council will specify, in its vote, the amount to request from the Court for deposit in the Natural Resource Damage Assessment and Recovery (NRDA&R) Fund and the fund established by the State of Alaska. The Court will be asked to deliver monies separately to the two governments.

The Administrative Director shall assist, if necessary, the Department of Justice and the Department of Law prepare documents (primarily those concerning project descriptions) comprising the application for funds.

The Resolution Form (w/blanks) developed by State and Federal Attorneys is as follows:

RESOLUTION OF THE EXXON VALDEZ SETTLEMENT TRUSTEE COUNCIL

We, the undersigned, duly authorized members of the Exxon Valdez Settlement Trustee Council do hereby certify that, in accordance with the Memorandum of Agreement and Consent Decree entered as settlement of United States of America v. State of Alaska, No. A91-081 Civil, U.S. District Court for the District of Alaska, and after numerous public meetings, unanimous agreement has been reached to expend funds received in settlement of United States of America v. Exxon Corporation, et al., No. A91-082 Civil, U.S. District Court for the District of Alaska, and State of Alaska v. Exxon Corporation, et al., No. A91-083 Civil, U.S. District Court for the District of Alaska, for necessary natural resource damage assessment, restoration activities and administration from _____ to _____, according to the budgets appended hereto and totalling \$ _____. The moneys are to be distributed to the Trustee agencies according to the following schedule:

Alaska Department of Fish and Game . \$
Alaska Department of Natural Resources
Alaska Department of Environmental Conservation
SUBTOTAL TO STATE OF ALASKA \$

U.S. Department of Agriculture \$
U.S. Department of the Interior
U.S. National Oceanic and Atmospheric Administration
SUBTOTAL TO UNITED STATES OF AMERICA \$

TOTAL BUDGET _____ to _____

We further certify that, by unanimous consent, we have requested the Attorney General of the State of Alaska and the Assistant Attorney General of the Environmental and Natural Resources Division of the United States Department of Justice to petition the United States District Court for the District of Alaska for withdrawal of the sum of \$ _____ from the Court Registry account established as a result of the governments' settlement with the Exxon companies.

Dated _____
MICHAEL A. BARTON
Regional Forester
Alaska Region
USDA Forest Service

Dated _____
CHARLES E. COLE
Attorney General
State of Alaska

Dated _____
CURTIS V. McVEE
Special Assistant
U.S. Department of the Interior

Dated _____
STEVEN PENOYER
Director, Alaska Region
National Marine Fisheries Service

Dated _____
CARL L. ROSIER
Commissioner
Alaska Department of Fish and Game

Dated _____
JOHN A. SANDOR
Commissioner
Alaska Department of Environmental
Conservation

July 7, 1992

APPENDIX F

PROCEDURE FOR TRANSFERRING FUNDS FROM THE U.S. DEPARTMENT OF THE INTERIOR NATURAL RESOURCE DAMAGE ASSESSMENT AND RECOVERY FUND TO APPROPRIATE FEDERAL AGENCY ACCOUNTS

This appendix provides general guidance to Federal agencies, bureaus, and offices in transferring funds from the U.S. Department of the Interior's (DOI) Natural Resource Damage Assessment and Restoration (NRDA&R) Fund for Exxon Valdez Oil Spill Restoration work approved by the Trustee Council and performed by its representatives. More specific procedures and contacts for the transfer of funds are under development by the Federal agencies involved and will become part of this appendix upon completion. The detailed process will not, in any way, alter the basic structural transfer procedures as outlined in this appendix.

Establishment of the Fund provides authority for DOI to receive payments as offsetting collections into the Fund which would otherwise be paid to the Treasury of the United States. Payments are credited to the Fund as offsetting collections, as required by the Office of Management and Budget. Offsetting collection disbursements to other agencies and bureaus require Memoranda of Agreement (MOA) for fiscal accountability.

The payment of funds from the NRDA&R Fund will be made as expenditure transfers to the Department of Commerce, National Oceanic and Atmospheric Administration (NOAA); Department of Agriculture, U.S. Forest Service (USFS); and appropriate DOI bureaus and offices based upon MOAs which are to include financial work plans for projects, reporting requirements as necessary, and administrative costs. These plans (format under development) will include a schedule of estimated expenditures through completion of the project. As an example, payments can be made in total for simple projects, or can be made periodically over the life of a large or complex project.

The following points summarize the procedure:

- 1) Budget and Finance Officers of the Fish and Wildlife Service (FWS) - - the DOI bureau administering the Fund -- will be provided by the Trustee Council with the authority to spend. Documentation granting such authority to the FWS will include a MOA with the attached project plan and identification of each agency budget as approved by the Trustee Council. To properly allocate and track funding by project as provided to the FWS Division of Budget for allocation and the assignment of project numbers. For purposes of this procedure, an "agency" is NOAA, USFS and a bureau or office of DOI.
- 2) To maximize interest earned in the NRDA&R Fund, payments for Trustee Council approved budgets may be made on a quarterly basis for large projects.
- 3) To use the existing Federal System, DOI will process payments to agencies, bureaus

and offices through an electronic Treasury Online Payment and Collection (OPAC) system or by other means as necessary. The account designation, project number as assigned by FWS Division of Budget and contact person for each transfer should be provided on each OPAC or other billing to the FWS.

4) No backup documentation is required by the FWS to support the OPAC billing, however, it will remain the responsibility of the Federal agency, bureau, or office to whom the payment is made to provide the necessary supporting documents in the event of an audit or upon request by the Trustee Council.

Because DOI, through FWS, will be investing all collections until they are needed, expenditure estimates for the Trustee Council-approved budgets are to be submitted to:

Department of the Interior
Office of Budget
1849 C Street, NW
Washington, DC 20240

Attn: Robert Baldauf, Room 4125
Phone: 202-208-3288
FAX: 202-208-3911

Prior to any disbursement for actual restoration activities, a budget approved by the Trustee Council and an expenditure plan must be provided to the FWS.

APPENDIX G

ADDITIONAL FINANCIAL POLICIES AND PROCEDURES PERTAINING TO THE FEDERAL TRUSTEE DEPARTMENTS AND AGENCIES

As a result of differing financial/accounting policies and procedures utilized by the Federal and State governments, these additional policies set forth in this appendix apply solely to the Federal Trustee departments and agencies.

ANNUAL CERTIFICATION

Financial operating procedures and controls will be certified annually, similar to the process required by the Federal manager's Financial Integrity Act, the OMB Circular on Internal Control Systems. All Federal agencies and bureaus utilizing settlement funds will certify as of September 30, that such agency has operated in accordance with the financial operating procedures and that related controls have been implemented, and that based upon testing performed, the agency can provide reasonable assurance that financial operating procedures and controls are being complied with and are functioning as intended. This report will be completed annually, by October 31st. Such certification will take the form of a memorandum or letter, from each agency, to the Administrative Director for presentation to the Trustee Council and is available for public inspection.

BUDGET IMPLEMENTATION

For Federal agencies, the authority to move funds between object classes within a project is limited to a cumulative amount of \$25,000 or up to 10% of the annual spending level for that project. For amounts of greater value, the procedures for approval by the Trustee Council shall apply (see paragraphs b) and c) at page 4).

AUDITS

An important objective of the Federal Chief Financial Officers Act is the identification of performance measures and the systematic measurement and reporting of performance in each project or activity undertaken. Therefore, project plans are periodically assessed. Then, the project managers should self-certify that the results were achieved.

Finally, when audits of projects are conducted specific procedures, to be recommended by the Finance Committee, should be incorporated in the audit program to review and express an opinion on the accuracy of certified performance. All Federal agencies using settlement funds will self-certify projects (for its files only) at the end of each fiscal year.