

Office of Inspector General

Fiscal Year 2014 Financial Statement
Management Letter

A15-01A



December 2014

FEDERAL MARITIME COMMISSION



FEDERAL MARITIME COMMISSION
Washington, DC 20573

December 31, 2014

Office of Inspector General

TO: Chairman Cordero
Commissioner Dye
Commissioner Lidinsky
Commissioner Khouri
Commissioner Doyle

FROM: /Jon Hatfield/
Jon Hatfield, Inspector General

SUBJECT: Transmittal of the fiscal year 2014 financial statement audit *Management Letter*

The Office of Inspector General (OIG) submits to you the fiscal year (FY) 2014 financial statement audit *management letter*. When performing the annual audit of the agency's financial systems and accounting processes, auditors may detect deficiencies in internal controls that do not rise to a level of seriousness to be reported in the annual financial statement audit report. Instead, these deficiencies are communicated to the agency in a *management letter*.

As a result of the recently completed FY 2014 financial statement audit, the auditors identified one internal control issue that is explained in the attached *management letter*. In addition, one issue reported in the FY 2013 *management letter* remains outstanding. FMC management has responded to the auditors' *management letter*, and management's response is included in the attached document.

In the FY 2014 *management letter*, the auditors recommend the agency undertake steps to improve the process for closing out contract files. Proper contract close-out helps ensure oversight of contract funds and identification of possible available funds in excess of contract costs. Management generally agreed with the auditors' recommendation.

The outstanding FY 2013 *management letter* recommendation is for the Director of the Office of Management Services (OMS) to develop a comprehensive contract database to facilitate tracking of open contracts/obligations, for timely de-obligation or closeout. Management responded that there are currently no specific plans to develop the database, but the agency will continue to track the status of all contract actions using a spreadsheet.

The OIG appreciates the attention and cooperation by FMC management and staff during the FY 2014 audit. I am happy to meet with you to discuss these *management letter* issues, and I can be reached at (202) 523-5863.

Attachment

Cc: Office of the Managing Director
Office of Management Services
Office of Budget and Finance
Office of General Counsel



**MANAGEMENT LETTER COMMENTS
ON THE GENERAL FUND
OF THE FEDERAL MARITIME COMMISSION
SEPTEMBER 30, 2014**

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November 12, 2014

Federal Maritime Commission
Washington, DC

In planning and performing our audit of the financial statements of the Federal Maritime Commission (FMC), as of, and for the year ended September 30, 2014, in accordance with standards that are generally accepted in the United States of America, we considered FMC's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances, for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of FMC's internal control. Accordingly, we do not express an opinion on the effectiveness of FMC's internal control. Our report on the financial statements is dated November 12, 2014.

During our audit, we noted certain matters regarding internal control and operational matters that are presented for your consideration. Even though the matters described in this management letter are not considered significant deficiencies, as defined by the American Institute of Certified Public Accountants, these matters are still important in the overall internal control structure of the Commission, and require management's attention. These comments and recommendations, all of which have been discussed with the appropriate members of management, are intended to improve internal control, or otherwise improve operating efficiencies.

Our audit procedures are designed primarily to enable us to form an opinion on the financial statements, and therefore, may not bring to light all weaknesses in policies or procedures that may exist. Our findings are presented below.

While this report is intended solely for the information and use of the management of the Federal Maritime Commission, it is also a matter of public record; and its distribution is, therefore, not restricted.



Regis & Associates, PC
Washington, DC

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There were four findings and recommendations in the prior year, of which three were closed out as of September 30, 2014. There is only one finding that continued into the current year.

	Status of Prior Year's Management Letter Comments	FY 2013 Open/ Closed	FY 2014 Open/ Closed
1	The Commission's Office of Budget and Finance does not have access to the Internet Payment Platform (IPP) in order to monitor invoice and payment approval activities of the Contracting Officer's Representatives and Bureau of the Public Debt's Administrative Resource Center.	Open	Closed
2	Penalties and Fines levied by the Commission were recorded as Accounts Receivable, rather than Custodial Activity.	Open	Closed
3	A Comprehensive contract database is not maintained to facilitate tracking of open contracts/obligations for timely contract/obligation closeout.	Open	Open
4	The Commission has not developed a contingency plan to ensure continuity of operations in cases of emergency.	Open	Closed

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Prior Year Comments - Updated

Finding 3: A Comprehensive contract database is not maintained to facilitate tracking of open contracts/obligations for timely contract/obligation closeout.

Commission Order 112, *Procurement*, establishes standards and procedures for the procurement of materials, equipment, and services for the Commission; and serves as internal agency guidance for all applicable Commission acquisitions, in accordance with the Federal Acquisition Regulation (FAR), and as set forth in Titles 41 and 48 of the Code of Federal Regulations. These standards and procedures are promulgated to ensure that materials, equipment, and services are obtained efficiently, economically, and in compliance with the provisions of the FAR, and all applicable Federal laws.

Commission Order 112 also charges the Director, Office of Management Services (OMS), as the principal contracting officer for the Commission, with the overall responsibility for managing the Commission's procurement program. Explicit in this responsibility is compliance with FAR. FAR, Subchapter A- *General*, Part 4, *Administrative Matters*, Subpart 4.6- *Contract Reporting*, requires the head of a contracting activity to develop a monitoring process to ensure timely and accurate reporting of contractual actions to the Federal Procurement Data System (FPDS). Implicit in this requirement is the need for a comprehensive database to track contracts in open, completed, or closeout status. The database will also facilitate efficient use of the Commission's resources; since obligated funds remaining on contracts in completed or closeout status can be easily identified, de-obligated, and re-programmed, as may be considered necessary.

During our fieldwork, we noted that OMS did not maintain a database at a level necessary to fully support the requirements of FAR, as discussed in the preceding paragraph. Although OMS currently tracks open contracts and obligations, manually; the manual process does not allow for timely identification of contracts that meet the criteria for funds de-obligation or closeout.

Recommendation: We recommend that the Director of OMS develop a comprehensive contract database to facilitate tracking of open contracts/obligations, for timely funds de-obligation or closeout.

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Management's Response:

This comment continues from FY 2013. No immediate modification to the current system is projected. Current acquisitions procedures includes the agency Contract Specialist maintaining a status report in the form of an Excel spreadsheet of all contract actions, including purchase orders, contracts and interagency agreements, which includes close-out dates and notes on OMS/Procurement contact with Contracting Officer's Representatives (CORs) and program offices. The current system provides for tracking of open contracts/obligations and allows for timely funds de-obligation or closeout.

The Commission recognizes that, while not specifically required, a comprehensive database could facilitate obligation closeouts and enhance the ability to prepare for upcoming obligation requirements, such as the exercising of contract options and obligation of additional funds after a period of temporary funding, such as a Continuing Resolution. The Commission is currently implementing significant IT infrastructure improvements. As the agency further develops and implements its Enterprise Content Management system (ECM), an appropriate application will be prepared to electronically facilitate and monitor the contracting requirements of the Commission. However, until such a database is created, OMS will continue to provide status of all contract actions via the spreadsheet.

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Current Year Comments

Finding 1: Contract Closing Procedures are not in Compliance with FAR Regulations

Condition

During the audit, we noted that contracts are not closed-out in accordance with FAR Part 4.804-5, *Procedures for Closing out Contract Files*, which requires that the contract administration office review the status of funds within each contract, and notify the contracting officer of any excess funds that the contract administration office might de-obligate. In addition, FAR Part 4.804-5 requires that a Contract Completion Statement must be completed and placed in each contract file.

During the audit, we reviewed 18 contract files to determine whether they contained the documentation required by FAR, Section 4.804-5; such as the contract, justifications and approvals; determinations and findings; purchase orders or requisitions evidencing the availability of funds; bills and invoices; and other relevant documents. We also examined the documentation in the files for required approvals and the level of authorized funding. In addition, we reviewed the files for correspondence between the contracting officer(s) and other parties, to determine whether modifications to the contracts or other actions were properly supported. We noted that none of the 18 closed contract files reviewed, included a Contract Completion Statement, or any documentation indicating that the contract had been closed. Furthermore, we determined that the contracting officers did not perform subsequent reviews of the closed-out contract files to determine whether they were properly closed out.

Criteria

Pursuant to FAR, Part **4.804-5, *Procedures for Closing out Contract Files***:

“(a) The contract administration office is responsible for initiating (automated or manual) administrative closeout of the contract after receiving evidence of its physical completion. At the outset of this process, the contract administration office must review the contract funds status and notify the contracting office of any excess funds the contract administration office might de-obligate. When complete, the administrative closeout procedures must ensure that...—

- (11) Termination docket is completed;
- (12) Contract audit is completed;
- (13) Contractor’s closing statement is completed;
- (14) Contractor’s final invoice has been submitted; and
- (15) Contract funds review is completed and excess funds de-obligated.

(b) When the actions in paragraph (a) of this subsection have been verified, the contracting officer administering the contract must ensure that a contract completion statement, containing the following information, is prepared:

- (1) Contract administration office name and address (if different from the contracting office).
- (2) Contracting office name and address.
- (3) Contract number.
- (4) Last modification number.
- (5) Last call or order number.

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- (6) Contractor name and address.
- (7) Dollar amount of excess funds, if any.
- (8) Voucher number and date, if final payment has been made.
- (9) Invoice number and date, if the final approved invoice has been forwarded to a disbursing office of another agency or activity and the status of the payment is unknown.
- (10) A statement that all required contract administration actions have been fully and satisfactorily accomplished.
- (11) Name and signature of the contracting officer.
- (12) Date.

(c) When the statement is completed, the contracting officer must ensure that—

- (1) The signed original is placed in the contracting office contract file (or forwarded to the contracting office for placement in the files if the contract administration office is different from the contracting office); and
- (2) A signed copy is placed in the appropriate contract administration file if administration is performed by a contract administration office.”

Cause

The condition noted above was the result of FMC not following the contract close-out process outlined in FAR Part 4.804-5. It was also the result of inadequate internal control over the contract administration process.

Effect

As a result of this condition, there is increased risk of goods and services being requested by FMC; and invoices being submitted by contractors and vendors, and paid by FMC, in excess of contract amounts. There is also the risk that the Commission may be in material noncompliance with FAR and other applicable regulations.

Recommendations

We recommend that the management of FMC undertake steps to ensure that FMC complies with the requirements of FAR Part 4.804-5, *Procedures for Closing out Contract Files*. We also recommend that the management of FMC implement adequate internal control policies and procedures to monitor the contract closeout process. This should include active supervisory review of the closeout tasks performed by its employees.

Management's Response:

The Commission will continue to improve its recordkeeping and internal policies to ensure compliance with Federal Acquisition Regulations and its internal procedures in Commission Order 112. In addition to FAR Part 4.804-5, the Commission is also utilizing Quick-Closeout Procedures, per FAR Part 42.708. The agency also relies upon documentation that is kept by the COR, which is also reflected in the Purchase Requisition (PR). Furthermore, CORs also keep files, which provide additional documentation and are readily accessible.

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APPENDIX A

Memorandum – Managing Director’s Response to FY 2014 Financial Statement Management Letter

Memorandum

TO: Inspector General

DATE: December 17, 2014

FROM: Managing Director

SUBJECT: FY 2014 Financial Statement Management Letter

I have reviewed the comments contained in the Management Letter on the FY 2014 Financial Statement Audit of Federal Maritime Commission dated November 12, 2014. As noted in the letter, the below comments "are not considered significant deficiencies, but are still important in the overall internal control structure of the Commission, and require management's attention." Commission management responds to the comments as outlined below.

Comment 1. (Finding 3, FY 13): The OIG recommends that the Director of OMS develop a comprehensive contract database to facilitate tracking of open contracts/obligations, for timely funds de-obligation or closeout.

Response: This comment continues from FY 2013. No immediate modification to the current system is projected. Current acquisitions procedures includes the agency Contract Specialist maintaining a status report in the form of an Excel spreadsheet of all contract actions, including purchase orders, contracts and interagency agreements, which includes close-out dates and notes on OMS/Procurement contact with Contracting Officer's Representatives (CORs) and program offices. The current system provides for tracking of open contracts/obligations and allows for timely funds de-obligation or closeout.

The Commission recognizes that, while not specifically required, a comprehensive database could facilitate obligation closeouts and enhance the ability to prepare for upcoming obligation requirements, such as the exercising of contract options and obligation of additional funds after a period of temporary funding, such as a Continuing Resolution. The Commission is currently implementing significant IT infrastructure improvements. As the agency further develops and implements its Enterprise Content Management system (ECM), an appropriate application will be prepared to electronically facilitate and monitor the contracting requirements of the Commission. However, until such a database is created, OMS will continue to provide status of all contract actions via the spreadsheet.

Comment 2. (Finding 1, FY 14): The OIG recommends that the management of FMC undertake steps to ensure that FMC complies with the requirements of FAR Part 4.804-5, *Procedures for Closing out Contract Files*. We also recommend that the management of FMC implement adequate internal control policies and procedures to monitor the contract closeout process. This should include active supervisory review of the closeout tasks performed by its employees.

Response: The Commission will continue to improve its recordkeeping and internal policies to ensure compliance with federal acquisition regulations and its internal procedures in Commission Order 112. In addition to FAR Part 4.804-5, the Commission is also utilizing Quick-Closeout Procedures, per FAR Part 42.708.¹ The agency also relies upon documentation that is kept by the COR, which is also reflected in the Purchase Requisition (PR). Furthermore, CORs also keep files, which provide additional documentation and are readily accessible.

Vern W. Hill

cc: Office of Budget and Finance
Office of Management Services
Office of information Technology
Office of the Chairman

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FAR 42.708 -- Quick-Closeout Procedure

(a) The contracting officer responsible for contract closeout shall negotiate the settlement of direct and indirect costs for a specific contract, task order, or delivery order to be closed, in advance of the determination of final indirect rates set forth in 42.705, if —

(1) The contract, task order, or delivery order is physically complete;

(2) The amount of unsettled direct costs and indirect costs to be allocated to the contract, task order, or delivery order is relatively insignificant. Cost amounts will be considered relatively insignificant when the total unsettled direct costs and indirect costs to be allocated to any one contract, task order, or delivery order does not exceed the lesser of-

(i) \$1,000,000; or

(ii) 10 percent of the total contract, task order, or delivery order amount;

(3) The contracting officer performs a risk assessment and determines that the use of the quick-closeout procedure is appropriate. The risk assessment shall include-

(i) Consideration of the contractor's accounting, estimating, and purchasing sr.tetns;

(ii) Other concerns of the cognizant contract auditors; and

(iii) Any other pertinent information, such as, documented history of Federal Government approved indirect cost rate agreements, changes to contractor's rate structure, volatility of rate fluctuations during affected periods, mergers or acquisitions, special contract provisions limiting contractor's recovery of otherwise allowable indirect costs under cost reimbursement or time-and materials contracts; and

(4) Agreement can be reached on a reasonable estimate of allocable dollars.

(b) Determinations of final indirect costs under the quick-closeout procedure provided for by the Allowable Cost and Payment clause at 52.216-7 shall be final for the contract it covers and no adjustment shall be made to other contracts for over- or under-recoveries of costs allocated or allocable to the contract covered by the agreement.

(c) Indirect cost rates used in the quick closeout of a contract shall not be considered a binding precedent when establishing the final indirect cost rates for other contracts.