

Office of Inspector General

**Semiannual Report to Congress
Covering the Period**

October 1, 2020 – March 31, 2021



FEDERAL MARITIME COMMISSION



FEDERAL MARITIME COMMISSION
Washington, DC 20573

April 28, 2021

Office of Inspector General

Dear Chairman Maffei and Commissioners Dye, Khouri, Sola and Bentzel:

The following report is submitted in accordance with Section 5 of the Inspector General Act of 1978, as amended. This report summarizes the activities of the Federal Maritime Commission (FMC) Office of Inspector General (OIG) for the period October 1, 2020 to March 31, 2021.

During this reporting period, the OIG completed two audits, and initiated one new audit. Specifically, the OIG completed the fiscal year (FY) 2020 annual financial statement audit and audit of the FMC's compliance with the Federal Information Security Modernization Act (FISMA). The OIG also initiated the third of three required audits of the Digital Accountability and Transparency Act of 2014 (DATA Act). These audits are discussed in more detail in the enclosed report.

The OIG continues to appreciate the cooperation and commitment to integrity and ethical values demonstrated by FMC's leadership and staff.

Respectfully submitted,

Jon Hatfield
Inspector General

Enclosure

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Pictured: The Port of Virginia, Norfolk, Virginia



EXECUTIVE SUMMARY

This semiannual report summarizes the activities and accomplishments of the Federal Maritime Commission (FMC), Office of Inspector General (OIG) for the six-month reporting period October 1, 2020 through March 31, 2021.

During this reporting period, the OIG completed two audits, the fiscal year (FY) 2020 Annual Financial Statement Audit (A21-01) and audit of the FMC's compliance with the Federal Information Security Modernization Act, FY 2020 (A21-02). These audits and other oversight work are discussed in more detail later in this report.

At the beginning of this period, there was one hotline complaint open. There were four new hotline complaints received during the period and five hotline complaints remained open at the end of the reporting period. There were no new investigations or matters referred to prosecutorial authorities during this period and no investigations open at the end of the period.

FEDERAL MARITIME COMMISSION

The FMC is an independent Federal agency responsible for ensuring a competitive and reliable ocean transportation supply system that supports the U.S. economy and protects the public from unfair and deceptive practices. The agency regulates the international ocean transportation supply system (vessel liner carriers, ocean transportation intermediaries, and marine terminal operators).

The FMC is composed of five Commissioners nominated by the President and confirmed by the Senate, each serving a staggered five-year term. The Commission is a bipartisan body; no more than three members of the Commission may be of the same political party. One Commissioner, designated by the President, serves as the Chairman, Chief Executive, and Chief Administrative Officer of the Commission. The Inspector General reports to all five Commissioners.

Although the majority of FMC personnel are located in Washington, D.C., the FMC also maintains a presence in Los Angeles, Seattle, New York, New Orleans, Houston, and South Florida through Area Representatives. These Area Representatives serve the major ports and

transportation centers within their respective geographic areas, and provide information, liaison, and investigatory services on behalf of the FMC.

OFFICE OF INSPECTOR GENERAL

The OIG was established in 1989 by the Inspector General (IG) Act of 1978, as amended (5 U.S.C. app.). The OIG is an independent audit and investigative unit headed by an IG who reports to the FMC Commissioners and Congress. The OIG is responsible for conducting audits and investigations relating to the programs and operations of the FMC. Audits are conducted for the purpose of detecting and preventing fraud, waste, and abuse, and promoting economy, efficiency, and effectiveness within the agency. The OIG investigations seek out facts related to allegations of wrongdoing on the part of FMC employees and individuals, or entities contracting with, or obtaining benefits from, the agency. The IG Act provides that the OIG shall have access to all agency records and may subpoena records from entities outside of the agency in connection with an audit or investigation.

The IG is required by law to prepare this report summarizing OIG audits and investigations during the immediately preceding six-month period. The report is sent to the FMC Commissioners, the President of the Senate, the Speaker of the House and FMC's Congressional appropriating and authorizing committees. This dual reporting requirement helps to ensure the independence of the OIG.

To aid the FMC in accomplishing its mission, the OIG is provided two full-time positions, the IG and an auditor. In addition, the OIG has a memorandum of understanding (MOU) with the Treasury Inspector General for Tax Administration for the FMC OIG to obtain legal advice services to carry out its responsibilities under the Inspector General Act.

OFFICE OF INSPECTOR GENERAL ACTIVITIES

Completed and In-Progress Audits

Independent Auditors' Report of the FMC's FY 2020 Financial Statements, A21-01. The audit report was issued on November 16, 2020. The OIG contracted with Dembo Jones, P.C. to perform the audit and the OIG actively monitored and reviewed the work and results of the

contractor. The audit objectives were to opine on whether the FMC's FY 2020 financial statements followed U.S. Generally Accepted Accounting Principles (GAAP) and presented fairly the financial position of the agency. The auditors also reviewed internal controls over financial reporting and agency compliance with laws and regulations. The statements audited were the balance sheet as of September 30, 2020, and the related statements of net cost, changes in net position, budgetary resources and custodial activity for the year then ended.

The independent auditor opined that the FMC's financial statements were fairly presented, in all material respects, in conformity with GAAP; there were no material weaknesses in internal control over financial reporting (including safeguarding assets); and no reportable noncompliance with laws and regulations tested. Therefore, there were no findings or recommendations in the audit report.

Audit of FMC's Compliance with the Federal Information Security Modernization Act (FISMA) FY 2020, A21-02. The audit report was issued on November 2, 2020. The OIG contracted with Dembo Jones, P.C. to perform the audit and the OIG actively monitored and reviewed the work and results of the contractor. The objectives of this independent audit of the FMC's information security program were to evaluate its security posture by assessing compliance with the FISMA and related information security policies, procedures, standards, and guidelines.

The scope of the testing focused on the FMC General Support Systems (GSS) and major applications. Audit testing included inquiry of FMC personnel, observation of activities, inspection of relevant documentation, and the performance of technical security testing. More specifically, testing covered a sample of controls as listed in National Institute of Standards and Technology's (NIST) 800-53, Recommended Security Controls for Federal Information Systems and Organizations, Revision 4. The audit report contained two recommendations to address one audit finding. FMC management agreed with the two recommendations. In addition, the OIG concluded the FMC had effectively implemented the two prior year FISMA recommendations.

DATA Act Audit, 2021, A22-01. The Digital Accountability and Transparency Act of 2014 (DATA Act) is a law that aims to make information on Federal spending more easily accessible and transparent. The DATA Act, in part, requires Federal agencies to report financial and award

data in accordance with the established Government-wide financial data standards. Additionally, in May 2017, the U.S. Department of the Treasury began displaying Federal agencies' spending data on USASpending.gov, a publicly available resource for taxpayers and policy makers.

The DATA Act also requires the IG of each Federal agency to audit a statistically valid sample of the spending data submitted by its Federal agency and to submit to Congress a publicly available report assessing the completeness, accuracy, timeliness, and quality of the data sampled. During this semiannual reporting period, the OIG initiated the third of the three required DATA Act audits. The final audit report is due by November 8, 2021.

Other Oversight Work

Review of FMC's Compliance with Executive Order 13950 on Combatting Race and Sex Stereotyping, December 2020. The OIG completed a review of the FMC's compliance with Executive Order (EO) 13950. Although the EO was revoked on January 20, 2021 by the new administration, EO 13950 dated September 22, 2020 stated it shall be the policy of the United States not to promote race or sex stereotyping or scapegoating in the Federal workforce. The EO also stated that agency heads shall request from their Inspector General a review of agency compliance with the requirements of the EO by the end of calendar year 2020. Based on the review performed, the OIG found the FMC complied with the requirements applicable to the agency.

Improper Payments Compliance Report for Fiscal Year 2020. The OIG completed the annual review of the FMC's compliance with reporting and performance requirements regarding improper payments required by the Payment Integrity Information Act of 2019 (PIIA) (Public Law 116-117). PIIA sets forth improper payment reporting requirements, including an annual compliance report by inspectors general.

The purpose of PIIA is to improve the Federal government's efforts to reduce and recover improper payments. Each agency inspector general is required to review improper payment reporting in their agency's annual performance and accountability report (PAR) or agency financial report (AFR) and any accompanying materials to determine if the agency is following PIIA. The OIG reviewed the agency's Improper Payments Information Act section of FMC's FY 2020 PAR posted on the agency's website for compliance with PIIA, as well as, the

PaymentAccuracy.gov Data Call, and the Office of Management and Budget (OMB) 2020 Supplemental Data Call. The FMC concluded that the agency has not identified any program that in and of itself constitutes a high-risk for improper payments. As a result, the FMC assessed all its payments to be low-risk for improper payments. For FY 2020, the OIG concluded the FMC complied with all the requirements that are applicable to the agency for improper payment reporting.

Hotline and Investigations

The Inspector General Act of 1978, as amended, provides that the IG may receive and investigate complaints or information concerning possible allegations of fraud, waste, and abuse occurring within FMC programs and operations by employees or contractors. Matters of possible wrongdoing are referred to the OIG in the form of allegations or complaints from a variety of sources, including FMC employees, other government agencies and the general public.

At the beginning of this period, there was one hotline complaint open. There were four new hotline complaints received during the period and five hotline complaints remained open at the end of the reporting period. There were no new investigations or matters referred to prosecutorial authorities during this period and no investigations open at the end of the period.

Memorandum of Understanding

In accordance with Section 6 of the Inspector General Reform Act of 2008, each Inspector General shall have his or her own legal counsel, or obtain the services of a counsel appointed by and directly reporting to another Inspector General or the Council of the Inspectors General on Integrity and Efficiency (CIGIE) on a reimbursable basis. The OIG has a memorandum of understanding (MOU) with the Treasury Inspector General for Tax Administration for the FMC OIG to obtain legal advice services to carry out its responsibilities under the Inspector General Act.

Review of Legislation

As required by the Inspector General Act of 1978, as amended, the OIG reviews proposed legislation and regulations. The purpose of these reviews is to assess whether the proposed

legislation or regulation: (1) impacts the economy and efficiency of FMC programs and operations; and (2) contains adequate internal controls to prevent and detect fraud, waste, and abuse.

Council of the Inspectors General on Integrity and Efficiency (CIGIE) Activities

The CIGIE was established by law as an independent entity by the Inspector General Reform Act of 2008 (P.L. 110-409) to:

- address integrity, economy and effectiveness issues that transcend individual government agencies; and
- increase the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and highly skilled workforce in the Office of Inspectors General.

The CIGIE is comprised of all inspectors general that are Presidentially-appointed / Senate confirmed and those that are appointed by agency heads. The FMC OIG remains active in CIGIE operations. Specifically, the Inspector General (IG) is a member of CIGIE and the CIGIE Audit Committee, and the OIG participates in the monthly CIGIE meetings, and periodically assists CIGIE on special projects.

During this reporting period, the IG accepted the position of Chair of the CIGIE Audit Peer Review Subcommittee. To help auditors fulfill their oversight roles and comply with statutory requirements, professional standards, and established policies and procedures, a peer review of an OIG audit organization is required by generally accepted government auditing standards (GAGAS) and the Council of the Inspectors General on Integrity and Efficiency (CIGIE). The subcommittee is responsible for maintaining the CIGIE audit peer review schedule, managing requests for extensions and substitutions, coordinating amongst dispute resolution panels, as well as answering questions about conducting audit peer reviews. The subcommittee is composed of dedicated volunteers from the CIGIE oversight community. Parker Skaats, the OIG's Auditor, is one of these dedicated volunteers and he serves on the subcommittee's frequently asked questions workgroup.

SUMMARY OF INSPECTOR GENERAL REPORTING REQUIREMENTS

IG Act Reference	Reporting Requirement	Pages
Section 5(a)(1)	Significant problems, abuses and deficiencies	None
Section 5(a)(2)	Recommendations with respect to significant problems, abuses, or deficiencies	None
Section 5(a)(3)	Prior significant recommendations on which corrective actions have not been completed	None
Section 5(a)(4)	Matters referred to prosecutorial authorities and results	None
Section 5(a)(5)	Summary of instances where information was refused	None
Section 5(a)(6)	List of audit, inspection, and evaluation reports by subject matter, and where applicable, the value of questioned costs, unsupported costs, and funds put to better use	9
Section 5(a)(7)	Summary of each report	2-4
Section 5(a)(8)	Audit, inspection, and evaluation reports with questioned and unsupported costs	None
Section 5(a)(9)	Audit, inspection, and evaluation report recommendations that funds be put to better use	None
Section 5(a)(10)	Summary of each audit, inspection, and evaluation report issued before the commencement of this reporting period for which no management decision was made by the end of the reporting period; for which comments were not returned within 60 days of report issuance; and for which there are any outstanding unimplemented recommendations	None
Section 5(a)(11)	Description and explanation of significant revised management decisions	None
Section 5(a)(12)	Significant management decisions with which the inspector general disagrees	None
Section 5(a)(13)	Information under Section 804(b) of the Federal Financial Management Improvement Act (FFMIA) of 1996	None
Section 5(a)(14)(15)	Peer review activity on FMC OIG	11, App. A
Section 5(a)(16)	Peer review activity by FMC OIG on another OIG	11, App. A
Section 5(a)(17)	Statistical tables on investigative activities	None
Section 5(a)(18)	Description of metrics used for developing the data for the statistical table under Section 5(a)(17)	None
Section 5(a)(19)	Report on each investigation involving a senior Government employee where allegations of misconduct were substantiated	None
Section 5(a)(20)	Description of whistleblower retaliation	None
Section 5(a)(21)	Description of any attempt by the establishment to interfere with the independence of the OIG	None
Section 5(a)(22)	Description of particular circumstances of each inspection, evaluation, and audit conducted that is closed and was not disclosed to the public; and investigation conducted by the OIG involving a senior Government employee that is closed and was not disclosed to the public	None

TABLE I - Summary of Reports with Corrective Actions Outstanding for More than 6 Months

Report Title	Report Number	Issue Date	Recommendations		
			Number	Open	Closed
<i>Evaluation of the FMC's Information Technology Inventory</i>	A18-04	5/31/18	4	4 *	0
*In a memorandum dated April 22, 2021, the Managing Director informed the IG that the agency has corrected the recommendations. The OIG plans to follow-up on the audit recommendations to verify the actions taken by management have addressed the issues identified during the evaluation. The OIG plans to complete the follow-up review during the next reporting period to enable the OIG to close the recommendations.					
<i>DATA Act Audit, 2019</i>	A20-01	11/7/19	3	3 *	0
*In a memorandum dated April 22, 2021, the Managing Director informed the IG that the agency has corrected the recommendations. The OIG has initiated the third of three required DATA Act audits during this reporting period, and the audit will include a follow-up of these recommendations.					

TABLE II - Listing of Reports Issued

Report Title	Assignment Number	Issue Date	Questioned Costs	Unsupported Costs	Funds Put to Better Use
<i>Independent Auditors' Report of the FMC's FY 2020 Financial Statements</i>	A21-01	11/16/20	\$0	\$0	\$0
<i>Audit of FMC's Compliance with the Federal Information Security Modernization Act (FISMA) FY 2020</i>	A21-02	11/02/20	\$0	\$0	\$0

TABLE III - Reports with Questioned Costs

	Number of Reports	Questioned Costs	Unsupported Costs
A. For which no management decision has been made by the commencement of the reporting period.	0	\$0	\$0
B. Which were issued during the reporting period.	0	\$0	\$0
Subtotal (A + B)	0	\$0	\$0
C. For which a management decision was made during the reporting period.	0	\$0	\$0
(i) dollar value of disallowed costs; and	0	\$0	\$0
(ii) dollar value of costs not disallowed.	0	\$0	\$0
D. For which no management decision has been made by the end of the reporting period.	0	\$0	\$0
E. Reports for which no management decision was made within six months of issuance.	0	\$0	\$0

TABLE IV - Recommendations that Funds be Put to Better Use

	Number of Reports	Dollar Value
A. For which no management decision has been made by the commencement of the reporting period.	0	\$0
B. Which were issued during the reporting period.	0	\$0
Subtotal (A + B)	0	\$0
C. For which a management decision was made during the reporting period.	0	\$0
(i) dollar value of recommendations that were agreed to by management; and	0	\$0
(ii) dollar value of recommendations that were not agreed to by management.	0	\$0
D. For which no management decision has been made by the end of the reporting period.	0	\$0
E. Reports for which no management decision was made within six months of issuance.	0	\$0

Appendix A - Peer Review Activity

In accordance with the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Section 989C of P.L. 111-203), which amended Section 5 of the Inspector General Act of 1978, OIGs are required to include in their semiannual reports (SAR) to Congress the results of peer reviews of their offices, as well as outstanding and not fully implemented recommendations from peer reviews the OIG received from another OIG, and outstanding and not fully implemented recommendations the OIG made in any peer review it performed for another OIG.

An external audit peer review of the FMC OIG audit office was completed on May 23, 2019 by the U.S. Equal Employment Opportunity Commission OIG. A *pass* rating was issued and there were no recommendations contained in the system review report.

In addition, the OIG completed an audit peer review of the U.S. Commodity Futures Trading Commission (CFTC) OIG during a prior reporting period and issued a peer review report on August 13, 2019. The FMC OIG issued a *pass* rating and there were no recommendations contained in the system review report.



HOTLINE COMPLAINTS

The success of the OIG mission to prevent fraud, waste and abuse depends on the cooperation of FMC employees and the public.

Employees and the public are encouraged to contact the OIG regarding any incidents of possible waste, fraud or abuse occurring within FMC programs and operations.

A COMPLAINT CAN BE REPORTED BY CALLING OUR 24-HR DIRECT LINE:

(202) 523-5865

ONLINE COMPLAINT FORM:

<https://www2.fmc.gov/oigcomplaints/>

TO PLACE A COMPLAINT IN WRITING PLEASE MAIL TO:

Federal Maritime Commission
Office of Inspector General
Suite 1054
800 North Capitol Street, NW
Washington, DC 20573
To Be Opened By the IG Only

THE INFORMATION YOU PROVIDE IS CONFIDENTIAL. YOU CAN CHOOSE TO REMAIN ANONYMOUS; HOWEVER, INDIVIDUALS ARE ENCOURAGED TO ASSIST THE INSPECTOR GENERAL BY SUPPLYING INFORMATION AS TO HOW THEY MAY BE CONTACTED FOR ADDITIONAL INFORMATION.