Federal Maritime Commission

Fiscal Year 2019
Congressional Budget Justification
February 2018

To be submitted to the Appropriations Committees (Subcommittees on Transportation, Housing and Urban Development, and Related Agencies)

Michael A. Khouri
Acting Chairman

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Competition and Integrity for America's Ocean Supply Chain

Mission:

Ensure a competitive and reliable international ocean transportation supply system that supports the U.S. economy and protects the public from unfair and deceptive practices.

Fulfilling this mission involves achieving two primary goals:

1. **Maintain a competitive and reliable international ocean transportation supply system.**
2. **Protect the public from unlawful, unfair and deceptive practices.**

Overview of the FMC

The Federal Maritime Commission (FMC or Commission) is an independent agency responsible for the regulation of oceanborne transportation in the foreign commerce of the United States for the benefit of U.S. exporters, importers, and consumers. The Commission is directed by five Commissioners appointed for staggered five-year terms, with one Commissioner designated by the President to serve as Chairman. The Chairman is the Chief Executive and Administrative Officer of the agency. Under a recent statutory change, Commissioners appointed and confirmed after December 18, 2014, may serve no more than two terms.

Statutory Authority

Congress has charged the FMC with a number of oversight responsibilities designed to ensure competitive and reliable ocean transportation services for the shipping public, and to protect the public from unlawful, unfair, and deceptive practices. The principal statutes administered by the Commission, now codified at 46 U.S.C. §§ 40101-44106, are:

- The Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (Shipping Act);
- The Foreign Shipping Practices Act of 1988 (FSPA);
- Section 19 of the Merchant Marine Act, 1920 (1920 Act); and
- Sections 2 and 3 of Pub. L. No. 89-777, 80 Stat. 1350.

Regulatory Functions

The FMC ensures competitive and reliable ocean transportation services for the shipping public by:

- Reviewing and monitoring agreements among and between ocean common carriers and among and between marine terminal operators (MTOs) serving the U.S. foreign oceanborne trades to ensure that they do not cause unreasonable increases in transportation costs or decreases in transportation services;
- Maintaining and reviewing confidentially filed service contracts and non-vessel-operating common carrier (NVOCC) Service Arrangements to guard against detrimental effects to shipping;
- Providing a forum for exporters, importers, and other members of the shipping public to obtain relief from ocean shipping practices or disputes that impede the flow of commerce;

- Ensuring common carriers' tariff rates and charges are published in private, automated tariff systems and electronically available;
- Monitoring rates, charges, and rules of government-owned or -controlled carriers to ensure they are just and reasonable; and
- Taking action to address unfavorable conditions caused by foreign government or foreign business practices in U.S. foreign shipping trades.

The FMC protects the public from financial harm, and contributes to the integrity and security of the Nation's import and export supply chains and ocean transportation system. FMC activities include:

- Licensing and registering ocean transportation intermediaries;
- Administering and enforcing a surety bond program to ensure payment of judgments for damages by NVOCCs and freight forwarders;
- Investigating and prosecuting violations of the Shipping Act and other statutes referenced above;
- Helping resolve disputes involving the shipment of goods or the carriage of passengers;
- Adjudicating private party complaints alleging Shipping Act violations; and
- Ensuring that passenger vessel operators maintain proper financial coverage to reimburse cruise passengers in the event their cruise is cancelled or to cover liability in the event of death or injury at sea.

Our Organization

The FMC's staff is comprised of economists, attorneys, and experts in ocean transportation. While most of the Commission's workforce is located at its Washington, D.C. headquarters, the Commission maintains a presence in six major port locations nationwide.

In addition to the Commissioners' offices, the staff of the FMC is organized into 10 bureaus and offices:

The Bureau of Certification and Licensing (BCL) protects the public from financial harm through its ocean transportation intermediary (OTI) licensing, registration, and renewal program. BCL also protects the public by requiring Passenger Vessel Operators (PVOs) to maintain adequate financial coverage to reimburse cruise cancellations or to cover liability in the event of death or injury at sea.

The Bureau of Enforcement (BOE) is the prosecutorial arm of the Commission. Bureau attorneys serve as trial counsel in formal proceedings, and protect the shipping public by working closely with the

Commission's Area Representatives in investigations of potential violations of the Shipping Act and Commission regulations. BOE negotiates settlements and informal compromises of civil penalties, and may act as investigative officers in formal fact-finding investigations.

The Bureau of Trade Analysis (BTA) analyzes and monitors the concerted activities of vessel-owning common carriers (VOCCs) and marine terminal operators (MTOs) to detect and guard against possible anticompetitive abuse of authority contained in filed agreements under the Shipping Act that could result in substantial increases in transportation costs or decreases in transportation services; and to identify and address other prohibited activities. BTA also reviews and analyzes service contracts, monitors rates of foreign, government-owned controlled carriers; and reviews carrier-published tariff systems under the accessibility and accuracy standards of the Shipping Act.

The Office of the Administrative Law Judges (OALJ) resolves cases of alleged violations of the Shipping Act and other laws within the Commission's jurisdiction. Through trial hearings and the issuance of an initial decision, the OALJ ensures that the rights of all parties are preserved.

The Office of Consumer Affairs and Dispute Resolution Services (CADRS) provides assistance to shippers, OTIs, cruise operators and passengers, truckers, MTOs, and VOCCs by providing alternative dispute resolution (ADR) services, ombuds assistance, mediation, facilitation, and arbitration to resolve disputes involving cargo shipments, household goods shipments, and cruises.

The Office of Equal Employment Opportunity (OEEO) advises and assists the Commission in carrying out its responsibilities relative to Titles VI and VII of the Civil Rights Act of 1964 (as amended), other laws, executive orders, and regulatory guidelines implementing affirmative employment, and the processing of EEO complaints.

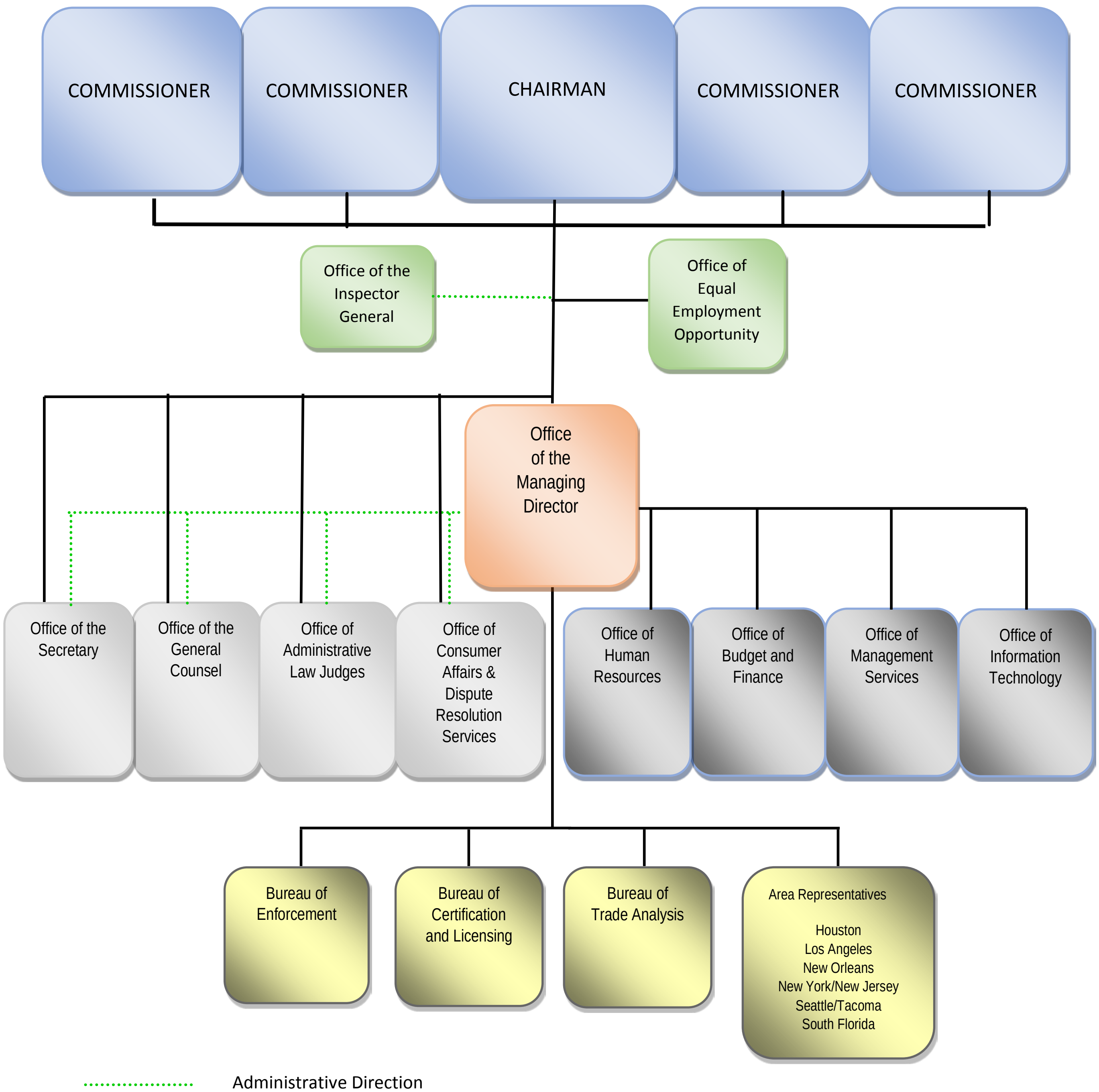
The Office of the Inspector General (OIG) is an independent and objective oversight office created within the FMC by the Inspector's General Act of 1978 (as amended) to conduct and supervise audits, inspections, and investigations relating to FMC programs; detect and prevent waste, fraud and abuse; promote economy, efficiency, and effectiveness; review existing and proposed legislation and regulations; keep the Chairman, Commissioners, and Congress fully informed of serious problems and deficiencies and recommend corrective actions; and report violations of law to the U.S. Attorney General.

The Office of the General Counsel (OGC) provides sound and timely legal services to the Commission and staff as it fulfills responsibilities that include: preparing final decisions, orders, and regulations for Commission approval and issuance; representing the Commission in litigation before the courts; providing technical and policy assistance to other government agencies engaged in international negotiations or discussions on shipping matters; and providing legal opinions to the Commission, its staff, and the general public in appropriate instances. OGC also oversees the Commission's international affairs activities.

The Office of the Managing Director (OMD) is responsible for implementing the administrative directives of the Chairman, the management and coordination of Commission bureaus, and overseeing the agency's Area Representatives located in six major port areas nationwide. It has direct oversight of the administrative offices of the Commission, which include the offices of Budget and Finance, Human Resources, Information Technology, and Management Services.

The Office of the Secretary (OS) serves as the office through which all filings are made in Commission proceedings, notices of proceedings are given, and from which all official actions are issued by the Commission. The OS prepares and maintains agenda matters and actions taken by the Commission; maintains official files and records of formal proceedings; ensures compliance with the Freedom of Information, Government in the Sunshine, and Privacy Acts; responds to information requests from the public; issues publications and authenticates instruments and documents of the Commission; maintains a public reference/law library and a docket library; and oversees the organization and content of the Commission's website.

Federal Maritime Commission
Organization Chart
September 2017



Proposed Appropriation Language: Salaries and Expenses

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act, 1936, as amended (46 U.S.C. § 307), including services as authorized by 5 U.S.C. § 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. § 1343(b); and uniforms or allowances therefore, as authorized by 5 U.S.C. §§ 5901 - 5902, ~~$26,149,000~~ $27,490,000: Provided, That not to exceed $2,000 shall be available for official reception and representation expenses. (Proposed text derived from: *Transportation, Housing and Urban Development, and Related Agencies Appropriations Bill, 2018.)*

Fiscal Year 2019 Budget Request

The FMC's Fiscal Year (FY) 2019 Budget Request is $27,490,000 to support 129 full-time equivalent (FTE) employees. This is a funding increase of $1.341 million from the Commission's FY 2018 President's Budget level.

The Commission has a large statutory mandate relative to its budget and FTE complement, encompassing the increasingly challenging role of reviewing and monitoring carrier and MTO agreements. Over the past decade, significant changes have recast and transformed the international ocean transportation industry, which moves nearly $1 trillion in U.S. exports and imports. Notable changes and challenges relate to ongoing carrier consolidations, mergers, and a carrier bankruptcy. The composition of existing operational alliances already has been up-ended, and the FMC foresees mounting impacts resulting from both existing and future filed agreements. These anticipated changes in concerted carrier activity and market structure will require the agency to timely and efficiently analyze the competitive impact of carrier cooperation to guard against possible anticompetitive abuse of the filed agreement authority, avoid unreasonable increases in transportation costs or decreases in transportation services, and to address other activities prohibited by the Shipping Act.

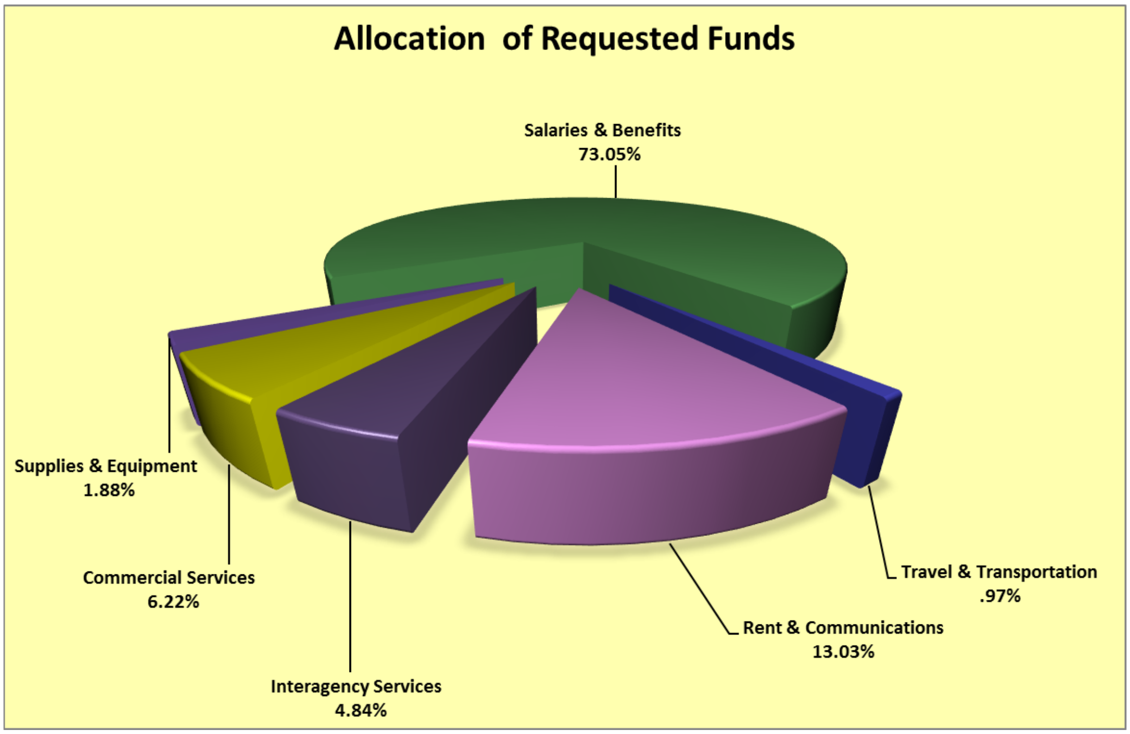
The Commission's mission is to maintain a competitive and reliable international ocean transportation supply system, balancing the cost-containment strategies and cooperative working arrangements of the carrier industry with the legitimate business needs of the Nation's many exporters/importers to ensure their goods reach international markets efficiently and reliably. In the face of the changes addressed above, the FMC will:

- analyze and monitor key U.S. trade lanes;
- review and analyze the competitive impact of agreements;
- assess the competitive effects of the activities of agreement parties, particularly focusing on issues of vessel capacity (supply) and equipment availability upon the business community; and
- monitor changes taking place in the provision of chassis for the inland movement of containerized goods, and the competitive effects of changing carrier alliance structures, particularly as they may affect concerted procurement of carrier services in U.S. ports.

Over many years and budget cycles, the appointed Commissioners and professional staff of the FMC have fashioned a working agency budget consistent with the Administration's needs and objectives. At the Commission level, workload and staffing needs (stated in full-time equivalents or FTEs) are carefully balanced and reconciled annually against supplemental contract support and information system development intended to manage FTE growth and improve the quality and timeliness of FMC decision-making. The FMC continues to provide budgets that match OMB financial guidance and build the framework for future agency performance.

FMC's Proposed FY 2019 Budget

At the Presidential budget amount of $27,490,000, this budget request chiefly covers estimated costs for mandatory operational needs. As depicted in the following chart, 97.15% of the FMC's FY 2019 Budget Request provides for payroll expenses, mandatory rent, telephones, interagency services, and mission-critical commercial contracts. The remaining 2.85% must cover supplies and equipment, training, and official travel.



In meeting the President's budget target, the FMC's FY 2019 budget increases the projected workforce by two FTEs, to 129. The FMC is statutorily mandated to include the following: two Presidentially-appointed Commissioners who will each require one counsel position to support said Commissioners. Inclusive of these four mandated positions, the Commission must realize a net increase in personnel costs of $519,000, inclusive of annualization of FY 2018 salary changes.

This FY 2019 Budget Request includes a number of graphs and tables which explain the funding and FTE resources needed to meet the Commission's mission and statutory mandates. Appendices A and B provide detailed funding and FTE requirements at the program level. Appendix C categorizes the funding resources needed for FY 2017 through FY 2019 by object class. Appendix D provides funding by program areas and the relationship of the Commission's obligations to outlays by fiscal year.

Appendix E provides an overview of the FMC's newly proposed Strategic Goals, Objectives, and Performance Measures covering FY 2018-2022. Appendix F provides the Commission's Workload Summary statistics, Appendix G is an Evidence Submission for agency decision-making, and Appendix H is the Certification of the Office of the Inspector General's FY 2019 Budget Request.

One of the Commission's highest investment priorities remains the ongoing development and deployment of the FMC's information systems. A comprehensive multiyear Information Technology Capital Planning and Investment Control program, currently underway, will improve efficiency, reliability, and effective delivery of customer service, as well as ensure cybersecurity readiness. When fully implemented, these investments will automate, streamline, and improve the Commission's internal business processes; expand research and analysis capabilities; provide better transparency and public access to FMC information; eliminate paper-based systems in favor of web-based, automated systems used by the shipping public to file license applications, carrier and MTO agreements, and commercially sensitive operational data necessary for FMC economist staff to conduct competition analysis.

IT contractor support fills a critical need in the area of application development for the Commission's line of business applications. This strategy allows the FMC to acquire designated software support and engineer services that assists the FMC's IT staff in modernizing the FMC's infrastructure, server platforms, and in the development of web-based applications. Working with expert commercial IT support, an FMC application developer systematically assesses current and proposed web application development needs as the basis to create and execute a multi-year plan to modernize each application. Management's emphasis upon internal development has strengthened the internal staff's understanding of the mechanics of each application, ensured clear communication of need and timelines with the FMC's system owner (program office), and afforded IT staff the capability to assist in the maintenance of various applications and troubleshooting of future issues. By relying upon outside contractor support for the most specialized programming tasks, this plan has decreased our overall IT staffing needs for all previously identified and upcoming application development efforts. As programming needs mature, contractor services can be reduced. Permanent staffing can, in turn, be allocated to other critical program areas.

For FY 2018, the FMC intends to complete work on the existing Service Contract filing system (SERVCON), an IT system "refresh" designed primarily to improve the robustness and resiliency of the system. Subject to availability of funding, OIT will continue with its application modernization plan in FY 2018 and beyond, updating and deploying the applications needed by program staff in the various operating Bureaus of the FMC, as shown in the following table:

IT Systems to be Updated	FY 2017	FY 2018	FY 2019	Notes
SERVCON (Update of service contract filing system)	Programming / Testing	Programming / Testing	Deploy	Completed in FY 2018.
FMC-18 OTI License & Registration Application (back office)	Future	Programming / Testing	Programming / Testing	Expect project to begin in FY 2018 and complete in FY 2020.
E-bonds (Electronic Bonds) filing system	Future	Programming / Testing	Programming / Testing	E-filing system for OTI surety companies to be developed in conjunction with FMC-18.
FMC-1 filing system	Future	Programming / Testing	Programming / Testing	Stand-alone FMC-1 tariff locator will be integrated into updated FMC-18.
Regulated Persons Index (RPI) (Data Store integration)	Future	Programming / Testing	Programming / Testing	Stand-alone RPI will be integrated into updated FMC-18 system.
FMC-18 license renewal for OTI licensees	Deployed 3/2017	Deployed	Deployed	Originally developed and deployed as standalone; will migrate to FMC-18 system when re-deployed.
FMC-65 registration renewal for foreign-based OTIs	Deployed 8/2016	Deployed	Deployed	Originally developed and deployed as standalone; will migrate to FMC-18 system when re-deployed.
FMC-18 OTI Applications & Bonds Fillable/Fileable Forms	Deployed 3/2017	Deployed	Deployed	Will migrate to FMC-18 system when deployed in FY 2020.
OS electronic filing; record retention and electronic reading room	Future	Future	Future	Project to begin in FY 2020 or later, upon deployment of updated FMC-18 system.
PIERS interactive (BTA internal data store)	Future	Future	Future	Project to begin in FY 2020.
Agreement library	Deployed 8/2016	Deployed	Deployed	Public website data made available FY 2017.
Passenger Vessel Operator (BCL system for application filing, processing, reports)	Future	Future	Future	Project to begin FY 2021 or later.

In FY 2019, OIT's application modernization program will focus on "back office" technology and programming for one of our keystone applications, Form FMC-18, used by the public in applying for ocean freight forwarder and NVOCC licenses. The current FMC business workflow system has limitations and the majority of staff's processing remains paper-based. This project will combine five disparate agency applications currently used to process OTI license applications, track the issuance and validity of required surety bonds, collect and publish the location of carrier tariffs, and process renewals of OTI licenses and registrations. The Commission anticipates that development of an enterprise data store shared among four offices and two operational Bureaus will significantly improve internal business process collaboration, eliminate data entry duplication, and reduce overall OTI application processing time.

Against the backdrop of year-on-year increases in the number of licensees and registrants (from 6,068 in FY 2015; 6,156 in FY 2016; to 6,350 in FY 2017); OTI updates every 3 years under a new user-friendly processing system; and thousands of bonding transactions annually, automation offers the most potent, effective, and efficient alternative to increasing the FMC licensing workforce. New technology and programming will enable instant access to documents, data, and real-time status of applications, licenses, and registrations, improving the quality of staff processing and decreasing the time required for management oversight. These latter objectives comprise a cornerstone of the Commission's plans responsive to OMB Memorandum M-17-22, *Comprehensive Plan for Reforming the Federal Government and Reducing the Federal Civilian Workforce*, issued April 12, 2017. Continued automation of FMC work processes promises improved organizational efficiency and effectiveness and will help drive workforce and performance management in the future.

The benefits of FMC automation are by no means speculative. Savings of nearly $480,000 per year in total cost burdens to the filing public are anticipated from the automation of the Commission's licensing and registration forms alone. The FMC now seeks to pursue the next phase of automating our systems: implementation of an advanced licensing system to receive, internally process, provide records management, and full messaging functionalities for licensing, registration, and bonding of all OTIs. As part of an integrated, comprehensive plan for IT development, future performance success will remain contingent upon IT funding being continued through final programming, beta testing, and acceptance in FY 2020.

The FMC also will commence programming necessary for development of an embracive system supporting electronic filing, record retention, and an electronic reading room on behalf of the Office of the Secretary. The OS serves as the designated office through which all filings are made for matters before the Commission for decision, notices of proceedings are given, and from which all official actions and decisions are issued by the Commission. To be developed primarily as an outward-facing web database application, this system will track and publish electronic documents received or issued in formal proceedings, rulemakings or other formal actions. Documents validated through this automated system would be immediately shared with the other parties to a proceeding and simultaneously posted on the Commission's public website for public review, supporting an aggressive performance metric requiring timely publication, as set forth in the agency's Strategic Plan.

To ensure cybersecurity readiness, and facilitate document management and online collaboration, the FMC has increasingly moved its mission-critical applications and data to the cloud. The FMC's investment in IT supports: (1) the cloud services that deliver FMC continuity of operations, disaster recovery, and secure backup routines; (2) agency-wide VOIP communications services for in-office, web, and hand-held devices; and (3) multiple software licenses essential to support remote and shared access to software and systems for all employees in their day-to-day execution of the Commission's mission.

Maintaining continuous delivery of critical software and applications ("uptime") requires complex technology and monitoring tools to analyze and resolve network issues, as well as provide desktop management, troubleshooting, and ongoing data back-ups to preserve critical information. Inclusive of Office 365 licensing, collaboration software such as SharePoint that permits staff to share and manage online documents and spreadsheets, and Azure programming by which online applications are built, deployed, and managed in-house, the costs to maintain and update agency applications and office productivity programs exceed $170,000 annually. Software licenses and regular updates remain essential to ensure network and server uptime; for management, troubleshooting, and helpdesk services and reporting; and management of the agency's mobile phones for FMC executives and personnel in the field.

Likewise, efforts to comply with the Department of Homeland Security (DHS), National Institute of Standards and Technology (NIST), and the United States Computer Emergency Readiness Team (US-CERT) monitoring requirements for network security demand near-continuous updating. The agency also must invest in internal security tools to effectively monitor network operations, including integrity of files, password sufficiency, probing for open ports and other externally visible points of attack. Cybersecurity-related software alone is estimated to cost nearly $44,000 in FY 2019. These software investments will meet a number of government-wide requirements including mandatory cybersecurity and Federal Information Security Modernization Act (FISMA) requirements; government-wide MTIPS (Managed Trusted Internet Protocol Service) requirements; OMB Memorandum M-17-25, *Reporting Guidance for Executive Order on Strengthening the Cybersecurity of Federal Networks* and E.O. 13800; as well as OMB

Memorandum M-17-12, *Preparing for and Responding to a Breach of Personally Identifiable Information*.

Fiscal Year 2019 funding will support Presidentially-appointed Commissioners to meet with stakeholders, make presentations that inform the shipping public about FMC activities and services, and receive valuable input from the public on Commission programs and industry needs.

Through its outreach efforts, the FMC seeks development of *commercial* solutions to supply chain challenges and related port congestion concerns. For example, in May 2017, Commissioner Rebecca F. Dye briefed the U.S. Senate Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety and Security concerning the FMC's Supply Chain Initiative Teams (SCIT), small teams of industry leaders focusing upon "actionable" process innovations that would improve overall international supply chain reliability and resilience on the import side. External teams represent key supply chain industries: ocean carriers, U.S. ports, marine terminal operators, warehouse operators, chassis providers, longshore labor, trucking, railroads, intermediaries, and American exporters and importers. A bedrock concept of the SCIT is the Commission's commitment to help the industry address its challenges, while rejecting the notion that additional government regulation will enhance performance of the commercial supply chain.

Convening face-to-face meetings of participants is key to generating cooperative approaches to data sharing, and agency travel to meet with the participants in regional ports should be seen as a necessary investment towards improving American economic competitiveness. Without adequate funding for travel, FMC initiatives seeking to promote commercial solutions to industry problems will founder.

Adequate travel funding will facilitate public engagement by Commissioners and FMC professional staff with port and industry officials at major gateway ports throughout the U.S., e.g., FY 2019 port visits and presentations in New York, Los Angeles, Miami, and other major port cities, and in supporting the U.S. Department of State and the U.S. Maritime Administration in bilateral negotiations with foreign nations including China, Japan, and South Korea. Domestic U.S. travel is also required by the FMC's investigative staff to identify and document unlawful trade practices in various U.S. ports.

The Commission will continue the document scanning project within the Office of the Secretary. Due to the high volume of records filed with OS and the obligation to retain such documents as "official" records of the Commission under NARA standards, (e.g., National Archives and Records Administration Act of 1984, Pub. L. 98-497, and regulations at 36 C.F.R. Part 1220), digitalization provides an effective space-saving alternative to boxing and retaining on site voluminous printed copies of filed documents, internal staff recommendations and issued Commission decisions, and paying for off-site storage of official records at a National Records Center. This effort may have the collateral effect of aiding the FMC's ongoing efforts to reduce its footprint, building rent, and associated facility security costs. It will increase service to the public and the agency's workforce seeking remote access to digitized documents, and allow a more efficient and timely response to public inquiries including processing Freedom of Information Act requests.

FMC Strategic Plan and the FY 2019 Budget Request

Over the past five decades, international ocean transportation has changed dramatically and continues to evolve. The FMC, an independent agency charged with regulating liner shipping in the U.S. trades, has adapted to and evolved with those changes. From its creation through a statutory reorganization in 1961, the FMC has worked to further its mission to ensure a competitive and reliable international ocean transportation supply system that supports the U.S. economy and protects the public from unfair and deceptive practices. While the specifics of U.S. maritime policy and legislation have changed markedly during the last few decades, the FMC's goal of protecting American exporters, importers, and end consumers remains the cornerstone of today's regulatory efforts. Consequently, the Commission's Strategic Plan focuses on the goals of maintaining a competitive international ocean transportation system for U.S. exporters and importers and protecting the shipping public from financial harm.

Building upon the success of our prior Strategic Plan, which covered FY 2014-2018, the Commission issued its Initial Draft Strategic Plan for FY 2018-2022. The Commission released its Initial Draft Strategic Plan for public comment in November 2017 and shared its Initial Draft with OMB. The Commission submitted its Initial Draft FY 2018-2022 Strategic Plan to Congress for review and comment in December 2017.

The FY 2018-2022 Plan provides the framework to address current and anticipated challenges in the ocean transportation industry over the next five years. It continues to calibrate performance measures to ensure the Commission is meeting its statutory mission and the needs of a rapidly changing ocean shipping industry. The FMC's two strategic goals, as well as a section on its administrative functions, will guide the Commission's efforts and ensure that the Commission remains an efficient and effective steward of the public's interest. It is intended to be flexible and adaptable as the shipping industry and the challenges facing the industry continue to evolve, while providing clear and measurable targets that will drive continuous improvement in the FMC's performance.

The Commission supports key government-wide initiatives by working to increase efficiencies and customer service initiatives, transparency, and by providing public access to information to make a positive difference in the lives of the American people and the economy. The FMC's mission supports the President's commitment to economic growth and job creation.

The Commission's FY 2018-2022 Strategic Plan contains two strategic goals. The first goal – *maintain a competitive and reliable international ocean transportation supply system* – encompasses the critical tasks of reviewing and monitoring carrier and MTO agreements, and monitoring foreign shipping practices. The second goal – *protect the public from unlawful, unfair, and deceptive practices* – encompasses a broader mandate to protect the shipping public. As reflected in the table below, of the total FY 2019 request, $6,771,057 and 31.37 FTEs are needed to support Strategic Goal 1. Strategic Goal 2 support requires $20,718,943 and 97.63 FTEs.

Federal Maritime Commission

Executive Summary

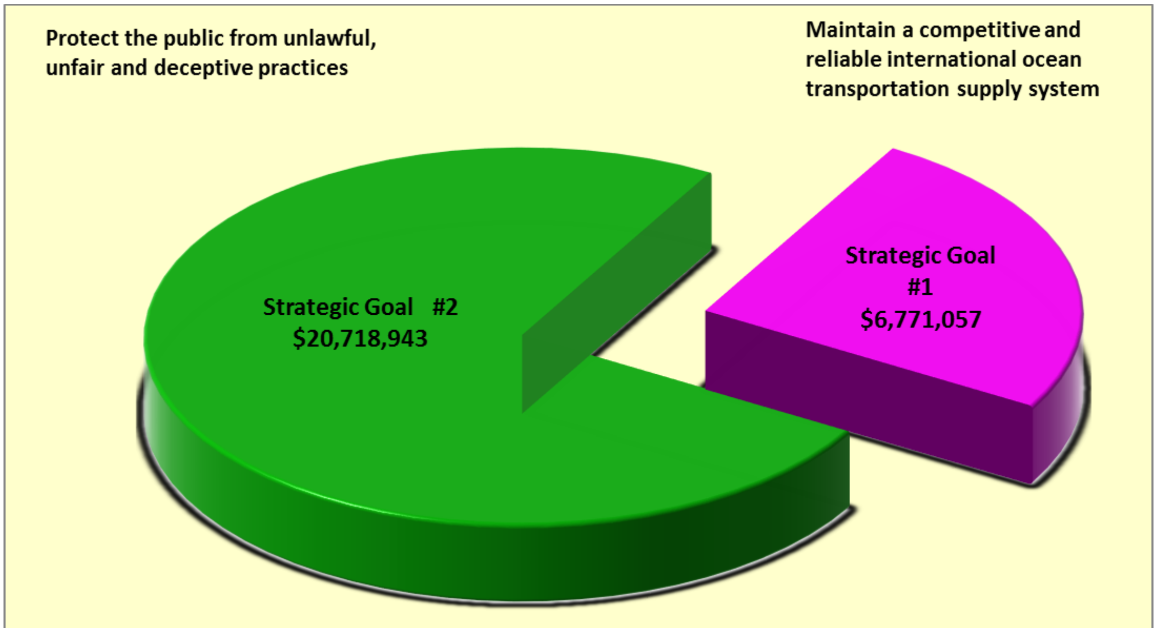
		FY 2017 Actual	FY 2018 Estimate	FY 2019 Request
FTE:	**Headquarters & Field**	**125.05**	**126.63**	**129.00**
Cost:	**Salaries & Benefits**	$18,834,382.72	$19,563,000.00	$20,082,000.00
	Non-Personnel Expenses	$8,391,270.71	$6,586,000.00	$7,408,000.00
	Total Cost	**$27,225,653.43**	**$26,149,000.00**	**$27,490,000.00**

FY 2019 FTE by FMC Strategic Goal

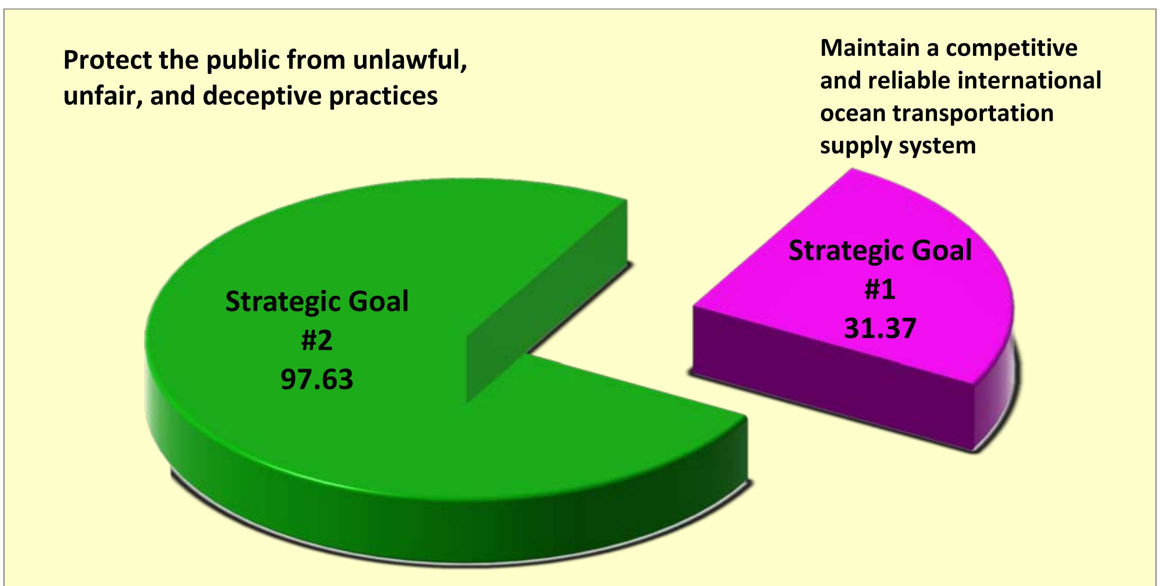
Strategic Goal 1	**Strategic Goal 2**
Maintain a competitive and reliable international ocean transportation supply system	Protect the public from unlawful, unfair, and deceptive practices
31.37	**97.63**

FY 2019 Cost by FMC Strategic Goal

Strategic Goal 1	**Strategic Goal 2**
$6,771,057.12	**$20,718,942.88**



Funding Request by Strategic Goal



FTE Request by Strategic Goal

Commission-wide action items, addressed on pages 24-26, identify the FMC's ongoing commitment to fiscal stewardship by continually looking to improve its operational infrastructure as well as the availability of informational resources for the benefit of public and industry stakeholders.

The Commission is committed to integrating evidence into its strategic decision-making, and tracking its progress through performance metrics. Relevant workload statistics are set forth in Appendix F. An evidence submission demonstrating the FMC's progress is included in Appendix G.

Strategic Goal 1:

Maintain a competitive and reliable international ocean transportation supply system

Objective: Ensure that actions under filed agreements do not result in unreasonable increases in transportation costs and/or unreasonable decreases in transportation services.

- Competition under the FMC's Authority

In FY 2017, the Commission received 144 agreement filings, including both new agreements and amendments to existing agreements. This level of activity is notable in that it is the first time in several years that the number of agreement filings has decreased.

A number of factors have been converging over the last several years to prompt carriers both to reconfigure their alliance arrangements under the Shipping Act and to consolidate their operations. While cargo volumes have increased in recent years, the rate of increase has not returned to the stronger levels of growth that existed prior to the 2008-2009 global recession. The slower growth in demand for liner shipping services and the ongoing deployment of mega container ships have impacted the financial stability of liner carriers. Vessel capacity continues to be more than sufficient to meet demand. The ongoing imbalance of vessel supply over demand continued to place downward pressure on ocean freight rates during the fiscal year. Globally, during FY 2017, the average utilization of vessel capacity was 82 percent in the headhaul trades (trade lanes generating the highest revenues, and generally those with the greater cargo volume) and 47 percent in the backhaul trades (trade lanes that carry less cargo volume on the return leg).

As a result of downward pressure on ocean freight rates and the resulting financial pressures for carriers, FY 2017 witnessed a continued wave of mergers, acquisitions, and joint ventures, as well as increased cooperation among ocean carriers subject to the Shipping Act. During the fiscal year, Hapag Lloyd acquired United Arab Shipping Company, Maersk Line began the process of acquiring Hamburg Süd, and COSCO announced plans to purchase OOCL. The three Japanese carriers, K Line, MOL, and NYK, plan to merge their liner shipping services effective April 2018. In addition, carriers reconfigured their global alliance arrangements and services from four agreements (2M, CKYHE, G6, and Ocean 3) to three agreements (2M, OCEAN Alliance, and THE Alliance), as discussed below.

At the end of FY 2017, the three global carrier alliances — THE Alliance, the OCEAN Alliance, and the 2M Alliance — collectively controlled 91 percent of vessel capacity in the two largest U.S. trades, the transpacific and the transatlantic. The transpacific trade encompasses cargo moving between Asia and the U.S., while the transatlantic trade includes cargo moving between Europe and the U.S. The current configuration of ocean carrier alliances has continued to grow their market shares in these trades, in many cases through the acquisition of other carriers.

With the industry in the process of significant structural change, the FMC will continue to play an important role in analyzing agreements for anti-competitive practices, overseeing the changes and monitoring the impact on the Nation's exporters/importers to ensure goods reach international markets efficiently and reliably.

Fiscal Year 2017 was the first year that the Commission primarily utilized the new eAgreements electronic agreement filing and review system for ocean common carrier agreements. The deployment of this system has proven to be well received by the industry, with more than 90 percent of carrier agreement filings now submitted electronically. The new online system has streamlined FMC business processes by reducing initial agreement intake time resulting in faster public access to pending filed agreements – significantly reducing administrative costs for both the industry and Commission staff. In FY 2018, the FMC intends to complete a full audit of all marine terminal operator agreements currently on file, a process that began in FY 2017. Once compliance with all applicable regulations is ensured, the Commission will upload those agreements to the new eAgreements system. In doing so, the benefits described above will be extended to all agreements, not just those between and among vessel operating common carriers. The shipping public will receive 24/7 access to these filings.

The Commission issued a final rule on April 4, 2017, amending the Commission's service contract and NVOCC service arrangement rules. The rulemaking aimed to relieve regulatory burdens. In particular, the Commission amended its regulations to allow amendments to service contracts and NVOCC service arrangements to go into effect before being filed with the Commission, which grants the industry additional contractual flexibility and enhanced ability to respond to real time market conditions.

In FY 2018 and FY 2019, the Commission will continue to monitor service contract, tariff, and agreement activities, prepare reports and economic analyses on developments and issues in key U.S. trades, review the activities of controlled carriers, and respond to inquiries and informal complaints. The FMC will continue to monitor key U.S. trade lanes. The FMC will review and analyze the competitive impact of agreements and evaluate the activities of agreement parties, particularly focusing on issues of vessel capacity and equipment availability. In addition, the Commission will continue to assess changes taking place in the provision of chassis for the inland movement of containerized goods and the competitive effects of changing carrier alliance structures.

Strategic Goal 2:

Protect the public from unlawful, unfair, and deceptive practices

Objective 1: Identify and take action to end unlawful, unfair, and deceptive practices

The Commission uses both its enforcement and compliance programs to identify and take action to end unlawful, unfair, and deceptive practices. Major investigations undertaken or completed during FY 2017 addressed ongoing practices of certain OTIs operating in the volatile China-U.S. inbound trades, as well as VOCCs seeking to operate pursuant to agreements that were not filed with the Commission. Enforcement-based initiatives will continue to address VOCCs and NVOCCs that engage in unfair service contracting practices, particularly those practices which permit unlicensed OTIs to compete unlawfully with carriers and OTIs operating in compliance with U.S. laws. The FMC will pursue enforcement actions against those who pursue market-distorting, fraudulent, or anti-competitive practices harmful to the industry and the public.

In FY 2017, the compliance and audit program continued its major focus on reviewing the operations of licensed OTIs to assist them in complying with statutory and regulatory requirements. The audit program also reviews entities holding themselves out as VOCCs to determine the existence of actual vessel operations. During the fiscal year, 157 audits were commenced and 143 were completed (see Appendix F for these and other workload statistics).

During the fiscal year, the Commission completed notable compromise agreements with several major NVOCCs serving the inbound Far East-U.S. trades, addressing a variety of service contracting malpractices. The Commission continued ongoing investigations relating to unfiled VOCC agreements in the U.S.-foreign trades, both inbound and outbound, and concluded investigations with collection of penalties.

The FMC is active in security initiatives as they relate to U.S. ocean commerce, and works to coordinate the use of available database systems with other agencies engaged in homeland security to improve identification of entities providing and utilizing maritime transportation services. To facilitate these activities, the FMC executed a Memorandum of Understanding

(MOU) with the U.S. Customs and Border Protection to provide a more efficient utilization of existing systems and services. The FMC also has an active MOU with the Census Bureau, U.S. Department of Commerce, to provide the FMC with access to the Census' Automated Export System (AES) database. These relationships allow the FMC to access confidential U.S. export shipment data to accomplish its mission and to protect the Nation's security interests. The Commission also supports the Nation's economic and security interests by partnering with the National Intellectual Property Rights Coordination Center (IPR Center), a Department of Homeland Security-led partnership of 23 federal and international agencies targeting intellectual property- and trade-related crimes. This partnership has resulted in coordinated enforcement efforts to address international criminal activity.

Objective 2: Prevent public harm through licensing and financial responsibility requirements

Ocean transportation intermediaries are transportation middlemen for oceanborne cargo moving in the U.S.-foreign trades. Before the FMC grants licenses to OTIs as mandated by the Shipping Act, the OTI applicant must establish that it has the necessary character and a minimum of three years of experience in the U.S., as well as establish its financial responsibility by means of a bond, insurance, or other instrument.

Over 6,250 OTIs are regulated by the Commission, consisting of over 4,800 licensed entities and about 1,450 foreign-based registered NVOCCs (see Appendix F for these and other workload statistics). About 750 OTI applications are received annually, and of those, approximately 70 percent are processed for formal determination of approval. The remaining 30 percent are returned to the applicant due to lack of completeness or lack of appropriate qualifications. All licensed and registered OTIs must maintain proof of financial responsibility with the Commission. At present, this amounts to over $675 million in surety bonds to protect the shipping public.

The triennial update program for OTIs licensed with the FMC was successfully launched in March 2017. Approximately 1,600 OTI licenses will be updated annually. As planned, 17 percent, or 804 of the 4,839 FMC-licensed OTIs, completed their renewals in the first 6 months of this new program. The update process is online and in most cases, takes only 5 minutes – a user-friendly process facilitated by pre-populating the outgoing FMC inquiry with the OTI's information currently on file for quick verification.

The update process is already improving the accuracy of OTI records, and timeliness of reporting material changes in ownership and operations, for the benefit of OTI sureties, carriers, and the shipping public. During this initial 6-month period, the following updates or changes to information on file with the Commission were reported during the license renewal process: 613 ownership and/or officer changes, 220 affiliation changes, 99 branch office changes, and 118 business address changes.

The FMC also oversees a program to ensure financial responsibility for passenger vessels that have berth or stateroom accommodations for 50 or more passengers and embark passengers at U.S. ports and territories. The requirement for Certificates of Performance, which provide financial responsibility for the indemnification of passengers for non-performance of transportation, prevents unscrupulous or financially weak operators from serving U.S. ports. The Passenger Vessel Operator (PVO) program encompasses 225 vessels and 47 passenger vessel operators, with aggregate evidence of financial responsibility coverage of $594 million for non-performance and $705 million for casualty. Through its website and the CADRS office, the FMC offers information and guidance to the cruising public on passenger rights and obligations regarding monies paid to cruise lines that fail to perform voyages.

In FY 2018 and FY 2019, the Commission will pursue further opportunities to streamline its business processes and consider additional regulatory reforms, as appropriate, including: (1) reviewing the impact of recent rule changes affecting the passenger vessel program and exploring alternatives to enhance PVO monitoring procedures; (2) reviewing procedures regarding OTI licensing applications; and (3) continuing efforts to develop, enhance, and implement an improved electronic application process for both OTIs and PVOs. Further, the Commission will leverage its existing data collection of surety bond usage to measure how effectively bonds are protecting the industry and the public.

Objective 3: Enhance public awareness of agency resources, remedies, and regulatory requirements through education and outreach

The Commission provides information in many forms to educate regulated entities, stakeholders, and the public about its resources, remedies, and regulatory requirements. The Commission's website offers brochures, how-to guides, forms and applications, reference libraries, news releases, information on investigations, and advice on topics such as FMC regulations, OTI licensing, household goods moves, and use of ADR services to assist parties with resolving cruise- and cargo-related disputes. In addition, throughout the year, Commission staff participate in presentations and instructional opportunities to educate consumers and regulated entities regarding regulations, shipping trends, best practices, and the effective use of available FMC resources to resolve formal proceedings, service contract matters, and other commercial shipping disputes.

The FMC will continue its efforts to increase public access to Commission resources by improving the design, usability, and platform of the website docket library and historical document repository. Further, the Commission's IT plan will increase availability of public documents, including minutes of Commission actions under the Sunshine Act, on the FMC's website. In addition, the Commission continues to enhance its technological capabilities to live stream the agency's public meetings over the world wide web.

Objective 4: Impartially and timely resolve international shipping disputes through alternative dispute resolution and adjudication

The FMC offers informal dispute resolution, and adjudicates claims of unlawful practices by carriers, MTOs, and OTIs. The Commission's Area Representatives and CADRS educate industry members and the public on the Shipping Act and shipping regulations, and help to address international ocean transportation disputes.

The FMC, through CADRS, offers both facilitation and arbitration services to the industry and shipping public to resolve disputes. An online mediation tutorial and tool was created for parties to use to prepare for mediation. The Commission supports mediation and collaborative dispute resolution when feasible, and requires parties involved in formal Commission docketed proceedings to attend mandatory mediation conferences.

The Administrative Law Judges (ALJs), whose independence is protected by the Administrative Procedure Act, 5 U.S.C. Subchapter II, resolve cases involving alleged violations of the Shipping Act and other laws within the Commission's jurisdiction. Cases may be initiated either by private parties or by the Commission (represented by the Bureau of Enforcement) to seek civil penalties for law violations. The Chief ALJ also has the authority to assign small claims complaints, valued at up to $50,000, to a Small Claims Officer for resolution.

Commission Action Items – Supporting Government-wide Priorities

The Commission serves the public transparently. The FMC is committed to making smart investments and using management strategies to deliver effective and efficient government that rapidly reacts to the changing needs of its citizens and supports economic growth.

Customer Service

A number of the Commission's offices and programs provide direct services to the public. CADRS receives time-sensitive requests for assistance from shippers, carriers, and cruise line passengers. The Commission's Area Representatives are located near key maritime ports (Los Angeles/Long Beach, Seattle, New York, Houston, New Orleans, and Miami) and operate as the front line for questions and issues facing the industry. The Office of the Secretary updates the

FMC's website and social media frequently, providing timely and important information to the public. The FMC responds to requests for information from the media and the public. Other offices interact with the industry and the public by providing information and assistance with tariffs, licensing, and competition-related issues. The FMC works diligently to provide the public with exceptional customer service.

Efficient Government — Reducing Regulatory Burden and Improving Necessary Information Collection

The FMC reviews its processes and regulatory requirements for efficiency and effectiveness. As economic conditions alter the state of our trades, regulations are revised to respond to new circumstances. Toward the goal of eliminating or reforming regulations, the Commission designated its Managing Director as the Regulatory Reform Officer, who now leads an internal team to identify regulations that have become less relevant or are unduly burdensome.

On November 29, 2017, the Commission issued a Notice of Proposed Rulemaking in Docket No. 17-10, *Amendments to Regulations Governing NVOCC Negotiated Rate Arrangements and NVOCC Service Arrangements*, soliciting public comments on a plan to amend regulations governing NVOCC Service Arrangements (NSAs) and NVOCC Negotiated Rate Arrangements (NRAs) to make them easier for shippers to use.

In FY 2017, staff prepared recommendations for Commission consideration of potential regulatory reforms to the filing and processing of agreements, quarterly monitoring reports and agreement meeting minutes, taking into consideration industry comments received in response to its Notice of Proposed Rulemaking (NPR) in Docket No. 16-04, *Ocean Common Carrier and Marine Terminal Operator Agreements Subject to the Shipping Act of 1984*. The Commission anticipates that the agreements rulemaking initiative will conclude in FY 2018.

On January 12, 2018, the Commission published a Plan for Regulatory Reform of Existing FMC Rules, outlining the FMC's plan to identify regulations that may be suitable for reform or elimination, and establishing a schedule to consider further review and action on each identified regulation.

To help the Commission properly allocate its resources to most effectively meet its mission, it relies on evidence-supported policy and program decision-making in implementing its Strategic Plan. The Commission's draft FY 2018-2022 Strategic Plan was submitted to OMB; published for public comment; and submitted to its Congressional Oversight Committees for review and feedback. The FMC's commitment to measurable goals can be seen in Appendices E, *Performance Measures by Strategic Goal*; F, *Workload Summary*; and G, *Evidence Submission*.

Information Technology

The FMC remains committed to continuous enhancement of its IT systems, which will make it faster and easier for individuals and businesses to find information and complete required filings with the FMC. This enhancement will also improve the design, usability, and platform of the website docket library and historical document repository. Importantly, IT upgrades will increase staff productivity and their ability to work collaboratively.

The Commission continues to migrate workflow documents for both Commission staff and the public to reduce dependency on paper filings. Further, the Commission will increase transparency and availability of documents through its website, including Sunshine Act meeting materials. Also important are FMC initiatives to improve visibility of critical information, archiving, and streamlining of content to improve information delivery and accuracy.

Efforts to advance the Commission's Information Resources Management Strategic Plan and IT Capital Plan require continued funding to critical system maintenance and development. In recent fiscal years, the FMC moved critical applications to the cloud to ensure regular and effective data backups. The FMC is compliant with Department of Homeland Security continuous monitoring requirements for network security and deploys internal security tools to effectively monitor network operations, including integrity of files, password sufficiency, probing for open ports, and other externally visible points of attack.

People and Culture

The diligent work of its small and dedicated staff is critical to the FMC achieving its mission. The FY 2019 budget request allocates 73% to salaries and benefits for these employees. To ensure that the FMC attracts qualified candidates with the skillsets necessary to provide exceptional service to the public, the FMC is committed to foster employee satisfaction in the workplace, provide relevant training for job skills and employee professional growth, and to improve workplace flexibilities.

Workplace Satisfaction

Employees that are satisfied with their employer, and the work that they do, strive to excel. The FMC participates in the Office of Personnel Management's (OPM) Federal Employee Viewpoint Survey (FEVS) to gather information on employee satisfaction. The Commission also seeks input on workplace satisfaction through regular all-hands meetings, top-level meetings with staff, and agency-wide employee teams. In 2013, the FMC made improving employee morale and workplace satisfaction a priority objective, and has made positive strides in improving workplace satisfaction in terms of leadership, transparency, matching skills to its mission, and work/life balance.

Through the Workplace Improvement Plan (WIP), employee teams address workplace initiatives such as diversity training, employee suggestions, telework, fitness program, expansion of work schedule options, and peer recognition. The Commission's senior leadership encourages staff involvement and provides opportunities for participation in these teams. The WIP process continues to be a driving force in workplace and successful employee engagement.

Based on FEVS results, the FMC was recognized in 2015 by the Partnership for Public Service (Partnership) as part of their annual rankings of the *Best Places to Work in the Federal Government* and received an award for being the *2015 Most Improved Small Agency*. The FMC continued to build on its 2015 accomplishments and was recognized in 2016 for substantial increases to the FEVS. Among small agencies, the FMC was recognized as having the second largest increase in the overall Employee Engagement Index as well as the largest increase under the New IQ in Fairness and the third largest increase in New IQ (Open).

In FY 2017, the FEVS was again offered to all permanent FMC employees onboard as of October 31, 2016. Of the 100 employees surveyed, 75 (75%) chose to participate. This was an increase of 4% over 2016 participation. Additionally, the FMC included 8 Agency Specific Questions to further aid in refining the Commission's employee engagement strategy. Items that are rated at 65% positive or higher are considered strengths, and the FMC had 47 such items. The areas with the 5 highest positive responses in 2017 included:

1. When needed I am willing to put in the extra effort to get a job done (96% positive);
2. I am constantly looking for ways to do my job better (94% positive);
3. I know how my work relates to the agency's goals and priorities (92% positive);
4. How would you rate the overall quality of the work done by your work unit (91% positive); and
5. I am held accountable for achieving results (89% positive).

Items that are 35% or more negative are considered a challenge. The FMC had no items at 35% negative or higher.

Overall, 44 survey items increased since 2016 and the top 5 included:

1. In my work unit steps are taken to deal with a poor performer who cannot or will not improve (14% increase);
2. The skill level in my work unit has improved in the last year (14% increase);
3. How would you rate the overall quality of work done by your unit (14% increase);

4. Employees in my work unit share job knowledge with each other (12% increase); and
5. I know how my work relates to the agency's goals and priorities (10% increase).

As a result of these impressive gains, the Commission moved from 23 to 17 among small agencies in the Best Places to Work ranking for 2017. As recognition, the Commission was honored by the Partnership as the *Most Improved Small Agency Over the Last 5 Years* during the annual Best Places to Work Ceremony.

- Training

The FMC offers job and professional training opportunities to all employees. Online training, provided through a commercial vendor to Commission employees, is a cost-effective way to ensure that appropriate training is available year-round. The online offerings include classes in IT technical skills, project management, communication, leadership, management, and writing.

The Commission's Office of Human Resources provides annual performance management training, telework training, and announces opportunities for employees to participate in classes offered by the Small Agency Council. The Office also created and provided agency-wide training *Employee Benefits Seminar and Pre-Retirement Seminar*, *Benefits Overview for FERS Employees*, and a training course on *Writing Effective Performance Narratives and Delivering Meaningful Performance Feedback* for supervisors and leaders.

- Work Flexibilities: Alternate/Flexible Schedules and Telework

The FMC offers employees alternative, flexible work schedules and telework opportunities, which increase employee productivity and improve work/life balance. More than 50% of the staff participate in compressed/flexible work schedules, with the further option of telework. The FMC released an updated Commission Order 92, *Work Schedules*, adopting additional flexibilities available under the government's alternative work schedules program.

Managing Real Property Needs — "Freezing the Footprint"

The FMC works in partnership with the General Services Administration (GSA) as a good steward of government resources. In looking to better align the size of federal real property assets with actual program needs, the FMC further reconfigured its headquarters space during FY 2017, and returned approximately 1,395 square feet of space, providing an annual cost savings of approximately $63,000. The FMC will continue to evaluate its space needs going forward.

Enhancing Shared Services

In order to achieve efficiencies and cost-savings, the FMC uses shared services to accomplish some of its fiscal and personnel-related administrative functions. Each service is regularly reviewed to ensure that the best value is provided to the public.

For example, after a thorough review of the FMC's EEO program needs, it was determined that the Commission would benefit from utilizing a shared service with another agency for the role of an EEO Director. The FMC is job-sharing this position with the Surface Transportation Board (STB), and this position serves as EEO Director for both agencies. STB compensates the Commission for one-half of the cost of this shared position. Careful consideration was given to ensure that the FMC's limited resources are used efficiently while maintaining solid support of our EEO principles to ensure that the FMC meets its responsibilities in affirmative employment and the appropriate handling of EEO complaints.

The Commission currently uses the following shared service providers:

- National Finance Center

The National Finance Center (NFC) currently provides the Commission with several human resources services, including payroll and time and attendance (T&A) transaction processing, managing employee debt, and employee separation payments. In FY 2017, the FMC transitioned from a paper-based time and attendance system to the automated PayCheck8 system. PayCheck8 is a web-based T&A system allowing users the flexibility to enter their time and attendance from anywhere that they have internet connection. The T&A reports created in PayCheck8 are sent directly to the NFC for payroll processing.

- Office of Personnel Management

The Commission maintains a Memorandum of Understanding (MOU) with the Office of Personnel Management (OPM) for hiring functions. The Commission's Office of Human Resources currently provides the agency with full service hiring functions, including the recruitment, assessment, referral, and onboarding of candidates. However, in cases where demand may exceed internal staffing capabilities, the Commission is ready to leverage OPM to assist with necessary services.

- Bureau of Fiscal Services (BFS)

The FMC carefully manages its costs. Due to its size, it is cost prohibitive for the FMC to purchase and maintain an integrated federal financial reporting system. In order to meet its federal financial reporting requirements, the Commission contracts with the Bureau of Fiscal Services (formerly the Bureau of Public Debt) for several of its administrative service needs.

To operate under a fully integrated federal financial reporting system, the FMC utilizes the Oracle platform services provided by the Administrative Resource Center (ARC) of BFS. ARC's business model, performance record and progressive technological accomplishments have earned it the distinction of "Center of Excellence" in financial management by the Office of Management and Budget. Through this cross-service provider, the FMC obtains a full range of financial management and accounting services, including a financial management system platform, vendor and employee record maintenance and reporting services, budget processing, budget reporting, payroll accounting services, accounts payable and accounts receivable services, and procurement system platform services, including purchase and fleet card services. Additionally, the FMC contracts for ARC Travel services, including E-Gov Travel Service, Travel Card Administration, Travel Payments, and Relocation Services. The Financial Reporting services provided by ARC were expanded in 2017 to include required Digital Accountability and Transparency Act of 2014 (DATA Act) reporting services.

FY 2017 Accomplishments

Strategic Goal 1:

Maintain a competitive international ocean transportation supply system

Objective: Enhance efficiency in the trades through the use of asset sharing authority under the Shipping Act of 1984[1]

- Competition and Foreign Practices

The Commission evaluates the competitive impacts of carrier and marine terminal agreements and ensures that filed agreements comply with U.S. shipping statutes and regulations. To do so, the Commission reviews agreement activities, prepares economic analyses, and researches and produces studies and profiles on agreements, carrier organizations and market conditions in a variety of U.S. liner trades. The FMC also identifies and researches issues of an economic or commercial nature that may affect or distort competition in U.S. liner markets, and reviews developments in international trade and the global economy.

As the basis for its analytic work, the Commission receives and reviews minutes of agreement meetings and regular informational reports filed by parties to potentially anti-competitive agreements such as those that discuss freight rates, service contract guidelines, cargo or revenue pooling, and/or the rationalization of vessel capacity. The shipping industry continued

[1] The Commission's FY 2018-2022 Strategic Plan updates the language of Strategic Goal 1 and its accompanying objective and measures to reflect the Commission's emphasis on preventing actions taken through filed agreements that would result in unreasonable increases in transportation costs and/or unreasonable decreases in transportation services. Throughout previous Strategic Plans, the work of the Commission has long focused on ensuring filed agreements take actions that enhance efficiency without improperly impeding or restricting trade.

to witness major restructurings and consolidations in FY 2017, which the Commission monitored for potentially significant competition concerns.

The FMC's Supply Chain Innovation Initiative continued to make progress developing commercial solutions to supply chain challenges and related port congestion concerns. Led by Commissioner Rebecca F. Dye to bring together industry leaders from across the international ocean transportation supply chain to discuss challenges, the Supply Chain Innovation Teams collaborate on solutions to help reduce port congestion and remove related obstacles to efficient U.S. supply chain operations. On December 6, 2016, the Commission published an executive summary of its interim status report, reporting on the first phase, focusing on the import supply chain. On July 11, 2017, the FMC launched the second phase focusing on the export supply chain. In December 2017, the second phase concluded with the publication of the findings and recommendations of the Supply Chain Innovation Teams. The teams looked beyond the dock and the terminal gate to identify solutions to supply chain challenges.

In FY 2017, the FMC continued to monitor potentially restrictive foreign practices, including reviewing new legislation and new interpretations of existing legislation. The FMC also participates, both formally and informally, in international agreement negotiations that could affect foreign-borne cargo shipments to the United States. In addition, the FMC tracked consumer inquiries regarding possible foreign restrictive shipping practices.

- Trade Oversight and Industry Research

The Commission administered its oversight responsibilities during FY 2017, conducting research and analysis into a number of filed agreements and industry issues. Activities included:

- participating in the facilitation of the Supply Chain Innovation Teams Initiative, attending meetings under the leadership of Commissioner Dye, drafting meeting minutes and providing an extensive annotated bibliography of over 150 documents;
- conducting a review and economic analysis of the competitive impact of the revised and re-filed *Port of New York/New Jersey Equipment Optimization Discussion Agreement*, FMC No. 012445;
- continuing work associated with the comprehensive review of 46 CFR Part 535 (Ocean Common Carrier and Marine Terminal Agreements) and related regulations in 46 CFR § 501.27 in FMC Docket No. 16-04, *Ocean Common Carrier and Marine Terminal Operator Agreements Subject to the Shipping Act of 1984,* including reviewing public comments submitted in response to the Notice of Proposed Rulemaking (NPRM) and analyzing the rule's regulatory burden; preparing a summary of recommended changes and comments to the NPRM; and drafting a corresponding memorandum to the Commission for consideration;

- completing an analysis of the likely competitive effects of the authorities proposed under the *Miami Terminal Conference Agreement*, FMC No. 012442, allowing two marine terminal companies located at the port of Miami to cooperate on business and operational matters;
- conducting a competitive impact analysis of the *OCEAN Alliance Agreement*, FMC No. 012426, under the section 6(g) standard of the Shipping Act, incorporating extensive information received in response to the Commission's Request for Additional Information to clarify the Agreement's authority and gather the data necessary to complete the analysis, and drafting a recommendation memorandum to the Commission;
- developing a detailed set of questions for parties to *THE Alliance Agreement*, FMC No. 012439, the responses to which contributed substantially to the analysis of the expected competitive impact of the Agreement;
- conducting semi-annual meetings with representatives of the *Transpacific Stabilization Agreement*, FMC No. 011223, to review major activities of the Agreement and discuss significant developments in the trade between the U.S. and Asia;
- updating the Commission on the activities of the *West Coast Marine Terminal Operators Agreement* (WCMTOA) and the PierPass program; reviewing the KPMG report on PierPass's cost methodology; meeting with representatives of WCMTOA; and issuing an extensive set of revised reporting requirements for WCMTOA;
- preparing the competition analysis for the *Maersk/MSC/HMM Strategic Cooperation Agreement,* FMC No. 012463, an agreement reflecting Hyundai Merchant Marine's cooperation with the 2M Alliance, which finalized the new alliance structure that took effect in April 2017;
- preparing a competition analysis for the *East Coast Gateway Terminal Agreement*, FMC No. 012469, a discussion agreement between the Virginia Port Authority and the Georgia Ports Authority;
- conducting a competitive analysis for an amendment to the *WWL/EUKOR/ARC/GLOVIS Cooperative Working Agreement*, FMC No. 012309, that sought joint purchasing authority to solicit bids for the provision of tug services at ports that the parties serve; and
- conducting an economic analysis of the potential competitive impact of the *Tripartite Agreement*, FMC No. 012475, a joint venture to combine the containership operations of the three Japanese carriers (NYK, K Line, and Mitsui OSK Lines); meeting with representatives of the individual carriers; and drafting a memo including recommendations for Commission consideration.

- Service Contracts and Tariffs

During FY 2017, VOCCs filed thousands of service contracts and contract amendments into the SERVCON system (see Appendix F for these and other workload statistics). The FMC processed both original NSAs and amendments filed by NVOCCs. The Commission received, processed, and reviewed Form FMC-1 filings, which provides the location of carrier rate tariffs to the public through the website.

In FY 2017, the Commission revised its service contract and NVOCC service arrangement rules. The Commission, in an effort to relieve regulatory burden, now allows amendments to service contracts and NVOCC service arrangements to go into effect before being filed with the Commission.

The FMC conducted service contract and tariff research in support of the Commission's agreement monitoring program and *ad hoc* research to meet the agency's review of industry trends and practices. Additionally, the Commission conducted research on various surcharges, such as congestion surcharges, low sulfur fuel surcharges, as well as general rate increases published by the ocean carriers.

In FY 2017, the FMC continued a comprehensive review of the status of MTOs and removed from the Commission's website those that are no longer active in providing MTO services. In addition, for those MTOs that elected to make their MTO schedules publicly available, the Commission verified the internet location where those schedules are published, and updated its website accordingly to provide more accurate information to the public.

The FMC continues to reach out to various service contract filers to encourage the use of web services when filing service contracts to increase efficiency, reduce costs, and eliminate frequent filing errors.

The FMC anticipates that filings through 2018 and 2019 will remain steady, although a decrease in the filing of amendments to service contracts and NSAs is anticipated as a result of the final rule which allows ocean carriers to file service contract and NSA amendments up to 30 days after they become effective. The continual entry and exit of various OTIs to and from the market requires ongoing follow-up on the part of Commission staff to ensure that an accurate listing of tariff publication locations on the Commission's website is maintained and to ensure that published tariffs meet the Commission's tariff publication requirements. Additionally, the Commission has substantial responsibilities associated with monitoring VOCC tariffs for compliance and verifying that VOCCs continue to operate as common carriers in the U.S. waterborne foreign commerce.

Strategic Goal 2:

Protect the public from unlawful, unfair, and deceptive practices

In FY 2017, the Commission focused on the integrity and security of international supply chains and protecting the shipping public from financial harm.

Objective 1: Identify and take action to end unlawful, unfair and deceptive practices

Several major investigations undertaken or completed during FY 2017 addressed the ongoing practices of unlicensed and unbonded operators, of certain OTIs operating in the China-U.S. inbound trades, and VOCCs seeking to operate pursuant to agreements that were not filed with the Commission.

Under the Commission's expedited hearing procedures governing revocation of OTI licenses, in a decision served November 21, 2016, in OTI Hearing Docket No. 16-01, the hearing officer found that the OTI license of Login Logistics USA, Corp. should be revoked. This conclusion was based on findings that respondent was no longer qualified to provide OTI services, failed to report and replace its Qualifying Individual who had been removed, and willfully failed to respond to and comply with the Commission's inquiries and order over an extended period of time. The hearing officer's decision became the order of the Commission. This ensured that an unqualified OTI was no longer able to provide services to the public.

During FY 2017, the Bureau of Enforcement completed notable compromise agreements with several major NVOCCs serving the inbound Far East-U.S. trades, addressing a variety of service contracting malpractices. The Commission also continued investigations relating to unfiled carrier agreements in the U.S.-foreign trades, both inbound and outbound. The Commission collected nearly $1.9 million in penalties against a number of regulated parties during FY 2017.

The Commission's compliance audit program continued as a major focus. This program, conducted from headquarters primarily by mail, e-mail, and telephone, reviews the operations of licensed OTIs to assist them in complying with statutory requirements and the Commission's rules and regulations. The audit program also reviews entities holding themselves out as VOCCs, where there is no indication of actual vessel operations. During the year, 157 audits were commenced, and 143 audits were completed (including audits carried over from the prior fiscal year).

At the beginning of FY 2017, 17 enforcement actions were pending final resolution by the BOE, and the BOE was party to 2 formal proceedings. During the fiscal year, 19 investigative matters were referred for enforcement action or informal compromise; 16 were compromised and settled, administratively closed, or referred for formal proceedings; and 20 enforcement cases were pending resolution at fiscal year's end. Also, 1 formal proceeding was completed and 1 was pending at the end of the fiscal year. There were 12 matters pending which the BOE was monitoring or for which it was providing legal advice.

- International Affairs and Foreign Shipping Restrictions

The FMC continued its international outreach efforts by attending and coordinating discussions with foreign embassies and counterparts. In FY 2017, the Commission, in conjunction with other federal agencies, participated in bilateral and multilateral international negotiations and discussions on shipping matters. In April 2017, the FMC participated in the 3rd Global Maritime Regulatory Summit in Beijing, People's Republic of China. This trilateral discussion included the United States with participation by the FMC, the European Union with participation by the European Commission, and the People's Republic of China with participation by the Ministry of Transport.

The Commission's international affairs program monitors foreign shipping laws and practices that may have an adverse effect on the industry, and makes recommendations to the Commission for investigating and addressing such practices. The FMC addresses restrictive foreign shipping practices under section 19 of the 1920 Act and the FSPA. Section 19 empowers the Commission to make rules and regulations governing shipping in the foreign trade to adjust or meet conditions unfavorable to shipping. The FSPA directs the Commission to address adverse conditions that affect U.S. carriers in foreign trade and that do not exist for foreign carriers in the U.S.

During the fiscal year, the FMC informally pursued several matters that involved potentially restrictive foreign practices including new legislation, new interpretations of existing legislation, and new regulations of non-domestic carriers' terminal handling charges. The FMC continued to monitor and participate, both formally and informally, in international agreement negotiations that could affect foreign-borne cargo shipments to the U.S. In addition, the FMC tracked consumer inquiries regarding possible foreign restrictive shipping practices.

The Commission also classifies controlled carriers subject to section 9 of the Shipping Act. Common carriers owned or controlled by foreign governments are required to adhere to

certain requirements under the Shipping Act, and their rates are subject to Commission review. The Commission monitored the activities of controlled carriers in FY 2017.

Objective 2: Prevent public harm through licensing and financial responsibility requirements

During FY 2017, the Commission received and processed hundreds of OTI license applications (new and amended, issuing licenses for applicants that demonstrate appropriate qualifications and standards). Currently, 930 ocean freight forwarders (OFFs), 1,734 U.S. NVOCCs, 2,075 joint NVOCC/OFFs, and 84 foreign NVOCCs hold active OTI licenses. In addition, there are 1,495 registered foreign-based NVOCCs who must meet the Commission's bonding requirements. At the end of FY 2017, 51 special bond riders were received, providing optional proof of financial responsibility for NVOCCs serving the U.S.-China trade, and 36 riders were terminated. The licensing process for OTIs continues to be streamlined, and the time needed to process applications and reach a licensing decision was reduced with the goal of completing 75 percent of all OTI license applications within 60 days. During FY 2017, that goal was exceeded – and over 90 percent of all OTI license applications were completed within 60 days.

The Commission monitored vessels and 47 passenger vessel operators in its passenger vessel program, with a total of $594 million for non-performance financial responsibility and $705 million for casualty financial responsibility. During FY 2017, the Commission received 12 Passenger Vessel Applications (Performance) and completed the processing of 8 applications. An additional 12 new Passenger Vessel Applications (Casualty) were received, and 14 processed during the fiscal year, including some from the previous fiscal year.

OTI license and registration updates commenced during FYs 2016 and 2017, with the launch of new online systems that enable OTIs to confirm or update their company's information on file with the Commission within minutes. Industry feedback has been very positive about this automated process.

Objective 3: Enhance public awareness of agency resources, remedies, and regulatory requirements through education and outreach

The Commission continued its efforts to educate both stakeholders and the public regarding FMC programs and the use of ADR to resolve disputes. The Commission's website has several on-line brochures, covering such topics as the FMC's functions and regulatory oversight responsibilities, a description of FMC-provided dispute resolution services, a consumer's guide for a successful overseas move, and a passenger's guide for planning for a cruise vacation. Throughout the fiscal year, the Commission conducted presentations, meetings, and educational sessions with various shipper and industry trade associations as well as academic institutions to educate the public and regulated entities regarding the availability of the Commission's ADR services to assist parties with resolving cruise and cargo-related disputes. The Commission also published articles in trade association journals regarding licensing matters and the use of ADR to resolve disputes.

In FY 2017, the Commission continued to improve its online presence, and has made the agency's public meetings under the Sunshine Act available in live, captioned webcasts through the FMC's website. The Commission continues to monitor public usage trends and leverage user feedback to implement ongoing improvements to www.fmc.gov. Additional enhancements for FY 2017 included improved visibility of important information as well as archiving and streamlining content to improve delivery and accuracy of information.

Objective 4: Impartially resolve international shipping disputes through alternative dispute resolution and adjudication

The FMC's CADRS staff concluded 411 ombuds matters during FY 2017. Of those, 137 involved commercial cargo-related disputes, 138 involved household goods shipment disputes, and 136 involved cruise line concerns. Nine mediation matters were initiated during the fiscal year, and the Commission responded to Congressional requests for assistance on behalf of constituents requesting assistance with difficulties encountered involving cruises and non-delivery of goods (see Appendix F for these and other workload statistics).

The FMC continued to collaborate with the Federal Motor Carrier Safety Administration (FMCSA) in FY 2017 under the auspices of the FMC – FMCSA MOU through participation in quarterly working group meetings and Moving Fraud task force meetings. In addition to its efforts with the FMCSA, the Commission continued to collaborate with other federal agencies that provide ADR services, participating in a study performed by the Administrative Conference of the U.S. on the use of ombuds in federal agencies.

The Commission assisted consumers in disputes with transportation companies relating to household goods. In one representative matter, a consumer had paid an NVOCC over $32,000 to ship her personal belongings from Brazil to the U.S. The NVOCC was unresponsive to the consumer, and in the interim, its FMC license was revoked. The Commission was able to persuade the NVOCC to provide the location of the cargo so that delivery could finally be arranged.

- Representative Adjudications and Litigation

In FY 2017, the Commission resolved international shipping disputes filed by complainants and enforced the Shipping Act and its regulations through adjudication before the Commission. The

Commission, including its ALJs and legal staff, issued numerous legal opinions, recommend-dations, case summaries, decisions, and final orders.

Commission Decisions

The following are representative of cases heard before the Commission:

- **Maher Terminals, LLC v. Port Authority of New York & New Jersey [Docket 12-02]**

Maher filed a complaint against the Port Authority of New York and New Jersey alleging 15 Shipping Act violations regarding the Port's marine terminal leases. The ALJ granted the Port's motion on January 30, 2015, and dismissed Maher's claims without leave to amend. On December 17, 2015, the Commission affirmed the decision in part and dismissed 11 of Maher's claims without leave to amend. The Commission reversed the decision with respect to 4 claims and remanded them to the ALJ for further proceedings. The Commission confirmed that motions to dismiss for failure to state a claim are governed by the standard used by the federal courts. The parties subsequently settled, and on October 26, 2016, the Commission approved a joint motion for approval of a settlement agreement. This case was dismissed with prejudice effective November 16, 2016.

- **Baltic Auto Shipping, Inc. v. Michael Hitrinov et al. [Docket No. 14-16]**

On November 28, 2014, Baltic filed a complaint alleging that on several thousand shipments between November 2007 and January 2012, Empire United Lines, an NVOCC, violated several sections of the Shipping Act, 46 U.S.C. §§ 41102, 41104, 40501, and 46 C.F.R. Part 515, by charging rates not set forth in a tariff, charging Baltic rates greater than rates charged other shippers, and by failing to provide Baltic with shipping documents. Baltic sought a reparation award. Respondents moved for a summary decision dismissing the claim for a reparation award, arguing that the claim was barred by the statute of limitations. On September 15, 2015, the ALJ denied Baltic's claims and dismissed them with prejudice.

After filing exceptions to the ALJ's decision with the Commission, Baltic filed motion to dismiss the proceeding, which Respondents opposed in part. On April 21, 2017, the Commission granted Baltic's motion in part and dismissed the proceeding.

Litigation before Courts

- **Maher Terminals, LLC v. Port Authority of New York and New Jersey [FMC Docket No. 08-03; D.C. Cir. Case No. 15-1035]**

Maher filed a complaint with the Commission alleging, among other things, that the Port Authority of New York and New Jersey violated 46 U.S.C. § 41106(2) by granting another terminal operator, APM Terminals North America, Inc., unduly and unreasonably more favorable lease terms than it provided Maher. The ALJ denied Maher's claims and dismissed them with prejudice on April 25, 2014. On December 17, 2014, the Commission affirmed the ALJ's decision, and Maher subsequently petitioned the D.C. Circuit for review. On March 22, 2016, the court issued an opinion granting Maher's petition and remanding the case to the Commission for additional explanation of its decision, although it did not vacate the Commission's order or reverse its decision. On October 26, 2016, the Commission approved a joint motion for approval of a settlement agreement. This case was dismissed with prejudice effective November 16, 2016.

- **Santa Fe Discount Cruise Parking v. The Board of Trustees of the Galveston Wharves and the Galveston Port Facilities Corporation [FMC Docket No. 14-06; D.C. Cir. Case No. 17-1089]**

Complainants are businesses that operate parking lots for cruise passengers departing from the Port of Galveston. Complainants filed a complaint with the Commission alleging, among other things, that Respondents violated 46 U.S.C. § 41106(2) by unreasonably subjecting cruise passenger parking lot operators to a less favorable regime for charging port access fees to pick up and drop off cruise passengers, than the fee regime for other businesses (e.g., hotels). The ALJ denied Complainants' claims and dismissed them with prejudice on December 4, 2015. On April 4, 2017, the Commission affirmed the ALJ's decision, and two of the Complainants subsequently petitioned the D.C. Circuit for review. The case is currently pending before the court.

- **In re Vehicle Carrier Services Antitrust Litigation [3d Cir. Case Nos. 15-3353, 15-3354, 15-3355]**

In this multidistrict litigation, purchasers of vehicle carrier services alleged a conspiracy among ocean shipping companies to fix prices, allocate customers and routes, and restrict capacity. These purchasers filed several consolidated class actions in federal court alleging violations of federal and state antitrust laws. The district court dismissed the cases, finding that operating under an anti-competitive agreement not filed with the Commission constituted a violation of the Shipping Act, and, thus, the federal antitrust claims could not proceed. The court also determined that the state antitrust law claims were preempted by the Shipping Act. The purchasers appealed, and on September 27, 2016, the Third Circuit invited the Commission to file an amicus curiae brief. The Commission, joined by the United States, filed an amicus brief on November 30, 2016. On January 18, 2017, the Third Circuit affirmed the district court's decision.

Appendices

Appendix A: Resource Allocation by Program

Appendix B: FTEs and Positions Allocation by Program

Appendix C: Obligations by Object Class

Appendix D: Relationship of Obligations to Outlays

Appendix E: Performance Measures by Strategic Goals

Appendix F: Workload Summary

Appendix G: Evidence Submission

Appendix H: OIG Certification

Appendix A: Resource Allocation by Program

Resource Allocation by Program

FY 2019

Program/Office	FY 2017 Actual	FY 2018 Estimate	FY 2019 Request: Strategic Goal # 1 Maintain a competitive and reliable international ocean transportation supply system	FY 2019 Request: Strategic Goal # 2 Protect the public from unlawful, unfair, and deceptive practices	FY 2019 Request: FY 2019 Request	Difference From FY 2018 Estimate
Formal Proceedings						
Office of the Chairman	$1,203,486.91	$1,198,627.22	$239,805.31	$959,221.26	$1,199,026.57	$399.35
Office of the Commissioners	$1,468,340.25	$1,781,481.58	$371,477.88	$1,485,911.54	$1,857,389.42	$75,907.84
Office of the Secretary	$1,246,555.69	$1,237,742.37	$262,162.43	$1,003,449.28	$1,265,611.71	$27,869.34
Library	$98,499.24	$61,756.08	$48,325.77	$48,325.77	$96,651.54	$34,895.46
Office of Consumer Affairs and Dispute Resolution Services	$1,305,822.32	$1,387,248.71	$0.00	$1,402,348.96	$1,402,348.96	$15,100.25
Office of the General Counsel	$2,063,785.88	$2,002,364.39	$996,783.58	$996,783.58	$1,993,567.15	($8,797.24)
Ethics	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
Office of Administrative Law Judges	$887,481.66	$930,930.02	$464,722.09	$464,722.09	$929,444.17	($1,485.85)
Formal Proceedings Total	**$8,273,971.95**	**$8,600,150.37**	**$2,383,277.05**	**$6,360,762.47**	**$8,744,039.52**	**$143,889.15**
Office of Equal Employment Opportunity	**$146,543.58**	**$72,463.21**	**$47,254.04**	**$47,254.04**	**$94,508.07**	**$22,044.86**
Office of the Inspector General	**$367,331.48**	**$437,576.90**	**$43,781.73**	**$394,035.53**	**$437,817.26**	**$240.36**
Operational and Administrative						
Office of the Managing Director	$2,245,798.13	$1,924,592.67	$442,681.39	$1,770,725.56	$2,213,406.95	$288,814.28
Bureau of Trade Analysis	$3,631,570.80	$3,846,893.98	$2,319,901.33	$1,536,546.24	$3,856,447.57	$9,553.59
Bureau of Certification and Licensing	$2,469,670.12	$2,634,435.37	$0.00	$2,682,572.08	$2,682,572.08	$48,136.71
Bureau of Enforcement	$1,789,636.67	$1,785,808.63	$0.00	$1,790,400.61	$1,790,400.61	$4,591.98
Area Representatives	$1,723,905.16	$1,829,589.51	$367,615.39	$1,470,461.57	$1,838,076.96	$8,487.45
Office of Information Technology	$4,272,894.14	$2,466,253.68	$644,451.84	$2,577,807.35	$3,222,259.19	$756,005.51
Office of Human Resources	$915,874.43	$956,360.21	$180,661.79	$722,647.16	$903,308.95	($53,051.26)
Office of Budget and Finance	$791,493.21	$868,252.14	$177,737.28	$710,949.15	$888,686.43	$20,434.29
Office of Management Services	$596,963.76	$726,623.33	$163,695.28	$654,781.13	$818,476.42	$91,853.09
Operational and Administrative Total	**$18,437,806.42**	**$17,038,809.52**	**$4,296,744.31**	**$13,916,890.85**	**$18,213,635.16**	**$1,174,825.64**
Totals	**$27,225,653.43**	**$26,149,000.00**	**$6,771,057.12**	**$20,718,942.88**	**$27,490,000.00**	**$1,341,000.00**

The Request by Strategic Goal and Program chart identifies the funding level requested for FY 2019 broken out by program office and strategic goal. The chart identifies FY 2019 changes from the FY 2018 estimated funding requirements.

Appendix B: FTEs and Positions Allocation by Program

FTEs and Positions by Program
FY 2017 - FY 2019

Program/Office	FY 2017 Actual		FY 2018 Estimate		FY 2019 Request		Difference From FY 2018	
	FTEs	Positions*	FTEs	Positions	FTEs	Positions	FTEs	Positions
Headquarters	**116.55**	**120.00**	**117.63**	**120.00**	**120.00**	**120.00**	**2.37**	**0.00**
Area Representatives	**8.50**	**9.00**	**9.00**	**9.00**	**9.00**	**9.00**	**0.00**	**0.00**
Agency Total	**125.05**	**129.00**	**126.63**	**129.00**	**129.00**	**129.00**	**2.37**	**0.00**
Formal Proceedings								
Office of the Chairman	5.00	5.00	5.00	5.00	5.00	5.00	0.00	0.00
Office of the Commissioners	6.17	8.00	7.38	8.00	8.00	8.00	0.62	0.00
Office of the Secretary	7.15	8.00	7.00	7.00	7.00	7.00	0.00	0.00
Office of Consumer Affairs and Dispute Resolution Services	7.00	7.00	7.00	7.00	7.00	7.00	0.00	0.00
Office of the General Counsel	9.53	10.00	9.08	10.00	9.00	9.00	(0.08)	(1.00)
Office of Administrative Law Judges	4.00	4.00	4.00	4.00	4.00	4.00	0.00	0.00
Formal Proceedings Total	**38.85**	**42.00**	**39.46**	**41.00**	**40.00**	**40.00**	**0.54**	**(1.00)**
Office of Equal Employment Opportunity	**0.77**	**1.00**	**0.73**	**1.00**	**1.00**	**1.00**	**0.27**	**0.00**
Office of the Inspector General	**1.00**	**1.00**	**1.50**	**2.00**	**2.00**	**2.00**	**0.50**	**0.00**
Operational and Administrative								
Office of the Managing Director	9.37	10.00	9.23	9.00	9.00	9.00	(0.23)	0.00
Bureau of Trade Analysis								
Office of the Director	2.75	2.00	2.00	2.00	2.00	2.00	0.00	0.00
Office of Service Contracts and Tariffs	4.00	4.00	4.00	4.00	4.00	4.00	0.00	0.00
Office of Economics and Competition Analysis	9.46	10.00	10.08	10.00	11.00	11.00	0.92	1.00
Office of Agreements	3.00	3.00	3.00	3.00	3.00	3.00	0.00	0.00
Bureau of Certification and Licensing								
Office of the Director	3.00	3.00	3.00	3.00	3.00	3.00	0.00	0.00
Office of Passenger Vessels and Information Processing	5.61	5.00	7.00	7.00	7.00	7.00	0.00	0.00
Office of Transportation Intermediaries	7.84	9.00	7.00	7.00	7.00	7.00	0.00	0.00
Bureau of Enforcement	10.65	9.00	9.00	9.00	9.00	9.00	0.00	0.00
Area Representatives	8.50	9.00	9.00	9.00	9.00	9.00	0.00	0.00
Office of Information Technology	6.58	7.00	7.00	7.00	7.00	7.00	0.00	0.00
Office of Human Resources	5.04	5.00	5.13	5.00	5.00	5.00	(0.13)	0.00
Office of Budget and Finance	4.73	5.00	5.00	5.00	5.00	5.00	0.00	0.00
Office of Management Services	3.91	4.00	4.50	5.00	5.00	5.00	0.50	0.00
Operational and Administrative Total	**84.44**	**85.00**	**84.94**	**85.00**	**86.00**	**86.00**	**1.06**	**1.00**
Total FTEs and Positions	**125.05**	**129.00**	**126.63**	**129.00**	**129.00**	**129.00**	**2.37**	**0.00**

* Denotes estimated positions on September 30, 2017.

Appendix C: Obligations by Object Class

Obligations by Object Class
FY 2017 - FY 2019

Category	FY 2017 Actual	FY 2018 Estimate	FY 2019 Request	Difference From FY 2018
Personnel Compensation and Benefits				
(11.1) Full-time Permanent Employees	$ 14,526,958.89	$ 14,935,200.00	$ 15,369,000.00	$433,800.00
(11.3) Part-time and Temporary Employees	$ -	$ 23,800.00	$ -	($23,800.00)
(11.7) Performance Awards	$ -	$ -	$ -	$0.00
(12.1) Personnel Benefits	$ 4,307,423.83	$ 4,604,000.00	$ 4,713,000.00	$109,000.00
Total Personnel Compensation & Benefits	**$ 18,834,382.72**	**$ 19,563,000.00**	**$ 20,082,000.00**	**$519,000.00**
Travel and Administrative Expenses				
(21.0) Travel and Transportation of Personnel	$ 189,926.70	$ 180,000.00	$ 250,000.00	$70,000.00
(22.0) Transportation of Things (Express Mail)	$ 24,000.00	$ 10,000.00	$ 17,000.00	$7,000.00
Rent, Communications and Utilities				
(23.1) Rental Payments to GSA	$ 3,281,545.90	$ 3,430,200.00	$ 3,367,000.00	($63,200.00)
(23.5) Telephones (Local, Long Distance and Cellular)	$ 392,392.63	$ 211,000.00	$ 211,000.00	$0.00
(23.8) Postage	$ 1,572.48	$ 2,500.00	$ 5,000.00	$2,500.00
(24.0) Printing	$ 98,065.74	$ 50,000.00	$ 120,000.00	$70,000.00
(25.1) Consulting	$ 1,528,674.00	$ 635,994.00	$ 815,000.00	$179,006.00
(25.2) Purchase of Goods and Services from Commercial Accounts	$ 629,524.52	$ 459,352.00	$ 574,000.00	$114,648.00
(25.3) Purchase of Goods and Services from Government Accounts	$ 1,536,948.61	$ 1,436,954.00	$ 1,331,000.00	($105,954.00)
(25.7) Equipment Maintenance	$ 24,820.84	$ 20,000.00	$ 201,000.00	$181,000.00
(26.0) Supplies and Materials	$ 165,458.92	$ 50,000.00	$ 155,000.00	$105,000.00
(31.0) Hardware and Software	$ 518,340.37	$ 100,000.00	$ 362,000.00	$262,000.00
Travel and Administrative Expenses	**$ 8,391,270.71**	**$ 6,586,000.00**	**$ 7,408,000.00**	**$822,000.00**
Total Budget Authority	**$ 27,225,653.43**	**$ 26,149,000.00**	**$ 27,490,000.00**	**$1,341,000.00**

The Obligations by Object Class chart identifies the Commission's actual funding expenses of FY 2017 and the estimated funding requirements for the FMC to complete its mission in FY 2018 and FY 2019. Costs are reported by object codes.

Appendix D: Relationship of Obligations to Outlays

Relationship of Obligations to Outlays
FY 2017 - FY 2019

Program	FY 2017 Actual	FY 2018 Estimate	FY 2019 Request
Formal Proceedings	$8,273,971.95	$8,600,000.00	$8,744,000.00
Equal Employment Opportunity	$146,543.58	$73,000.00	$94,000.00
Inspector General	$367,331.48	$438,000.00	$438,000.00
Operational and Administrative	$18,437,806.43	$17,038,000.00	$18,214,000.00
Unobligated	$264,346.56	$0.00	$0.00
Budget Authority	**$27,490,000.00**	**$26,149,000.00**	**$27,490,000.00**
Obligations	**$27,225,653.43**	**$26,149,000.00**	**$27,490,000.00**
Outlays*	**$22,996,087.29**	**$22,086,694.38**	**$23,219,367.03**
Outlay Rate (Obligation to Outlay)**	**84.46%**	**84.46%**	**84.46%**
Obligation Rate	**99.04%**	**100.00%**	**100.00%**

Gross Outlays for FY 2017

Total outlays for fiscal year 2012 disbursed in fiscal year 2017	($4,790.00)
Total outlays for fiscal year 2013 disbursed in fiscal year 2017	$2,709.37
Total outlays for fiscal year 2014 disbursed in fiscal year 2017	$159,198.68
Total outlays for fiscal year 2015 disbursed in fiscal year 2017	$238,380.94
Total outlays for fiscal year 2016 disbursed in fiscal year 2017	$1,938,825.57
Total outlays for fiscal year 2017	$22,996,087.29
Outlays	**$25,330,411.85**

* Represents Outlays for FY 2017 as of 09/30/17.
** Represents the percentage of FY 2017 obligations that were disbursed during FY 2017.

The Relationship of Obligations to Outlays identifies the actual outlay percentage for FY 2017. The chart also depicts the estimated outlay expenses for FY 2018 and FY 2019.

Appendix E: Performance Measures by Strategic Goals

Summary of Strategic Goals, Objectives, and Performance Measures						
STRATEGIC GOAL 1: Maintain a competitive and reliable international ocean transportation supply system						
OBJECTIVE 1: Ensure that actions under filed agreements do not result in unreasonable increases in transportation costs and/or unreasonable decreases in transportation services.[1]						
Performance Measure: Percentage of FMC-filed agreements reviewed at Commission level which are modified through negotiation to mitigate anti-competitive effects.	2017 Target	2018 Target	2019 Target	2020 Target	2021 Target	2022 Target
	N/A	50%	51%	52%	53%	54%
Performance Measure: Percentage of agreement monitoring reports reviewed within 30 days of receipt to detect actionable information including market-distorting behavior.	2017 Target	2018 Target	2019 Target	2020 Target	2021 Target	2022 Target
	N/A	65%	66%	67%	68%	69%
STRATEGIC GOAL 2: Protect the public from unlawful, unfair, and deceptive ocean transportation practices						
OBJECTIVE 2.1: Identify and take action to end unlawful, unfair, and deceptive practices.						
Performance Measure: Percentage of enforcement actions taken under the Shipping Act successfully resolved through favorable judgment, settlement, issuance of default judgment, or compliance letter or notice.	2017 Target	2018 Target	2019 Target	2020 Target	2021 Target	2022 Target
	77.5%	77.5%	77.5%	77.5%	77.5%	77.5%
OBJECTIVE 2.2: Prevent public harm through licensing and financial responsibility requirements.						
Performance Measure: Percentage of decisions on completed OTI license applications rendered within 60 calendar days of receipt, facilitating lawful operation of OTIs with appropriate character and experience requirements.	2017 Target	2018 Target	2019 Target	2020 Target	2021 Target	2022 Target
	75%	75%	75%	75%	75%	75%
Performance Measure: Percentage of PVOs examined during the year that have the full financial coverage required by regulation to protect against loss from non-performance or casualty.	2017 Target	2018 Target	2019 Target	2020 Target	2021 Target	2022 Target
	95%	95%	95%	95%	95%	95%
OBJECTIVE 2.3: Enhance public awareness of agency resources, remedies, and regulatory requirements through education and outreach.						
Performance Measure: Percentage of Commission issuances, orders and reports available through the Commission's website within 5 working days of receipt.	2017 Target	2018 Target	2019 Target	2020 Target	2021 Target	2022 Target
	82%	84%	84%	86%	88%	90%
OBJECTIVE 2.4: Impartially and timely resolve international shipping disputes through alternative dispute resolution and adjudication.						
Performance Measure: Percentage of ombuds and ADR matters closed within 6 months of request for assistance.	2017 Target	2018 Target	2019 Target	2020 Target	2021 Target	2022 Target
	60%	60.5%	61%	63%	65%	67%
Performance Measure: Percentage of formal complaints or Commission-initiated orders of investigation completed within 2 years of filing or Commission initiation.	2017 Target	2018 Target	2019 Target	2020 Target	2021 Target	2022 Target
	62%	64%	66%	68%	70%	72%

[1] This Objective is new for the FY 2018-2022 Strategic Plan. It replaces the previous Objective and accompanying Performance Measure to better reflect the work of the Commission in this area. Previous Objective and Performance Measure information can be found in the Commission's Performance and Accountability Reports.

Appendix F: Workload Summary

Workload Summary							
Workload Category	On Hand 9/30/2016	FY 2017 Actual		FY 2018 Estimate		FY 2019 Estimate	
		Received	Output	Received	Output	Received	Output
Formal Proceedings (OALJ)	13	6	10*	10	10	10	10
Informal Proceedings (OALJ)	2	6**	4***	3	3	3	3
Decisions, Reports, in Docketed Proceedings before the Commission	13	11	33	25	25	25	25
Federal Register Notices	0	80	80	100	100	100	100
FOIA Requests	3	35	33	30	30	28	28
Ombuds	36	459	411	600	600	600	600
ADR Matters	12	5	9	15	13	15	15
Legislation	0	60	60	65	65	65	65
Legal Opinions, Recommendations, Case Summaries, Decisions, and Final Orders	5	190	190	195	195	195	195
Audits and Monitoring Activities (BOE)	15	223	143	225	225	230	230
OTI Applicant and License Checks (BOE)	0	645	645	655	655	655	655
Formal Proceedings (BOE)	2	2	1	2	2	3	3
Civil Penalty Cases	12	22	24	24	22	25	25
Agreements Filed	12	144	151	260	260	255	255
Agreement Reports	62	1,480	1,479	1,510	1,530	1,510	1,523
Service Contracts	0	49,790	47,110	45,500	45,000	46,000	46,000
Service Contract Amendments	0	666,400	766,329	450,000	450,000	460,000	460,000
NVOCC Service Arrangements (NSA)	0	1,000	969	1,025	1,025	1,050	1,050
NSA Amendments	0	1,800	1,242	1,825	1,825	1,850	1,850
FMC-1 Form	0	1,450	1,450	1,475	1,475	1,500	1,500
OTI Applications – NEW	38	346	316	346	346	346	346
OTI Business Change Applications	24	326	268	476	476	476	476
OTI License Renewals	0	900	804	1,500	1,500	1,500	1,500
OTI License Terminations	0	392	392	300	300	300	300
OTI Bond Transactions****	0	5619	5619	5619	5619	5619	5619
Passenger Vessel Applications (Performance)	3	12	8	17	17	18	18
Passenger Vessel Applications (Casualty)	7	12	14	17	17	18	18

*OALJ issued eight initial decisions or orders subject to review by the Commission. One motion to approve settlement was referred to the Commission. Complainant dismissed one proceeding voluntarily.
**Includes one informal proceeding remanded by the Commission.
***Includes one informal proceeding consolidated and decided with a formal proceeding.
****Includes OTI bond terminations, bond riders, and new or replacement bonds.

Appendix G: Evidence Submission

Section 1. Agency Strategy to Advance the Use of Evidence in Decision Making

Current Efforts and Future Plans

Data drives decision-making at the FMC. To accomplish its mission to support the U.S. economy by ensuring a competitive and reliable international ocean transportation system and protecting the public from unfair and deceptive practices, the FMC relies on data it collects from stakeholders and expertly analyzes for trends, practices, and regulatory compliance. The Commission continues to make progress in implementing its evidence-based decision-making efforts, which are captured in part in the Commission's FY 2018-2022 Strategic Plan, detailed below. The Commission's efforts span both the program and administrative areas of the Commission.

Strategic Planning

The FMC's FY 2018-2022 Strategic Plan, transmitted concurrently with this budget submission, demonstrates the Commission's plan of action to support and improve its program performance by building a portfolio of evidence on program efficacy. The FY 2018-2022 Strategic Plan has clearly defined goals and objectives with quantifiable performance measures, setting goals and detailed objectives for its program areas in each fiscal year.

The Strategic Plan is a result of the efforts of the Commission's senior leadership reviewing current statutory authority, agency practice, and changing industry conditions. Each goal, objective and measure was examined with an eye towards ensuring the goals and objectives are appropriate and measures are best suited to reflect performance in meeting the objective.

Enterprise Risk Management

The Commission uses evidence-based decision making to manage its risks and develop appropriate internal controls. In conjunction with the Commission's strategic planning, the Commission completed a full analysis of its programs, reviewing both opportunities and threats. This process culminated in the creation of a Risk Profile, as required by M-16-17, *OMB Circular No. A-123, Management's Responsibility for Enterprise Risk Management and Internal Control.* The Commission will annually review and update the Risk Profile as necessary to proactively manage risks to the agency and the completion of its mission.

Regulatory Reform and Regulatory Review

The Commission continues to seek ways to make compliance with its statutory and regulatory requirements easier and more cost effective for shippers, carriers, and ocean transportation intermediaries. The Commission will do this by evaluating evidence collected, both qualitatively and, when applicable, quantitatively, to propose improving its rules to benefit the American public.

In conjunction with Executive Order 13777, *Enforcing the Regulatory Reform Agenda*, and the deregulatory spirit of the Shipping Act as amended by the Ocean Shipping Reform Act of 1998, the Commission has designated a Regulatory Reform Officer and established a Regulatory Reform Task Force. On May 26, 2017, the Commission issued a Notice of Inquiry for public comment, and the task force will work to identify existing FMC regulations that are outdated, unnecessary, ineffective, eliminate jobs or inhibit job creation, impose costs that exceed benefits, or otherwise interfere with regulatory reform initiatives and policies. Responses will be evaluated for evidentiary data and will inform the Commission's actions.

In addition to its Regulatory Reform Task Force, the FMC continues its ongoing program evaluation through its retrospective review plan to systematically examine and seek public input on its key regulations. In FY 2017, staff recommendations for reforms to the filing and processing of agreements, quarterly monitoring reports and agreement meeting minutes, are under consideration. These potential regulatory changes take into consideration industry comments received in response to its Notice of Proposed Rulemaking in Docket No. 16-04. It is anticipated that the agreements rulemakings initiatives will conclude in FY 2018.

Recent Major Progress

Complementing the forward-driven strategic planning discussed above, the Commission has also looked to current performance measures to improve program success. The Commission periodically reviews performance and experience, making adjustments where appropriate to better evaluate and improve performance and delivery of services. In FY 2017, the Commission overhauled one such measure to more accurately reflect the FMC's performance assisting the public through its ombuds and ADR services. The new measure better captures the actions of the agency toward timely achieving its goal of resolving international shipping disputes rather than reflecting a program's workload statistics.

Looking towards its internal budget metrics, the Commission implemented Federal DATA Act requirements to assist in better government-wide collection of metrics on government spending. The FMC, through its shared service provider, updated its information collection parameters for contracting and fiscal oversight. Moving forward, collection and analysis of this information will assist the FMC in comparing its spending with other similarly situated agencies in order to evaluate potential cost-savings.

Current Barriers

The Commission remains dedicated to meeting the challenges for smart, effective government. The Commission relies heavily upon its staff's knowledge to meet its objectives in an efficient manner. Two primary barriers to evidence-based decision making remain a lack of funding and a lack of available staff resources to dedicate to evidence collection and analysis at a meta-level. The FMC does not have a separate office or position to lead a high-level coordination of evidence-based evaluation at this time. Commission staff work on evidence-based evaluation as a collateral duty.

Development and Use of a Learning Agenda

The Commission cultivates an environment of continuous learning for its employees. Training is offered in both practices and developments in the regulated industry, Commission workflow, and administrative areas. The FMC does not currently have a formal "learning agenda." The Commission will continue to evaluate whether, and how, learning agendas can be developed to assist its programs in being more effective.

Section 2. Top-priority requests

The FMC continues to accomplish its mission through existing funding. The Commission receives 100% of its funding through discretionary funding that supports all mission-critical functions. These proposals are included within existing funding levels and will involve existing staff efforts to increase evidence-driven decision-making at the Commission.

Proposal 1

(a)

BA Summary			
Activity	**FY 2017 Enacted**	**FY 2018 PB**	**FY 2019 Request**
Develop data surrounding OTI surety programs.	This proposal details FMC's current and planned collection and analysis of data related to OTI bonding requirements. Existing staff will review information collected to determine the efficacy of Strategic Goal #2.	No change – efforts of involved staff are a collateral duty.	No change – efforts of involved staff are a collateral duty.

(b) This proposal is evidence-building.

(c) This proposal is included on page 23 of this submission.

(d) Based upon recent changes to the OTI bonding requirements, the Commission is now collecting information on the effectiveness of the OTI bonds. The collected information will assist the Commission in monitoring how often the bonds are being utilized by capturing the number of bonds issued, the number of claims made, and any resulting claim payments. Importantly, the bonding information will demonstrate who is making and receiving claims on the bond, and whether the bond program adequately protects the public.

(e) This proposal will not require a statutory change.

Proposal 2

(a)

BA Summary			
Activity	**FY 2017 Enacted**	**FY 2018 PB**	**FY 2019 Request**
Improve the design, usability and platform of the website docket and historical document library repository.	This effort is ongoing and results from the FMC's current and planned IT investment to upgrade its applications and Enterprise offerings.	No change – efforts of involved staff are a collateral duty.	No change – efforts of involved staff are a collateral duty.

(b) This proposal is capacity-building.

(c) This proposal is included on page 24 of this submission.

(d) The FMC is currently in the process of improving its website. In FY 2017, the FMC continues to develop a plan to improve the design, usability, and platform of the website docket library and historical document repository. The goal of the plan is ultimately to provide for increased availability of public documents, including Sunshine Act meeting materials, on the Commission's website. Increasing the ease of searching and information to the public will increase the public's ability to participate in important regulatory review proceedings by referencing facts and information important to regulated issues.

(e) This proposal will not require a statutory change.

Appendix H: OIG Certification

FEDERAL MARITIME COMMISSION
Washington, DC 20573

January 11, 2018

Office of Inspector General

The Inspector General Reform Act (Pub. L. 110-149) was signed by President George W. Bush on October 14, 2008. Section 6(f)(1) of the Inspector General Act of 1978, 5 U.S.C. app. 3, was amended to require certain specifications concerning Office of Inspector General (OIG) budget submissions each fiscal year (FY).

Each inspector general (IG) is required to transmit a budget request to the head of the establishment or designated Federal entity to which the IG reports specifying:

- the aggregate amount of funds requested for the operations of the OIG,
- the portion of this amount requested for OIG training, including a certification from the IG that the amount requested satisfies all OIG training requirements for the fiscal year, and
- the portion of this amount necessary to support the Council of the Inspectors General on Integrity and Efficiency (CIGIE).

The head of each establishment or designated Federal entity, in transmitting a proposed budget to the President for approval, shall include:

- an aggregate request for the OIG,
- the portion of this aggregate request for OIG training,
- the portion of this aggregate request for support of the CIGIE, and
- any comments of the affected IG with respect to the proposal.

The President shall include in each budget of the U.S. Government submitted to Congress:

- a separate statement of the budget estimate submitted by each IG,
- the amount requested by the President for each OIG,
- the amount requested by the President for training of OIGs,
- the amount requested by the President for support of the CIGIE, and
- any comments of the affected IG with respect to the proposal if the IG concludes that the budget submitted by the President would substantially inhibit the IG from performing duties of the OIG.

Following the requirements as specified above, the Federal Maritime Commission Inspector General submits the following information relating to the OIG's requested budget for FY 2019:

- the aggregate budget request for the operations of the OIG, to include overhead, is $437,817,
- the portion of this amount needed for OIG training is $4,500, and
- the portion of this amount needed to support the CIGIE is $1,000.

I certify as the Inspector General of the Federal Maritime Commission that the amount I have requested for training satisfies all OIG training needs for FY 2019.

Jon Hatfield, Inspector General
Federal Maritime Commission