FEDERAL MARITIME COMMISSION

MANAGEMENT'S DISCUSSION and ANALYSIS

Fiscal Year 2005

A MESSAGE FROM THE CHAIRMAN

It is my pleasure to present the Federal Maritime Commission’s Management’s Discussion and Analysis for FY 2005. As a transportation/trade regulatory agency, our Vision is to ensure fairness and efficiency in U.S. maritime commerce. Our mandate is to help remove impediments to fair competition - undue controls, influences or non-market barriers imposed by any nation, carrier, cargo owner or intermediary - which can adversely affect U.S. oceanborne trade. We have developed a regulatory system that allows for necessary oversight with minimal disruption to the efficient flow of U.S. imports and exports. Thus, we ensure that fair competition exists in the ocean transportation industry while allowing the industry to conduct business as efficiently as possible.

I am pleased to report that the FMC has achieved virtually all of its performance goals, and is positioning its resources with greater precision and effectiveness in order to continue to achieve its mandate within budget resources. In FY 2005, the FMC placed a major emphasis on furthering its interactions with external parties to increase the value of its services and oversight operations. We also strengthened relationships with government agencies responsible for maritime security to facilitate mutual efforts to identify and address potential security threats. Further, we improved our communication with agency stakeholders to increase public awareness of agency programs and policies, and to help address concerns before they become problems. We also improved the management of information by utilizing technology to streamline the flow of information, and to create more sophisticated databases.

One of my responsibilities as the chief administrative officer of the agency is to ensure that our resources are efficiently managed and effectively used. This report provides information which demonstrates the judicious management of funds, and describes our successes in implementing our strategic goals. In addition, the FMC has evaluated its management controls and financial management systems, as required by the Federal Managers’ Financial Integrity Act, and I can certify, with reasonable assurance, that the Commission is in compliance with the provisions of that Act.

The FMC is committed to developing and administering policies and regulations that foster a fair, efficient and secure maritime transportation system, to protecting U.S. maritime commerce from unfair foreign trade practices and market-distorting activities, to facilitating compliance with U.S. shipping statutes through outreach and oversight, and to assisting in resolving disputes. The FMC is proud of its FY 2005 accomplishments and looks forward to providing high-quality service to the American public in future years.

Sincerely,

Steven R. Blust
Chairman, Federal Maritime Commission

MANAGEMENT’S DISCUSSION and ANALYSIS

Introduction

This Management’s Discussion and Analysis represents the completion of the Federal Maritime Commission’s program and financing management process for Fiscal Year 2005, which began with mission and program planning, continued with the formulation and justification of FMC’s budget submission to the President and Congress, through budget execution, and ended with a report of our program performance and the use of resources. This report was prepared pursuant to the requirements of the Chief Financial Officers Act, as amended by the Reports Consolidation Act, and OMB Circular No-A136 (Revised), and covers the Commission’s activities from October 1, 2004, through September 30, 2005.

Our Management’s Discussion and Analysis, provides an overview of the FMC. It consists of nine sections: *Introduction* describes the agency, its mission and structure; *Regulatory Responsibility* describes its regulatory mandate; *Future Challenges* includes information about the changes in the maritime industry; *Program Performance Overview* reports on the FMC’s success in achieving its strategic goals; *President’s Management Agenda* describes activities related to the relevant initiatives; *Financial Performance Overview* discusses the FMC’s financial position and audit results; *Financial Statement Highlights* gives an overview of the major financial statements; *Improper Payments Information Act* provides a breakdown of any improper payments made by the agency and efforts to collect improper disbursements; and *Systems, Controls, and Legal Compliance* discloses the FMC’s compliance with certain legal and regulatory requirements.

About the FMC

The FMC is an independent regulatory agency which administers the Shipping Act of 1984 (“1984 Act” or “Shipping Act”) as amended by the Ocean Shipping Reform Act of 1998 (“OSRA”); section 19 of the Merchant Marine Act, 1920 (“1920 Act”); the Foreign Shipping Practices Act of 1988 (“FSPA”); and Public Law (“P.L.”) 89-777 (passenger vessel certification). The Commission: monitors the activities of ocean common carriers, marine terminal operators, conferences, ports and ocean transportation intermediaries (non - vessel - operating common carriers and ocean freight forwarders) who operate in the U. S. foreign commerce to ensure they maintain just and reasonable practices; maintains a trade monitoring and enforcement program designed to assist regulated entities in achieving compliance and to detect and appropriately remedy malpractices and violations of the prohibited acts set forth in section 10 of the 1984 Act; monitors the laws and practices of foreign governments which could have a discriminatory or otherwise adverse impact on shipping conditions in U. S. trades, and imposes remedial action as appropriate pursuant to section 19 of the 1920 Act or FSPA; enforces special regulatory requirements applicable to carriers owned or controlled by foreign governments; processes and reviews agreements and service contracts pursuant to the 1984 Act for compliance with statutory requirements; and reviews common carriers’ privately published tariff systems for accessibility and accuracy as required by OSRA. The Commission also issues licenses to qualified ocean transportation intermediaries in the U. S., ensures that all OTIs are bonded or maintain other evidence of financial responsibility, and ensures that passenger vessel operators demonstrate adequate financial responsibility in case of nonperformance or injury to passengers.

Organization

The FMC is composed of five Commissioners appointed for five-year terms by the President with the advice and consent of the Senate. No more than three members of the FMC may belong to the same political party. The President designates one of the Commissioners to serve as Chairman. The Chairman is the chief executive and administrative officer of the agency. The FMC’s organizational units consist of: Offices of the Commissioners; Office of the General Counsel (“OGC”); Office of the Secretary (“OS”), including the Library and Office of Consumer Affairs and Dispute Resolution Services (“CADRS”); Office of Administrative Law Judges (“ALJ”); Office of Equal Employment Opportunity (“EEO”); Office of the Inspector General (“OIG”); Office of Operations (“OPS”), including the Bureaus of Certification and Licensing (“BCL”), Enforcement (“BOE”), and Trade Analysis (“BTA”); and Office of Administration (“OA”), including the Offices of Budget and Financial Management (“OBFM”), Human Resources (“OHR”), Information Technology (“OIT”), and Management Services (“OMS”). The majority of FMC personnel are located in Washington, DC., with Area Representatives in New York, New Orleans, Los Angeles, Seattle, and South Florida.

In FY 2005, the FMC’s appropriation totaled $19,340,032 with 124 full-time-equivalent staff.

Regulatory Responsibility

The FMC’s regulatory responsibilities include:

- **Protecting shippers and carriers engaged in the foreign commerce of the U.S. from restrictive or unfair foreign laws, regulations, or business practices that harm U.S. shipping interests or ocean trade.**

- **Reviewing operational and pricing agreements among ocean common carriers and marine terminal operators (“MTOs”), to ensure that they do not have excessively anticompetitive effects.**

- **Reviewing and maintaining a system containing the service contracts between ocean common carriers and shippers, and service arrangements between non-vessel-operating common carriers (“NVOCCs”) and shippers, and using this system to guard against anticompetitive practices and other unfair prohibited acts.**

- **Ensuring that common carriers’ rates and charges are accessible to the shipping public in private, electronically accessible systems.**

- **Regulating rates, charges, and rules of government-owned or -controlled carriers to ensure that they are just and reasonable and are not unfairly undercutting private competitors.**

- **Issuing passenger vessel certificates evidencing financial responsibility of vessel owners or charters to pay judgments for personal injury or death or to repay fares for the nonperformance of a voyage or cruise.**

- **Licensing OTIs to protect the public from unqualified, insolvent, or dishonest companies.**

- **Ensuring that OTIs maintain sufficient financial responsibility to protect the shipping public from financial loss.**

- **Investigating discriminatory rates, charges, classifications, and practices of common carriers, MTOs, and OTIs operating in the foreign commerce of the U.S.**

The FMC is authorized by the FSPA, section 19 of the 1920 Act, and section 13(b)(6) of the 1984 Act, to take action to ensure that the foreign commerce of the U.S. is not burdened by non-market barriers to ocean shipping. The FMC may take countervailing action to correct unfavorable shipping conditions in U.S. foreign commerce and may impose penalties. The FMC may address actions by carriers or foreign governments that adversely affect shipping in the U.S. foreign oceanborne trades including the intermodal operations of carriers or the operations of OTIs, or that impair access of U.S.-flag vessels to ocean trade between foreign ports.

The 1984 Act is applicable to the operations of common carriers and other persons engaged in U.S. foreign commerce. It exempts agreements that have become effective under the 1984 Act from the U.S. antitrust laws, as contained in the Sherman and Clayton Acts. The FMC reviews and evaluates agreements to ensure that they do not exploit the grant of antitrust immunity, and to ensure that agreements do not otherwise violate the 1984 Act or result in an unreasonable increase in transportation cost or unreasonable reduction in service.

Regulatory Responsibility (continued)

In addition to monitoring relationships among carriers, the FMC is also responsible for ensuring that individual carriers, as well as those permitted by agreement to act in concert, fairly treat shippers and other members of the shipping public, in accordance with the 1984 Act’s prohibition against undue discrimination. The 1984 Act also requires all carriers to make their rates, charges and practices available in automated tariff systems that must be available electronically to the public. NVOCCs may assess the rates and charges published in their tariffs or may offer service arrangements with shipping customers. Ocean common carriers are permitted to enter into service contracts with their shipper customers. Such contracts are filed electronically with the FMC in our Internet-based system, and are provided confidential treatment by the FMC as required by the Act. The FMC does not have the authority to approve or disapprove general rate increases (“GRIs”) or individual commodity rate levels in the U.S. foreign commerce, except with regard to certain foreign government-owned or -controlled carriers.

P. L. 89-777 requires the operators of passenger vessels with 50 or more berths who embark passengers at U.S. ports to establish financial coverage to indemnify passengers in cases of death, injury, or nonperformance of transportation. The FMC certifies such operators upon the submission of satisfactory evidence of financial responsibility. The FMC ensures that all OTIs operating in the foreign commerce of the U.S. have established sufficient financial responsibility to protect shippers from financial loss. Additionally, the FMC licenses all U.S. OTIs.

The FMC carries out its regulatory responsibilities by conducting informal and formal investigations. It holds hearings, considers evidence and renders decisions, and issues appropriate orders and implementing regulations. The FMC also adjudicates and mediates disputes involving the regulated community, the general shipping public, and other affected individuals or interest groups.

The FMC also carries out a management and support function for information technology, financial management, human resources, and administrative support.

The FMC oversees approximately 5,200 regulated persons (passenger vessel operators, conferences, OTIs, NVOCCs, etc.).

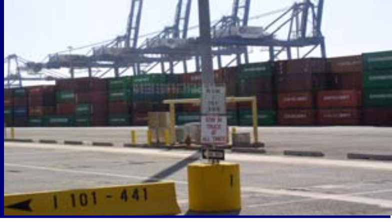
The FMC has a new, improved, easy-to-navigate website which contains more information concerning the agency’s activities and responsibilities. Please visit us at www.fmc.gov.

Future Challenges

International trade remains dependent upon an efficient ocean transportation system. Yet the ocean shipping industry’s business processes and security requirements have undergone significant changes in recent years. The industry continues to face challenges related to port and maritime security, port congestion, industry consolidation and dynamic economic conditions. As the industry restructures to adapt to these changes, it is imperative for the FMC to ensure that its oversight produces a competitive trading environment in U.S. ocean commerce that is in harmony with, and responsive to, international shipping practices, and encourages fair and open commerce.

The Commission has launched a comprehensive review of its regulatory initiatives to ensure that agency resources are utilized in a manner best suited to accomplish statutory obligations with a minimum of government intervention and regulatory cost. In addition, cooperative working arrangements with front-line security agencies remain in place. Effective use of emerging information technologies continues to facilitate our efforts.

MANAGEMENT’S DISCUSSION and ANALYSIS



Program Performance Overview

The FMC, like other Federal agencies, provides an annual performance plan to Congress, pursuant to the Government Performance and Results Act (“GPRA”). The FMC has organized its performance goals to achieve its strategic goals. The FMC’s FY 2003-FY 2008 Strategic Plan is available on the FMC’s website. The complete FY 2005 Program Performance Report is contained in *Chapter 2, Program Performance,* in the Performance and Accountability Report. Briefly, in FY2005, the Commission focused on furthering its interactions with external parties to increase the value of its services and oversight operations, and on strengthening relationships with government agencies responsible for maritime security to facilitate mutual efforts to identify and address potential security threats. This includes improving communication with the media, industry representatives, and other stakeholders to increase public awareness of Commission programs and policies, and to help address concerns before they become problems. In addition, we broadened our efforts to implement the President’s Management Initiative to expand electronic government. We improved the management of information by utilizing technology to streamline and simplify the delivery of services and information to regulated entities, other government agencies, and the public, and we created more sophisticated databases to allow staff to more effectively identify regulated activities, complaints, and potential abuses. Also, we implemented an IT Capital Planning Investment Control Process for the agency’s major IT investments. Overall, we are pleased with the success we achieved in addressing our stated goals and objectives.

Achieving Strategic Goal Results

The FMC has a distinct process for measuring performance. Performance goals are developed to promote one of the FMC’s strategic goals, and the processes or activities required to achieve the goals are identified. The agency then specifies the outcomes it believes will result from accomplishing each stated goal, and agrees on performance indicators as the quantifiers of performance. Finally, performance measures are established for evaluation of achievement of performance goals. Taken together, performance goals under each strategic goal are designed to enhance and further those goals each fiscal year, bringing the agency closer to its ideal of full achievement of its strategic goals.

President’s Management Agenda

The President’s Management Agenda is intended to make Government more citizen-centered, results-oriented, and market-based. The five initiatives are: 1) Strategic Management of Human Capital; 2) Competitive Sourcing; 3) Improved Financial Management, 4) Expanded E-Government, and 5) Budget and Performance Integration. The FMC has achieved some successes in its agenda to address these initiatives. *Chapter 2, Program Performance,* in the Performance and Accountability Report discusses our activities in these important areas in more detail.

A brief overview of the agency’s successes includes the following.

Strategic Management of Human Capital – In FY 2004, the FMC implemented a realignment which has improved operations and provides a framework for the agency to more efficiently and effectively implement the agency’s strategic goals. We continue to assess our realignment to ensure that we are structured to achieve optimal effectiveness. We also began a wholesale review of our performance management system to ensure that it is a viable tool for enhancing skills, guiding career development, and assessing agency and employee progress. The agency also offers a range of flexible work options and employee-friendly and family-friendly programs and policies. Managers are encouraged to review their staff’s critical skills and to target training to improve expertise.

Budget and Performance Integration - The FMC made completing budget and performance integration a key performance goal in FY 2005, and was successful in achieving it. In FY 2005, we also began an agencywide assessment of our strengths, weaknesses, opportunities and threats to assist us in identifying our initiatives and priorities for the future, along with the resources necessary for successful operations. The Strategic Plan and Annual Performance Plan continue to represent the fundamental framework for the agency’s planning and budgeting activities.

President’s Management Agenda (continued)

In the FMC’s FY 2005 Annual Performance Plan, performance goals were aligned with the agency’s strategic goals for the first time, a major change from previous plans which aligned performance goals by agency program.

Competitive Sourcing - The FMC submitted its FY 2005 Federal Activities Inventory Reform Act Inventory to OMB in June 2005. The Inventory identifies 78 of the agency’s 133 FTEs as commercial activity FTEs. No challenges to its commercial inventories have ever been received.

Expanded Electronic Government - The FMC has planned and continues to implement the expansion of electronic government. A major accomplishment during FY 2005 was the unveiling of the agency’s new, expanded, updated and more user-friendly public website. In FY 2005, the FMC’s SERVCON system was re-written to provide greater functionality and increased security features. Network and security upgrades were effected to provide an upgraded platform for the delivery of electronic services to agency staff and stakeholders.

The FMC also developed its Enterprise Architecture to formally define its IT functionality. Further, the FMC has implemented a Capital Planning and Investment Control process, and has formalized its Systems Development Life Cycle process.

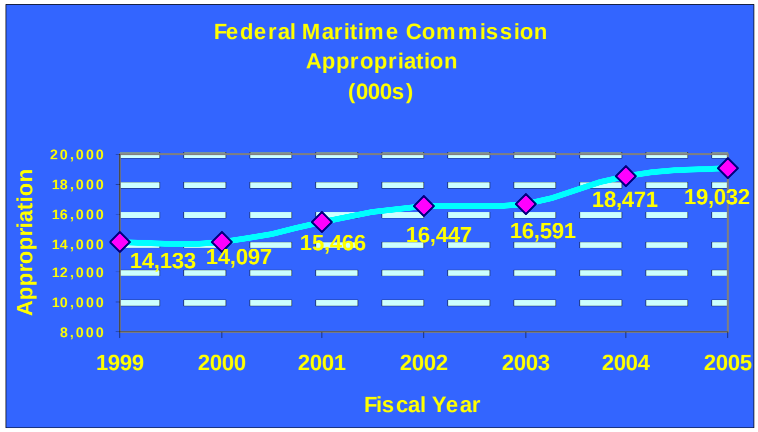
Improved Financial Performance - The FMC received an unqualified opinion on its financial statements in FY 2005, for the second straight year. The FMC will continue to strive to achieve unqualified audit opinions.

Financial Performance Overview

As of September 30, 2005, the financial condition of the FMC was sound with respect to having sufficient funds to meet program needs and adequate control of funds in place to ensure obligations did not exceed budget authority. The FMC’s accounting services provider, the Bureau of the Public Debt (“BPD”), prepared the agency’s financial statements in accordance with accounting standards codified in the Statements of Federal Financial Accounting Standards and the Office of Management and Budget Circular A-136, *Financial Reporting Requirements (Revised 8/23/2005).*

Sources of Funds

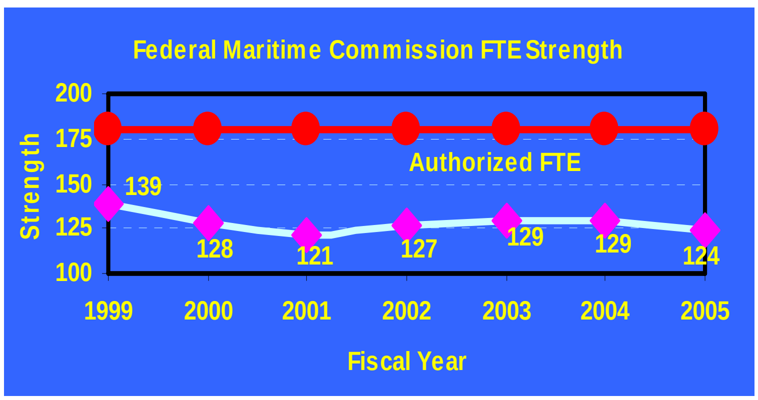
The FMC has a single source of funds, Salaries and Expenses, funded by an annual appropriation that is available for commitments and obligations incurred during the fiscal year in which the authority was granted. The FMC’s total new budget authority for fiscal year 2005 was just over 19 million. This represents a net increase in budget authority over fiscal year 2004 of 561 thousand dollars. Although the FMC collects remittances for “user fees” and “fines and penalties,” the agency is not authorized to offset any of its budget authority by utilizing these funds. The collections are deposited directly into the Treasury General Fund, and captured in the Statement of Custodial Activity which can be found in *Chapter 3, Auditor’s Reports and Financial Statements,* of the Performance and Accountability Report.



Personnel Strength History

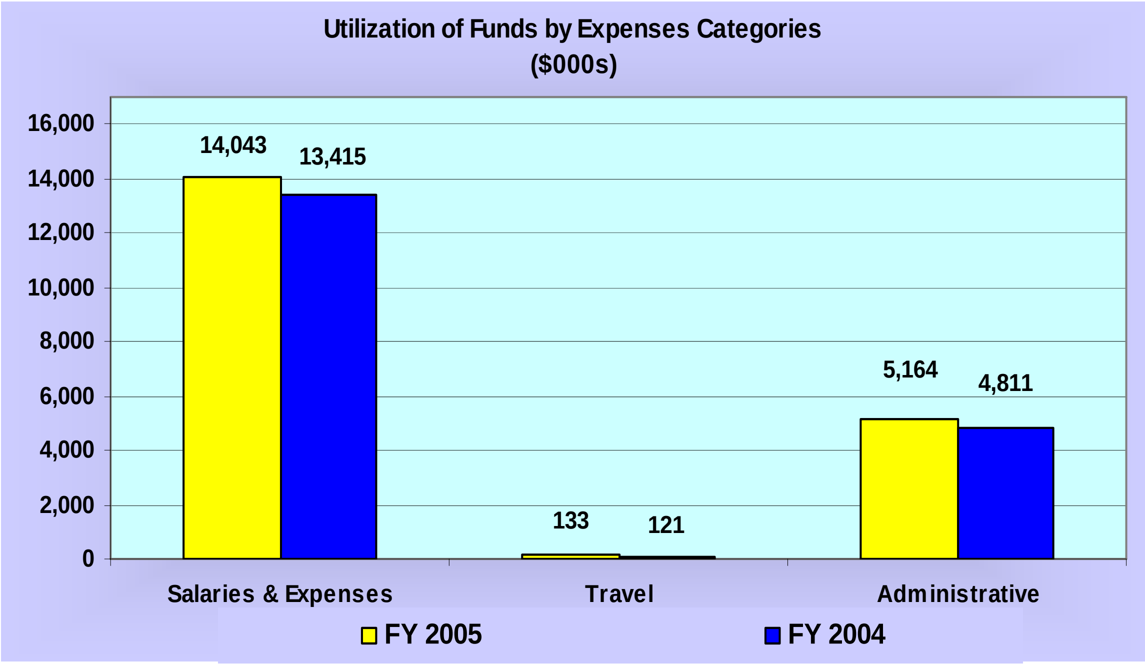
As the chart demonstrates, the FMC’s actual FTE level has fluctuated slightly since 1999, with a decline in FTEs during the early 2000s, followed by modest growth and recent small fluctuations of the FTE level. The agency has endeavored to develop the appropriate mix of staffing and other available means to ensure the effective accomplishment of our mission.

In recent years, the Commission has been authorized a total of 180 full-time-equivalent positions. Due to appropriation levels, the Commission has been required to maintain full-time personnel levels much lower than authorized.



Uses of Funds by Expense Category

In FY 2005, the FMC incurred obligations of $19.3 million, which was a $993 thousand dollar increase over fiscal year 2004. Approximately 72.6% of the total appropriation was used for salaries and benefits. Of the remaining budget authority, .7% was used for Commission travel expenses and the remaining 26.7% was used for administrative expenses also known as operating expenses (e.g., rent, furniture, printing, maintenance). The un-obligated authority balance of $1,302 will remain active for four years to service FMC-established requirements.



Audit Results

The FMC received an unqualified opinion on its FY 2004 financial statements from the auditing firm of Clifton Gunderson LLP under contract through the FMC's Inspector General. For FY 2005, the FMC was again awarded an unqualified opinion on its financial statements. Comparative statements can be located in *Chapter 3, Auditors' Reports and Financial Statements,* of the Performance and Accountability Report.

Financial Statement Highlights

The financial statements have been prepared to report the financial position and results of operations of the entity, pursuant to the requirements of 31 U.S.C. 3515(b). While the statements have been prepared from the books and records of the entity in accordance with the formats prescribed by OMB, the statements are in addition to the financial reports used to monitor and control budgetary resources which are prepared from the same books and records. The statements should be read with the realization that they are for a component of the U.S. Government, a sovereign entity. One implication of this is that liabilities cannot be liquidated without legislation that provides resources to do so.

The FMC's financial statements summarize the financial position and financial activity of the agency. The financial statements, footnotes and the remainder of the required supplementary information appear in their entirety in *Chapter 3, Auditors' Report and Financial Statements,* of the Performance and Accountability Report. A brief analysis of the principal statements follows.

Analysis of the Balance Sheet

The FMC's assets in fiscal year 2005 were $2,269,606 as of September 30, 2005. This represents an increase over fiscal year 2004 of $307,418 million. The FMC's assets reported in the balance sheet are summarized in the accompanying table.

Summary of Assets as of September 30, 2005		
	FY 2005	**FY 2004**
Fund Balance with Treasury	$2,217,146	$1,849,004
Accounts Receivable	$2,021	$749
Capital Assets	$50,439	$112,435
Other	$0	$0
Total Assets	**$2,269,606**	**$1,962,188**

The Fund Balance with Treasury represents the FMC's largest asset of $2,217,146 as of September 30, 2005. This is an increase of 19.9% over fiscal year 2004 and represents 97.7% of the agency's total assets. The Fund Balance with Treasury is comprised only of annual appropriations maintained by the Department of the Treasury to address current liabilities.

Accounts Receivable as of September 30, 2005, was at $2,021.00. This is a 169% increase over fiscal year 2004, and accounts for .09% of the FMC's total assets.

Capital Assets, also known as Property, Plant and Equipment, accounts for 2.21% of the FMC's total assets as of September 30, 2005. The "Net" value of $50,439.00 accounts for the depreciation of all assets and represents the current book value of those assets.

The FMC's Liabilities totaled $1,957,549 as of September 30, 2005. The accompanying table depicts an increase of $252,201 total liabilities over fiscal year 2004. Accounts Payable represents the total goods and services received by the FMC as of September 30, 2005. The FMC is not in receipt of a billing from the various vendors as of the close of fiscal year 2005. Federal Employee Benefits represents accrued salaries and liabilities that are not funded by budgetary resources. These liabilities represent future workman's compensation, and accrued annual leave that remains on the books. The Federal budget process does not recognize future benefits for today's employees, however, these liabilities will be recognized in future budget cycles as they are paid.

Summary of Liabilities as of September 30, 2005		
	FY 2005	**FY 2004**
Accounts Payable	$89,197	$102,935
Payroll Taxes Payable	$82,970	$71,980
Federal Employee Benefits	$1,775,252	$1,520,052
Accrued Liabilities	$10,130	$10,381
Total Liabilities	**$1,957,549**	**$1,705,348**

Net Position is the difference between total assets and total liabilities. The total net position for fiscal year 2005 is an increase of $55,217 from fiscal year 2004. Unexpended Appropriations represents the total authority granted by Congress that the FMC has not expended as of September 30, 2005. Cumulative Results of Operations represents the net results of all operations of the FMC. The decrease in Cumulative Results is due mainly to the net decrease in Capital Assets as of September 30, 2005.

Net Position Summary as of September 30, 2005		
	FY 2005	**FY 2004**
Unexpended Appropriations	$1,231,683	$1,124,548
Cumulative Results of Operations	($919,626)	($867,708)
Total Net Position	**$312,057**	**$256,840**

Analysis of the Statement of Net Cost

The analysis of Net Costs presents the net cost of FMC’s five Commission Programs as identified in the FMC’s Annual Report. The five agency programs are Formal Proceedings, Inspector General, Equal Employment Opportunity, Operations and Administration. The Statement of Net Costs shows the net cost of operations for the agency as a whole and its sub-organizations and/or programs. Net Costs compared to Budgetary Resources can be found in *Chapter 3, Auditors’ Report and Financial Statements*, of the Performance and Accountability Report.

Summary of the Statement of Net Cost as of September 30, 2005

	FY 2005	**FY 2004**
Intragovernmental Net Costs	$7,140,719	$6,248,754
Net Costs With the Public	$13,270,708	$12,635,332
Net Cost of Program Services	**$20,411,427**	**$19,064,086**

Analysis of the Statement of Changes in Net Position

The Statement of Changes in Net Position found on page nine reports the change in the agency’s net position during the reporting period. The statement is a summary of two factors, Unexpended Appropriations and Cumulative Results in Operations. The increase of $55,217 from fiscal year 2004 to fiscal year 2005 is due principally to the net change in Cumulative Results of Operations due to further depreciation of Capital Assets and an increase in unexpended appropriations.

Analysis of the Statement of Budgetary Resources

The Statement of Budgetary Resources (SBR) shows the source of the agency’s budgetary resources and the status of those resources at the end of the reporting period. The statement shows the relationship between budgetary resources and the status of the resources. The total budgetary resources must be equal to the status of budgetary resources at all times. A more detailed SBR can be found in *Chapter 3 Auditors’ Report and Financial Statements*, of the Performance and Accountability Report. For fiscal year 2005, the FMC had total budgetary resources available of $19,622,729. This represents a 5.6% increase over fiscal year 2004 budgetary resources available of $18,581,200. For fiscal year 2005, the Statement of Budgetary Resources shows the FMC had incurred obligations of $19,441,873, representing 99% of funding available, and had an unobligated balance of $180,856.

Summary of the Statement of Budgetary Resources as of September 30, 2005

	FY 2005	**FY 2004**
Total Budgetary Resources	**$19,622,729**	**$18,582,525**
Obligations Incurred	$19,441,873	$18,391,284
Unobligated Balance	$180,856	$191,241
Status of Budgetary Resources	**$19,622,729**	**$18,581,200**

Analysis of the Statement of Financing

The Statement of Financing is intended to provide a connection between accrual-based information (financial accounting) contained within the Statement of Net Cost and the obligation-based information (budgetary accounting) contained within the Statement of Budgetary Resources. The Statement of Financing provides a reconciliation between the budgetary and proprietary accounting information within the financial system and ensures that they are in balance. Non-budgetary resources, costs not requiring resources, and financing sources yet to be provided are deducted from the budgetary obligations. This balance is then reconciled against the Net Cost of Operations.

Improper Payments Information Act

Narrative Summary of Implementation Efforts for FY 2005 and Agency Plans for FY 2006—FY 2008

I. The Federal Maritime Commission has not identified any program that in and of itself constitutes a high-risk for improper payments. Therefore, the FMC considers all of its payments to fall within the realm of high-risk. As such, the FMC has instituted a separation of duties concerning payments that has been very successful in curtailing any improper payments. The National Finance Center (“NFC”) became the agency’s payroll provider in 2002 and is responsible for monitoring and reporting on any payroll-related payments. Any overpayments made to an FMC employee by the NFC on behalf of the FMC are offset by NFC. In FY 2005, the FMC had one travel-related overpayment of $15.00. The FMC received two improper Intergovernmental Payments and Collections (“IPAC”) collections in the amount of $7,237.05, each made against the Commission’s Agency Location Code (“ALC”). The collecting agency was not a trading partner of the FMC and the improper IPAC collections have since been reversed.

II. The FMC did not use a statistical sample to conduct its improper payment rate. The sample contains one hundred percent of all disbursements made by the FMC. This was the case for all programs.

III. In order to reduce the rate of improper payments, the FMC will continue to monitor all payments to strive for a zero dollar improper payment figure. To this end, the FMC will ensure that there are sufficient segregation of duties pertaining to payments concomitantly with closer scrutiny of all IPAC collections made against the Commission. The cause of the overpayments resided in improper IPAC collections made against the Commission’s ALC for services that were not rendered to the FMC, and a double payment for local travel expenses. The improper IPAC collections were reversed and the FMC is in the process of collecting the travel overpayment. The FMC will continue to monitor all disbursements made on its behalf to ensure payments are valid and proper.

IV. The table below represents the improper payments made by the FMC in FY 2005 with percentage forecasts through FY 2008. To reflect a total percentage, the decimal point would need to be carried out to the 9th position. The same is true to reflect as a percentage the $15.00 overpayment in the Inspector General Program and the improper IPAC collections identified in the Administration Program. Therefore, FY 2005 exhibits 0% in improper payments.

Improper Payment Reduction Outlook FY 2005 - FY2008 (Millions)

Program	FY05 Outlays	FY05 IP %	FY 05 IP $	FY 06 %	FY07 %	FY 08 %
Formal Proceedings	6.00	0.0000	0.0000	0.00	0.00	0.00
Inspector General	0.00	0.0000	0.0000	0.00	0.00	0.00
Equal Employment Opportunity	0.00	0.0000	0.0000	0.00	0.00	0.00
Operations	8.00	0.0000	0.0000	0.00	0.00	0.00
Administration	4.00	0.0000	0.0145	0.00	0.00	0.00
Totals	**18.00**	**0.0000**	**0.0145**	**0.00**	**0.00**	**0.00**

Improper Payments Information Act (continued)

V. The FMC has in place a segregation of duties to ensure that all invoices processed for payment are legitimate expenses of the agency. When an invoice is received it is first verified as a valid invoice belonging to the agency. The invoice is then processed by the OMS to identify the proper purchase order the payment is to be expensed against. The OBFM then processes the invoice against the purchase order to ensure that there are sufficient funds available on the purchase order to make the payment. If there are insufficient funds on the purchase order, a request is made to modify the purchase order to increase funding. Once the payment authorization has been processed, it is verified by a second member of the finance office. From there the payment request is forwarded to the BPD for processing. When the payment is loaded into the Oracle database, a final funds availability check is made by the financial system against the fund controls set for the FMC. Currently the fund controls are set to the summary appropriation level.

The receipt of an invalid IPAC collection must be processed as a payment for the reason that the funds have already been moved from the Treasury General Fund as a disbursement against the FMC’s ALC. The internal controls in place remain unchanged, with a closer scrutiny paid to all invoices and subsequent payments. The agency was able to have the improper IPAC collections in the amount of $14,474.10 reversed and credited back to the General Fund. We are currently in the process of collecting the $15.00 overpayment made against a local travel voucher.

VI. The Chairman, as the Chief Administrative Officer of the FMC, is ultimately responsible for the efficient and effective utilization of the authority granted the agency by Congress. The Chairman has delegated financial responsibility to the Director, OBFM. The Director of OBFM has the responsibility to ensure that all disbursements made by BPD on behalf of the FMC are legitimate expenses of the agency and that there are sufficient funds available. The OBFM is responsible for reducing and recovering improper payments, and keeps senior agency officials appraised of all relevant activities.

VII. **a.** The FMC does not have an in-house information system to help reduce improper payments. The agency utilizes the infrastructure and financial system maintained in Parkersburg, WV by BPD.

b. In fiscal year 2005, the FMC requested funding to maintain the contract between the FMC and BPD for financial support and platform access to the Oracle database through Oracle’s Discoverer portal.

VIII. There are no statutory or regulatory barriers that limit the agency’s ability to take corrective actions to address any improper payments.

IX. The current IPAC system does not allow an agency to refuse a collection against its ALC through the general fund it deems improper. The end result is a requirement to make the payments during the accounting period in which the collection was made and reversing the collection at a later date. The ability to challenge the collection would reduce the number of improper collections made against the agency, therefore reducing the number of improper payments.

Systems, Controls, and Legal Compliance

This section provides information on FMC's compliance with the:

Federal Managers' Financial Integrity Act
Federal Financial Management Improvement Act
Prompt Payment Act
Debt Collection Improvement Act
Biennial Review of User Fees
Performance Measure Summary
Inspector General Act

Federal Managers' Financial Integrity Act

The Federal Managers' Financial Integrity Act ("FMFIA") requires that agencies establish controls that reasonably ensure that obligations and cost comply with applicable law; assets are safeguarded against waste, loss, unauthorized use, or misappropriation; and revenues and expenditures are properly recorded and accounted for. It requires the agency head to provide an assurance statement of the adequacy of management controls and conformance of financial systems with Government standards.

In his Message earlier in this document, the Chairman provided his annual assurance statement. This statement was based on various sources and included management knowledge gained from the daily operation of agency programs and reviews, discussions with senior managers who together comprise the agency's Senior Policy Group, audits of financial statements, annual performance plans, and Inspector General reports, among other sources. The Senior Policy Group is comprised of all SES-level senior executives, including the Director of Operations, the General Counsel, and the agency's Chief Financial Officer, among others. Additionally, the Chairman meets regularly with, and receives regular reports from, the FMC's Inspector General.

Management control deficiencies, when identified, are addressed at the highest management levels within the agency. For instance, corrective actions for material weaknesses identified in the agency's information technology area are overseen directly by the agency's Chief Information Officer.

FY 2005 Integrity Act Results

The Chairman of the FMC determined that, as of September 30, 2005, the management controls of the FMC provide reasonable assurance that the objectives of the FMIA are being met, and that the FMC, as a whole, is in compliance with section 2 of the FMFIA. The FMC's financial management systems also are in substantial compliance with the objectives of the FMFIA, and the Commission is in compliance with section 4 of the FMFIA.

During the fiscal year, the FMC mitigated one material weakness which was first identified in a previous fiscal year. This weakness concerned the adequacy of the agency's information technology office to support the agency's mission in the areas of management, operations and technology. Much progress had been made to address this weakness in previous fiscal years, however some issues remained to be addressed during FY 2005. The final corrective actions necessary to correct this deficiency were completed during the fiscal year. The FMC has strengthened its IT management, operations, and technology infrastructure and staffing, including finalizing numerous standard operating procedures, completing procedures for system life cycle development, implementing an improved Help Desk system, improving staff skill levels, and hiring an IT Security Officer, among other things. Additionally, the FMC made an extensive commitment during recent fiscal years to improving its IT infrastructure by upgrading network security, stabilizing the network environment, replacing all personal computers, adopting a more robust web content manager, and otherwise improving the posture of its IT infrastructure.

Debt Collection Improvement Act

The Debt Collection Improvement Act enhances the ability of the Government to service and collect debts. The Act centralized the collection of non-tax delinquent debt owed to the government. The collection of delinquent debts is conducted by the Financial Management Service through the Treasury Offset Program where the names and taxpayer identification numbers (TIN) are matched against the TINs of recipients of government payments. The balance owed the government is deducted or offset from the payment to the entity to satisfy the debt. All Office of Personnel Management ("OPM") retirement, vendor, IRS refunds, Social Security Benefits, and some federal salary payments are being offset. Federal agencies are required to refer delinquent accounts in excess of 180 days to Treasury for collection. The goal of the FMC is to minimize the amount of delinquent debt owed to the agency.

Biennial Review of User Fees

The Chief Financial Officers Act requires agencies to conduct a biennial review of fees and other charges imposed by agencies, and to make revisions to cover program and administrative costs incurred. During FY 2005, the FMC published its revised fees subsequent to its biennial review. The fees are posted on the FMC's website.

Performance Measure Summary

The FMC does not have an in-house financial accounting system, and as a small agency does not receive a Performance Measure Summary from the Department of the Treasury. The agency receives accounting services from BPD located in Parkersburg, WV. The Commission verifies and reconciles all financial statements and reports prior to submission, and has remained in compliance with all reporting thresholds including FACTS I (Federal Agencies' Centralized Trial-Balance System) reporting, timely reporting, and reconciliation of any financial statement differences.

Inspector General Act

The FMC has a very good record in resolving and implementing open audit recommendations presented in its Inspector General reports. Section 5(b) of the Inspector General Act requires agencies to report on final actions taken on Inspector General audit recommendations. Information can be found in *Appendix C* of the Performance and Accountability Report.

Briefly, during fiscal year 2005, the Inspector General completed the following audits/inspections:

FY 2005 Federal Information Security Management Act Compliance
FY 2005 Financial Statements
Audit of Procurement of Vendor Training Services
Audit of Controls Over Agency Property
Audit of Agreement Filings
FY 2004 Financial Statements
SERVCON Review

The Inspector General's reviews disclosed no instances of questioned costs nor were any recommendations made that funds be put to better use, nor were any material weaknesses reported. The FMC has addressed a number of recommendations from these reviews, and it is anticipated that the few which remain outstanding will be completed early in FY 2006.

During FY 2005, the agency worked diligently to correct two material weaknesses which had been identified in a previous fiscal year. It is anticipated that final corrective action on both material weaknesses will be completed in FY 2006. Further, one material weakness identified in a previous fiscal year was mitigated.