Federal Maritime Commission

Performance and Accountability Report

Fiscal Year 2011

The United States
Federal Maritime Commission

Our Mission

To foster a fair, efficient, and reliable international ocean transportation system and to protect the public from unfair and deceptive practices

This Fiscal Year 2011 Performance and Accountability Report is

published by the Federal Maritime Commission

An electronic version of this report can be found at

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Please refer any questions concerning this report to the

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Federal Maritime Commission

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The Federal Maritime Commission's Performance and Accountability Report provides program and financial information that enables the President, Congress, and the public to assess the performance of the agency relative to its mission and the resources entrusted to it. This PAR satisfies the following legislation:

- The Federal Manager's Financial Integrity Act of 1982 requires continuous evaluations and reporting of the adequacy of the systems of internal accounting and administrative controls. The Act can be found at the following URL:

  http://www.whitehouse.gov/omb/financial/fmfia1982.html

- The Chief Financial Officers Act of 1990 provides for the production and submission of complete, reliable, timely, and consistent financial information for the use of the Executive Branch of the government and the Congress in the financing, management and evaluation of Federal programs. The Act can be found at the following URL:

  http://www.gao.gov/special.pubs/af12194.pdf

- The Reports Consolidation Act of 2000 authorizes agencies to consolidate several reports in order to provide performance, financial and other related information in a more useful manner. The Act can be found at the following URL:

  http://www.cbo.gov/showdoc.cfm?index=2193&sequence=0

- The Inspector General Reform Act of 2008 amends the Inspector General Act of 1978 to enhance the independence of the Inspectors General, to create a Council of the Inspectors General on Integrity and Efficiency, and for other purposes. The Act can be found at the following URL:

  http://www.govtrack.us/congress/billtext.xpd?bill=s110-2324

- The Government Performance and Results Modernization Act of 2010 (GPRA Modernization Act) requires an annual report that measures the performance results of the agency against the established agency goals. The Act can be found at the following URL:

  http://www.whitehouse.gov/omb/performance/gprm-act

- The Government Management Reform Act of 1994 requires the submission of audited financial statements. The Act can be found at the following URL:

  http://govinfo.library.unt.edu/npr/library/misc/s2170.html

- The Improper Payments Elimination and Recovery Act of 2010 provides for estimates and reports of improper payments by Federal agencies. The Act can be found at the following URL:

  http://www.govtrack.us/congress/billtext.xpd?bill=h111-3393

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A MESSAGE FROM THE CHAIRMAN

As the Chairman, I am pleased to submit this Performance and Accountability Report for Fiscal Year 2011, the 50th anniversary of the Federal Maritime Commission. It is the role of the FMC, through its regulatory authority, to oversee the nation's foreign oceanborne commerce, facilitating the growth of U.S. importers and exporters through a highly-efficient, effective ocean transportation system. The economic benefits and foreign trade impact of strong shipping lines, ports, support industries, on-board and dockside labor, truckers and railroads, cannot be overstated. The ocean transportation system is the lifeline of U.S. foreign trade, and the highway for transporting the nation's foreign trade to and from other continents. During fiscal year 2011, the FMC continued to strive to maintain a viable ocean highway for efficiently transporting U.S. imports and exports. We continued to meet legislative mandates, overseeing dominant and emerging ocean shipping trades and monitoring the impact on the United States of actions by other nations in regulating their ocean carriers. We continued to ensure that shippers and regulated entities such as ocean common carriers, ocean transportation intermediaries, ports, and other participants involved in the entire maritime logistics chain were provided with an efficient and reliable ocean transportation system.

The FMC has a twofold strategic focus, as reflected in our Strategic Plan for 2010-2015, on both maintaining an efficient and competitive international ocean transportation system and protecting the public from unlawful, unfair and deceptive ocean transportation practices. The accomplishment of these strategic goals is critical to the President's goals to encourage economic growth, invest in the future, and responsibly govern the nation and especially to the National Export Initiative. The smooth flow of international commerce is vital to the national economy in both providing access to foreign markets for our exports and ensuring the availability of imported goods for domestic production and consumption.

The commercial ocean transportation system returned to a more normal state in fiscal year 2011, as major shipping lines returned vessel capacity to service the U.S. inbound and outbound trades, reflecting the recovery begun in fiscal year 2010 from the industry's worst recession in over 60 years. Additional vessel capacity was brought back on line and foreign container manufacturers began to produce containers again, after having shut down as a result of the recession. The shortage of both vessel capacity and containers during fiscal year 2010 had severely impacted U.S. importers and exporters, who experienced difficulty arranging for shipment of their cargo reportedly impacting sales. In addition, shippers frequently faced rapid and substantial increases in transportation costs from the lows of 2009, often with little advance warning. Throughout the first three quarters of fiscal year 2011, that strain on our transportation system was reduced by the additional vessels and containers placed in service by ocean carriers. By the fourth quarter of the fiscal year, however, ocean carriers again had begun to scale back vessel capacity, stating that existing capacity then far exceeded demand. At the same time, alarms were sounded that soon shippers would again encounter significant container shortages. To more closely monitor concerted activity, the Commission, in fiscal year 2011, imposed additional reporting requirements on the major outbound and inbound transpacific agreements and on global alliances. Significant staff resources were committed to closely monitor those agreements and alliances. The need for the Commission to become a stronger, more effective agency continues to be abundantly clear.

Effective implementation of the Federal Maritime Commission's (FMC) mission to foster a fair, efficient, and reliable international ocean transportation system and protect the public from unfair and deceptive practices was especially important this fiscal year. The nation's importers and exporters experienced turmoil when demand returned more quickly than the maritime industry's services. The efficiencies resulting from my January 2010 reorganization of the agency ensured that the Commission's major offices were cohesively directed toward achieving fair and efficient ocean transportation that helped to improve the nation's economy. The highlighted actions provide an overview of agency activities and notable achievements during the fiscal year.

The regulatory scheme now in place at the FMC is under constant review, and as economic conditions alter the state of our trades, the FMC's regulations must continue to reflect those conditions. To this end, during fiscal year 2011 the Commission streamlined its Rules of Practice and Procedure, exempted licensed non vessel operating common carriers from the requirement to publish individual tariff rates, potentially leading to significant tariff publication cost savings for that industry. Further reviews have been initiated of the Commission's Rules of Practice and Procedure, its regulations governing financial responsibility of passenger vessel operators, and its regulations governing the licensing of Ocean Transportation Intermediaries. Shortly, the Commission will complete its study of the impact of the European Union's (EU) removal of its block exemption of antitrust immunity for ocean carriers.

The Commission is striving to provide *increased consumer protection* by integrating the use of various tools in order to address shipping difficulties and malpractices in the ocean transportation system that are encountered by importers and exporters. The Commission will provide a variety of alternative dispute resolution (ADR) services to resolve disputes without encumbering commercial relationships with the time, expense and acrimony of litigation or enforcement activity. Significantly, the Commission's *Ombuds* program and Rapid Response Teams provide opportunity for quick resolution of transportations impediments. At the same time, we will strengthen our enforcement activity to provide deterrence by penalizing those who pursue unlawful malpractices. Through the administrative process, the Commission will also continue to provide a forum for adjudication of Shipping Act violations and redress through reparations. Finally, we will focus on achieving compliance with OTI licensing requirements.

The Commission is targeting *operating efficiencies* through improved technology for the Commission and users of Commission services. Our goal will be to continue implementing technological advances that will increase Commission productivity and provide for electronic submission of license applications, agreements and other filings.

The Commission is also providing *increased public and international trade presence*. To this end, the Commission will continue to openly dialogue with U.S. trading partners to ensure U.S. trade is not hampered by regulatory or other actions of those trading partners.

This Report covers the Commission's efforts in fiscal year 2011 to foster an equitable, secure, and market-driven ocean transportation industry. Fiscal year 2011 was the third year in which the FMC undertook quantitative measurement of performance goals, employing measures and targets. The Commission's actual performance in fiscal year 2011 is compared with the targeted levels of performance established in the agency's Strategic Plan for Fiscal Years 2010-2015. During the year, the agency focused on eight performance goals, while continuing its various ongoing day-to-day activities.

The fiscal year 2011 independent financial audit resulted in the FMC's eighth consecutive unqualified opinion. The independent auditors did not identify any material weaknesses, significant deficiencies, or instances of non-compliance with laws and regulations. In the Management Assurances section (see page 17), I provide my assurances that the FMC has no material weaknesses to report. I am also pleased to report that the FMC financial and performance data presented in this Report are complete, reliable, and accurate in keeping with the guidance from the Office of Management and Budget.

On August 12, 2011, the Commission marked its 50th year anniversary of becoming an independent agency charged with administration of the regulatory provisions of the shipping laws. I look forward to working with our dedicated staff, my four fellow Commissioners and shippers, ocean transportation intermediaries, ocean carriers, terminals, and ports, as well as my government counterparts in other nations to continue our tradition of ensuring an efficient and reliable ocean transportation system that supports a sustained recovery in trade and the global economy.

Sincerely,

Richard A. Lidinsky, Jr.

Richard A. Lidinsky, Jr.
Chairman

November 15, 2011

FEDERAL MARITIME COMMISSION

Chapter One

MANAGEMENT'S DISCUSSION and ANALYSIS

Fiscal Year 2011

Chapter One MANAGEMENT'S DISCUSSION and ANALYSIS

Introduction

This Performance and Accountability Report (Report or PAR) represents the completion of the Federal Maritime Commission's program and financial management process for fiscal year (FY) 2011, 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 the Office of Management and Budget (OMB) Circular No. A-136, *Financial Reporting Requirements* (Revised October 27, 2011), and covers the Commission's activities from October 1, 2010 through September 30, 2011.

Chapter One 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; *Systems, Controls, and Legal Compliance* discloses the FMC's compliance with certain legal and regulatory requirements; and the *Chairman's FMFIA Statement of Assurance,* which provides assurance that the FMC's financial management system conforms to applicable financial systems requirements, and that no material weaknesses were found in the design or operation of internal controls.

About the FMC

The Federal Maritime Commission (FMC or agency) 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 sections 2 and 3 of Public Law (P.L.) 89-777 (46 U.S.C. §§ 44102 and 44103) (passenger vessel certification). The Commission: monitors the activities of ocean common carriers, marine terminal operators (MTOs), 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 trade monitoring, enforcement and dispute resolution programs 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, service contracts, and service arrangements pursuant to the 1984 Act for compliance with statutory requirements; and reviews common carriers' privately published tariff systems for accessibility, accuracy, and reasonable terms. The Commission also issues licenses to qualified ocean transportation intermediaries (OTIs) in the U.S., ensures that all OTIs are bonded or maintain other evidence of financial responsibility, and ensures that passenger vessel operators (PVOs) demonstrate adequate financial responsibility in case of nonperformance of voyages or injury to passengers.

Organization

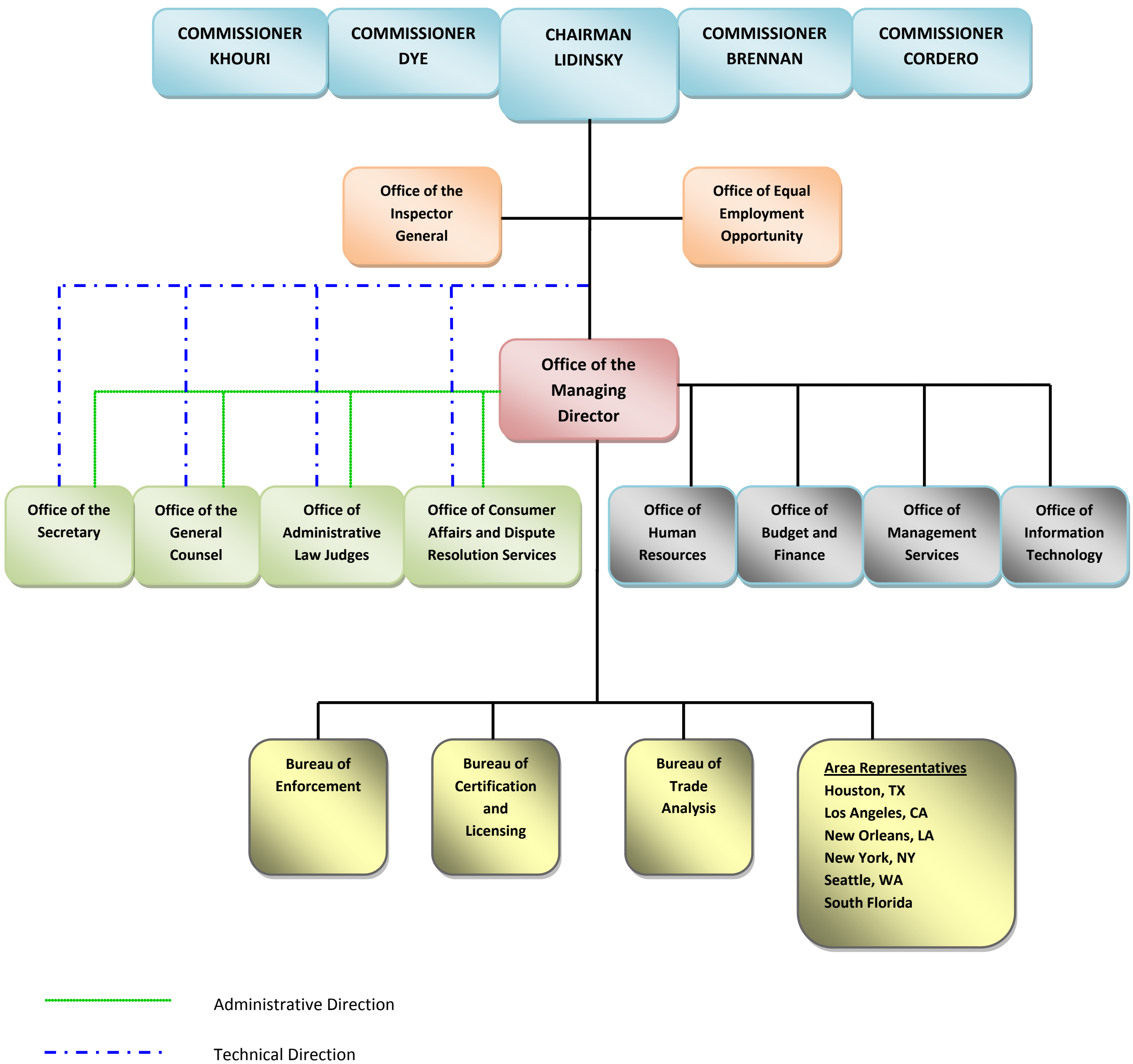
The FMC is composed of five Commissioners appointed for five-year terms by the President with the advice and consent of the Senate. No more than three members of the FMC may belong to the same political party. The President designates one Commissioner to serve as Chairman, the Chief Executive and Administrative 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); Office of Consumer Affairs and Dispute Resolution Services (CADRS); Office of Administrative Law Judges (OALJ); Office of Equal Employment Opportunity (EEO); Office of the Inspector General (OIG); Office of the Managing Director (OMD); the Bureaus of Certification and Licensing (BCL), Enforcement (BOE), and Trade Analysis (BTA); the Offices of Budget and Finance (OBF), Human Resources (OHR), Information Technology (OIT), Management Services (OMS), and Area Representatives (ARs). The majority of FMC personnel are located in Washington, D.C., with ARs stationed in Houston, Los Angeles, New Orleans, New York, Seattle, and South Florida.

FEDERAL MARITIME COMMISSION ORGANIZATION CHART

as of

SEPTEMBER 30, 2011



Regulatory Responsibility

The Commission's principal regulatory responsibilities include:

- Reviewing agreements among ocean common carriers and marine terminal operators (MTOs) relating to service in the U.S. foreign oceanborne trades, to ensure that they do not cause substantial increases in transportation costs or decreases in transportation services.

- Reviewing service contracts between ocean common carriers and shippers to guard against detrimental effects to shipping in the U.S. foreign trades.

- Ensuring that common carriers' tariff 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.

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

- Licensing OTIs in the U.S. 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.

- Protecting the shipping public against economic harm by investigating rates, charges, classifications, and practices of common carriers, MTOs, and OTIs operating in the foreign commerce of the U.S.

- Taking action to address unfavorable conditions arising out of foreign government or business practices in the U.S. foreign shipping trades.

The FMC is authorized by the FSPA, the 1920 Act, and 1984 Act as amended by OSRA 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.

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. Non-vessel-operating common carriers (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 an 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.

Sections 2 and 3 of P.L. 89-777 require 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 in various ways. It conducts informal and formal investigations, holds hearings, considers evidence and renders decisions, and issues appropriate orders and implementing regulations. It carries out a vigorous enforcement program – assessing civil penalties for Shipping Act violations. The FMC also adjudicates and mediates disputes involving the regulated community, the general shipping public, and other affected individuals or interest groups.

All of the above are supported by the FMC's management and support functions of information technology, financial management, human resources, and management services.

The FMC oversees more than 6,250 regulated persons (passenger vessel operators, vessel-owning common carriers, marine terminal operators, conferences, OTIs, etc.).

Future Challenges

During fiscal year 2011, major shipping lines returned vessel capacity to service in the U.S. inbound and outbound trades. The commercial ocean transportation system returned to a more normal state, reflecting the recovery begun in fiscal year 2010 from the industry's worst recession in over 60 years. Additional vessel capacity was brought back on line and foreign container manufacturers began to produce containers again, after having shut down as a result of the recession. The shortage of both vessel capacity and containers during fiscal year 2010 had severely impacted U.S. importers and exporters, who experienced difficulty arranging for shipment of their cargo reportedly impacting sales. In addition, shippers frequently faced rapid and substantial increases in transportation costs, often with little advance warning. Throughout the first three quarters of fiscal year 2011, that strain on our transportation system was reduced by the additional vessels and containers placed in service by ocean carriers. By the fourth quarter of the fiscal year, however, ocean carriers again had begun to scale back vessel capacity, stating that existing capacity then far exceeded demand. At the same time, alarms were sounded that soon shippers would again encounter significant container shortages. To more closely monitor concerted activity, the Commission imposed additional reporting requirements on the major outbound and inbound transpacific agreements and on global alliances. During fiscal year 2012, significant staff resources will continue to be committed to closely monitoring those agreements and alliances. The need for the Commission to become a stronger, more effective agency continues to be abundantly clear.

Future challenges for the Commission include: (1) increasing assistance to importers and exporters through the Commission's Area Representatives and CADRS; (2) modernizing the Commission's technology to enhance the efficiency of Commission operations; (3) implementing the agency's Human Capital Management Plan, particularly with respect to succession planning for the departure of highly skilled personnel; (4) increasing the use of enhanced dispute resolution mechanisms to quickly address industry disputes; (5) continuing to refine and enhance agency administrative programs and operations; and (6) reviewing and updating Commission regulations governing OTIs and passenger vessel operators

The Commission will focus on actions that will facilitate efficient international transportation of the nation's exports and imports, to provide goods to U.S. consumers, while enabling the nation's exporters to compete in global markets.

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 Strategic Plan Fiscal Years 2010-2015 (Revised) is available on the FMC's website. The complete FY 2011 Program Performance Report is contained in *Chapter 2, Program Performance*. In FY 2011, the Commission continued to refine the agency's business practices, specifically on revising and updating internal procedures in line with the amendment of Commission regulations. This includes facilitating the use and dissemination of filed material in order to improve analysis of required filings and responsiveness to inquiries, and implementation of procedural changes to enhance the effectiveness of agency operations. We broadened our efforts to implement the President's Management Agenda initiative to expand electronic government by increasing transparency and improving the management of information through the more effective use of available technologies. We also streamlined the delivery of services and information to regulated entities, other government agencies and the public, and further automated agency systems and enhanced the use of agency databases to allow staff to discharge program responsibilities more effectively.

Achieving Strategic Goal Results

The FMC has a distinct process for measuring performance. Performance goals are developed to promote both 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. Fiscal year 2011 was the third year in which the FMC undertook to quantify and measure performance goals. The Commission's actual performance in FY 2011 is compared with the targeted levels of performance established in the agency's Strategic Plan Fiscal Years 2010-2015 (Revised). Taken together, performance measures and targets 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. Our experience in establishing 2009 and 2010 goals enabled us to set more realistic targets for fiscal year 2011 in the revised strategic plan.

President's Management Agenda

The President's Management Agenda (PMA) 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 Performance; (4) Expanded E-Government; and (5) Performance Improvement. The FMC has achieved some successes in its agenda to address these initiatives. *Chapter Two, Program Performance,* 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 – The Commission finalized its Human Capital Plan, Workforce Plan, and Accountability and Succession Management Plans in accordance with OPM's Human Capital Assessment and Accountability Framework during FY 2010, and continued to focus on workforce and succession planning during FY 2011.

The FMC's Human Capital and Workforce Plans include strategies to recruit and retain a highly qualified and diverse workforce. The Human Capital Plan includes improved marketing of the FMC; streamlining of the application process in alignment with Hiring Reform; targeting recruitment pools and areas of consideration to increase the diversity of applicants; and the potential use of recruitment and retention incentives. The Workforce Plan incorporates workforce diversity and succession planning strategies and goals. In order to meet mission objectives, the FMC is actively working to define and plan for the workforce of the future, consistent with the current Administration's programs and reform initiatives.

Recently, the Commission made a significant transition in its approach to achieving its mission. In addition to traditional regulatory methods, the Commission became more involved in facilitation of major shipping issues and mediation of disputes. In pursuit of its new strategy, the Commission has restructured to give the Office of Consumer Affairs and Dispute Resolution Services (CADRS) heightened priority. It has established a new mission critical occupation (MCO), Dispute Resolution Specialist, and it has re-deployed some staff resources. Budget reductions have also led the agency to use Voluntary Early Retirement Authority as a means to free up some resources that can be shifted to higher priority work.

Serious workforce succession problems are anticipated in the near future due to the potential loss of retirement eligible individuals from the workforce. To address loss of critical leadership and technical skills, the FMC is utilizing strategic workforce planning as a tool to assess whether organizational elements have adequate staff and employees' skills align to critical job requirements. The Commission launched an SES Candidate Development Program class in 2010 in anticipation of the loss of individuals in senior leadership positions. This 18-month program will result in increased bench strength to facilitate continuity of leadership. With regard to recruitment for technical skills, FMC management officials participated in various data collection processes to provide information identifying mission priorities, current workforce skills, mission critical occupations and skills needed to support mission accomplishment, mission and workforce trends, recruitment strategies, and communication issues. The resulting workforce and succession plans help define and shape FMC's overall present and future recruitment strategies.

Competitive Sourcing - The FMC submitted its FY 2011 Federal Activities Inventory Reform Act (FAIR Act) Inventory to OMB in June 2011. The Inventory identified 79 of the agency's 134 FTEs as commercial activity FTEs. No challenges to its commercial inventories have ever been received.

Improved Financial Performance - For the eighth straight year, the FMC received an unqualified opinion on its financial statements in FY 2011. The FMC will continue to strive to achieve unqualified audit opinions.

Expanded E-Government - The FMC continues to expand electronic government (e-government). During FY 2011, a project to scan Annual Reports from 1917 through 1999 was completed, and now all agency Annual Reports through the present time are available on the website. Work continued on another large scale scanning project to post the contents of 28 bound volumes of Commission decisions issued between 1919 and 1987. When completed, the entire body of historical Commission decisions will be available on the FMC website, a useful and cost effective resource for the public as well as attorneys practicing before the Commission.

Senior managers are aware of the requirements and benefits of e-government, and continue to plan and initiate program changes to expand the use of e-government in daily activities. Employees are required to complete on-line information technology security refresher training on an annual basis. In anticipation of launching a new website during fiscal year 2011, the FMC began work to upgrade its website operating platform to make more information proactively available to the public in support of the Administration's initiative for a more open and transparent government. The agency is committed to continuing its integration of information technology policies and procedures, and to expand opportunities for e-government activities.

Performance Improvement – The Strategic Plan continues to represent the fundamental framework for the agency's planning and budgeting activities. Funding and Full- time Equivalent (FTE) levels are integrated into the agency's performance planning document by strategic goal, to identify clearly the budgetary and staff resources that are committed to each goal.

Financial Performance Overview

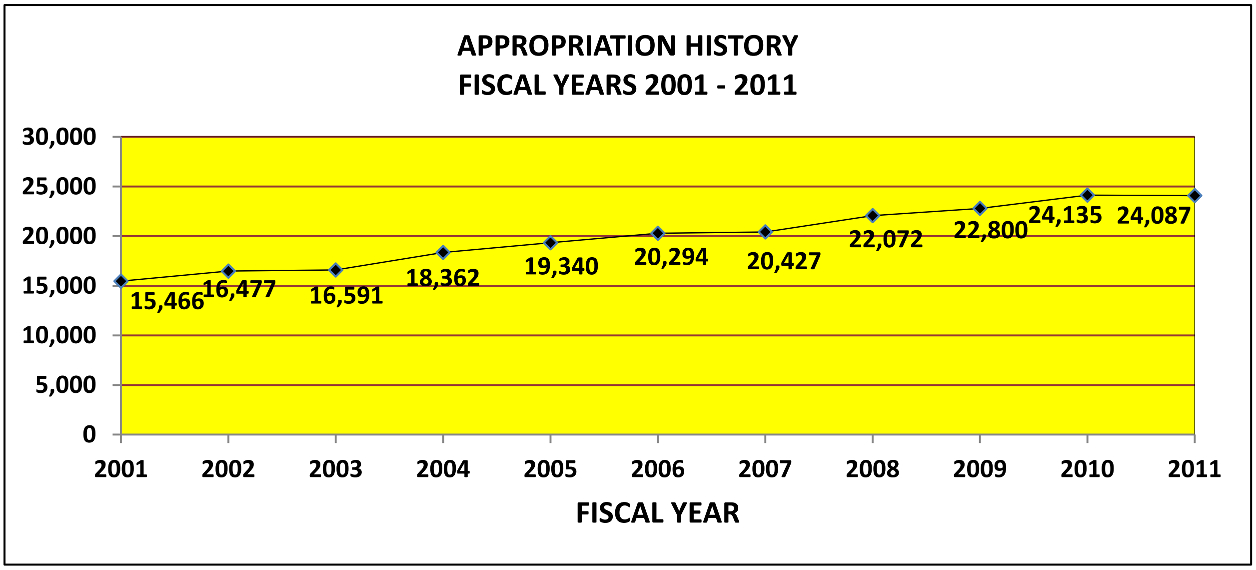
The FMC's financial condition as of September 30, 2011 is sound, and the Commission has sufficient internal controls in place to ensure its budget authority is not exceeded and that funds are utilized efficiently and effectively. The FMC's accounting services provider, the Bureau of the Public Debt (BPD), prepared the agency's financial statements as required by the Accountability of Tax Dollars Act of 2002. They have been prepared from, and are fully supported by, the books and records of FMC in accordance with the hierarchy of accounting principles generally accepted in the United States of America, standards approved by the Federal Accounting Standards Advisory Board (FASAB), and OMB Circular A-136, *Financial Reporting Requirements.*

Source 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 appropriation level for FY 2011 was $24,086,730, a reduction of $48,270 below the FY 2010 funding level. Additionally, the Commission had reimbursable budget authority of $59,192 for work performed by FMC staff for other government entities.

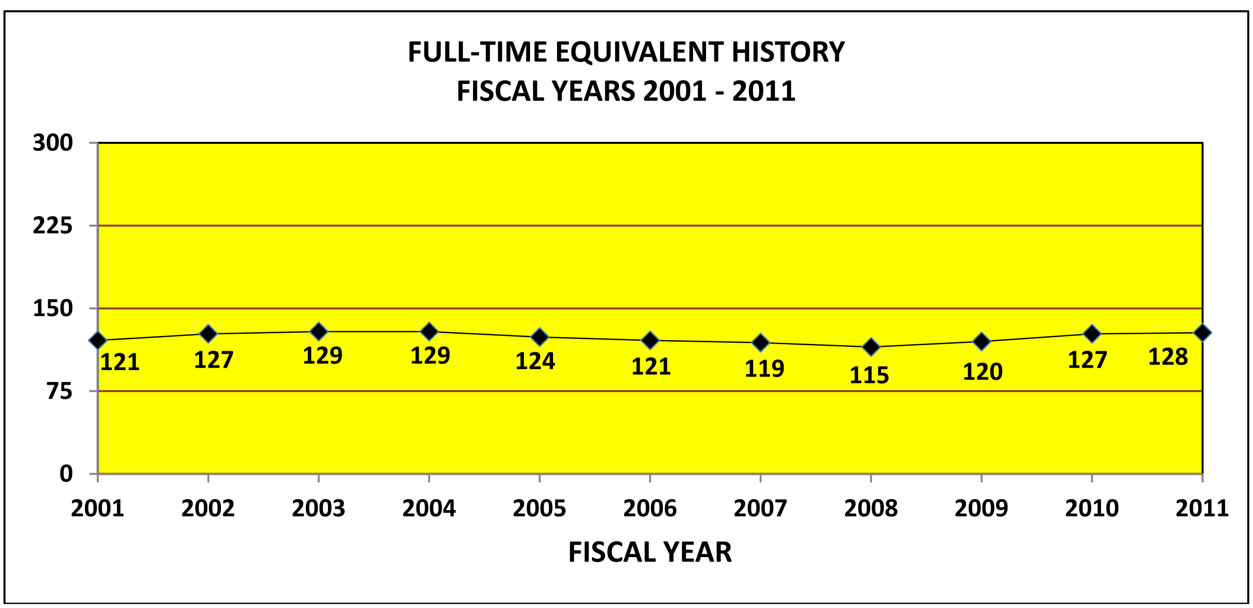
Although the FMC collects remittances for user fees and penalties, the agency is not authorized to offset any of its budget authority by utilizing these funds. The collections are deposited directly into the Treasury General Fund, and captured in the Statement of Custodial Activity which can be found in *Chapter Three, Auditor's Reports and Financial Statements.*

Appropriation History



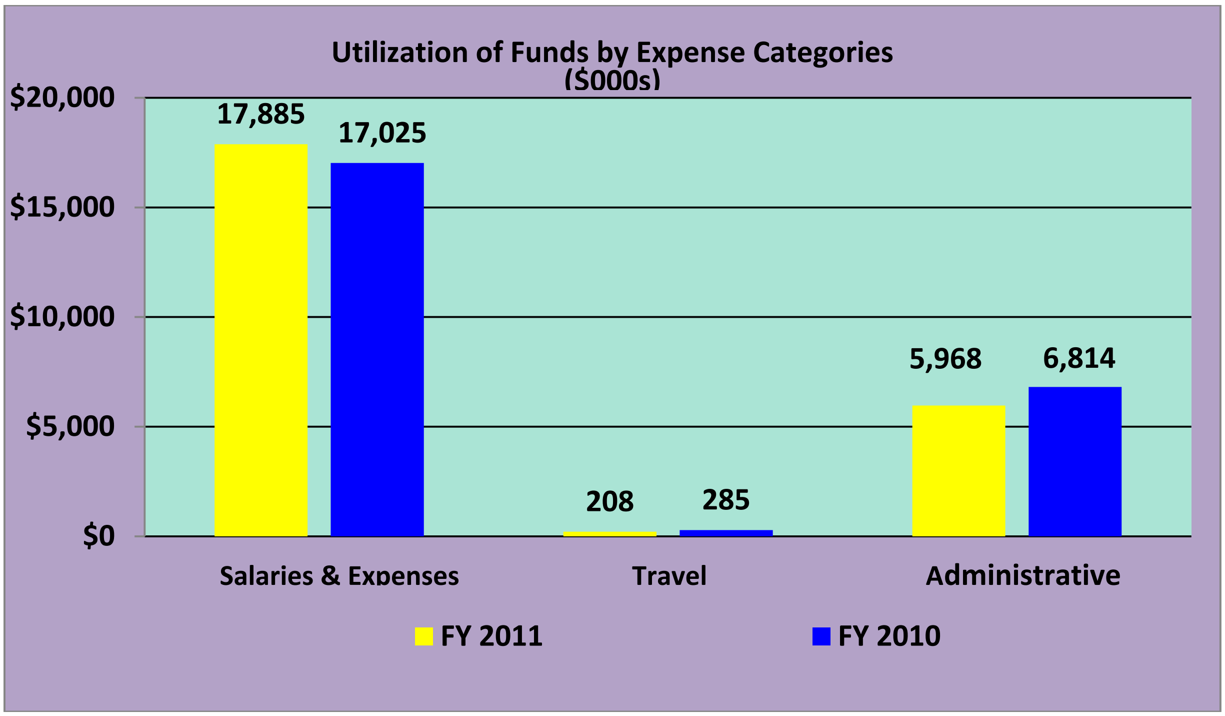
Full-time Equivalent History

The FMC's Full-time Equivalent (FTE) level is largely driven by our annual appropriation level, however, for the past several years unanticipated vacancies in the Offices of the Commissioners have remained unfilled. The FMC acquired a full complement of Commissioners in June 2011. Modest FTE growth was experienced from 2001 through 2004. This was followed by annual declines through 2008, with increases in 2009 through 2011. The agency has endeavored to develop the appropriate mix of staffing and other available means to ensure effective accomplishment of our mission.



Uses of Funds by Expense Category

Congress approved FY 2011 appropriations for the FMC in the amount of $24,086,730 through P.L. 112-10. During FY 2011, obligations against the appropriation totaled $24,061,355, representing 99.89% of the approved funding level. The Commission spent $24.061 million as follows: 74.33% for salaries and benefits, .87% for official travel expenses, and 24.80% for administrative expenses (e.g., rent, government and commercial contracts, furniture, printing, and equipment maintenance). The unobligated balance of $25,375 will remain available for legitimate increases to existing FY 2011 obligations.



Audit Results

The FMC again received an unqualified opinion on its FY 2011 financial statements from the auditing firm of Dembo, Jones, Healy, Pennington & Marshall, P.C. under contract through the FMC's OIG. Comparative statements are located in *Chapter Three, Auditor's Reports and Financial Statements.*

Financial Statement Highlights

The financial statements have been prepared to report the financial position and results of operations of the Commission pursuant to the requirements of 31 U.S.C. 3515(b). While the statements have been prepared from the books and records of the Commission 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 Three, Auditor's Report and Financial Statements.* A brief analysis of the principal statements follows.

Summary of Assets

The FMC's assets were $4,318,971 as of September 30, 2011. This represents a decrease from FY 2010 of $1,174,608. The FMC's assets reported in the balance sheet are summarized in the accompanying table.

Summary of Assets as of September 30, 2011		
	FY 2011	FY 2010
Fund Balance with Treasury	$3,792,671	$4,862,018
Accounts Receivable	$979	$114
Capital Assets	$525,021	$629,719
Other	$300	$1,728
Total Assets	**$4,318,971**	**$5,493,579**

The Fund Balance with Treasury of $3,792,671 represents the FMC's largest asset and represents 87.8% of the agency's total assets. This is a decrease of $1,069,347 from FY 2010. 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, 2011 was $979 for outstanding receivables billed to non-Federal entities. This accounts for less than 1% of the FMC's total assets.

Capital Assets, also known as Property, Equipment and Software, accounts for 12.2% of the FMC's total assets as of September 30, 2011. The net value of $525,021 accounts for the depreciation of all assets and represents the current book value of those assets.

Summary of Liabilities

The FMC's Liabilities totaled $2,653,483 as of September 30, 2011, a decrease of $793,136 total liabilities from FY 2010. Approximately $700,000 of the reduction is attributed to a decrease in accrued liabilities at FY 2011 year end. The majority of the decrease is related to prior years' open obligations that were paid in FY 2011 for rent and capitalized leasehold improvements, including VOIP telephone services and video conferencing system.

Summary of Liabilities as of September 30, 2011		
	FY 2011	FY 2010
Accounts Payable	$249,998	$960,639
Payroll Taxes	$213,544	$204,092
Federal Employee Benefits	$8,736	$13,562
Custodial Liabilities	$979	$114
Accrued Liabilities	$2,180,226	$2,268,212
Total Liabilities	**$2,653,483**	**$3,446,619**

Accounts Payable represents the total goods and services received by the FMC as of September 30, 2011. Federal Employee Benefits represents accrued salaries and liabilities that are not funded by budgetary resources. These liabilities represent future workers' 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.

Net position is the residual difference between assets and liabilities and is comprised of unexpended appropriations and cumulative results of operations. Unexpended appropriations represent the amount of unobligated and unexpended budget authority. Unobligated balances are the amount of appropriations or other authority remaining after deducting the cumulative obligations from the amount available for obligation. The cumulative results of operations are the net result of FMC's operations since inception.

Analysis of Changes in Net Position Summary

The Changes in Net Position Summary 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 total net position for FY 2011 is a decrease of $381,472 from FY 2010. The $381,000 change from FY 2010 to FY 2011 on the Statement of Changes in Net Position can be attributed to a rescission of funds and a reduction in capitalized asset expenditures in FY 2011.

Changes in Net Position Summary as of September 30, 2011		
	FY 2011	FY 2010
Unexpended Appropriations	$2,378,313	$2,647,804
Cumulative Results of Operation	($712,825)	($600,844)
Total Net Position	**$1,665,488**	**$2,046,960**

Unexpended Appropriations represents the total authority granted by Congress that the FMC has not expended as of September 30, 2011. Cumulative Results of Operations represents the net results of all operations of the FMC.

Analysis of Net Cost Summary

The analysis of Net Cost Summary presents the net cost of FMC's Programs as identified in the Annual Report. The four agency programs are Operational and Administrative, Formal Proceedings, Inspector General and Equal Employment Opportunity. 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 Three, Auditor's Report and Financial Statements.*

Net Cost Summary as of September 30, 2011		
	FY 2011	FY 2010
Operational and Adminstrative	$17,474,598	$17,931,656
Formal Proceedings	$7,536,633	$7,109,228
Office of Inspector General	$701,773	$675,785
Office of Equal Employment Opportunity	$198,706	$206,652
Net Cost of Program Services	**$25,911,710**	**$25,923,321**

Analysis of the Statement of Budgetary Resources

Statement of Budgetary Resources as of September 30, 2011		
	FY 2011	FY 2010
Total Budgetary Resources	**$25,433,649**	**$25,631,554**
Obligations Incurred	$24,187,745	$24,327,627
Unobligated Balance Unavailable	$1,220,529	$1,293,654
Unobligated Balance Available	$25,375	$10,273
Total Status of Budgetary Resources	**$25,433,649**	**$25,631,554**

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 also shows the relationship between budgetary resources and the status of those resources. Total budgetary resources must be equal to the status of budgetary resources at all times. A more detailed SBR can be found in *Chapter Three, Auditor's Report and Financial Statements.* For FY 2011, the FMC had total budgetary resources available of $25,433,649. This represents a decrease of $197,905. The FMC incurred total obligations of $24,187,745 in FY 2011.

Systems, Controls, and Legal Compliance

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

Federal Managers' Financial Integrity 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 costs 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.

The Chairman has provided his annual assurance statement on the following page. This statement was based on various sources and included management knowledge gained from the daily operation of agency programs and reviews, discussions with the Managing Director and the Directors of the Office of Budget and Finance and Management Services, audits of financial statements, annual performance plans, and OIG reports, among other sources. Additionally, the Chairman meets regularly with, and receives regular reports from, the FMC's OIG.

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

During the fiscal year, the IG identified no significant deficiencies and there were no significant management decisions made on which the IG disagreed. Management and the OIG reached agreement on all recommendations made. At the conclusion of the fiscal year, management and the OIG agreed as to the actions that management needs to take on 20 recommendations from 2011 and prior years, but management has not yet taken the action to close the recommendations.

Debt Collection Improvement Act of 1996

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, Internal Revenue Service 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.

Prompt Payment Act of 1982

The Prompt Payment Act requires agencies to make timely payments to vendors for supplies and services, to pay interest penalties when payments are made after the due date, and to take cash discounts when they are economically justified. In FY 2011, the FMC maintained a percentage of on-time payments of over 96%. This is a slight improvement over FY 2010. The FMC has maintained a 100% on-time electronic/credit card payment to its vendors.

In FY 2011, the FMC paid interest payments in the amount of $56.00. The three late payments were due to COTR certification delays. The FMC will continue to strive towards 100% on-time payments in future years.

Biennial Review of User Fees

The Chief Financial Officers Act requires that agencies 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 2008, the Commission completed its biennial review of user fees, and the OIG subsequently conducted a review of the methodology used to calculate the updated user fees.

A revised methodology for calculating user fees was developed in FY 2010 and was further refined in 2011. Based upon an outstanding study of the impact of the new fees upon small business entities, the fees will be re-calculated based upon final FY 2011 costs and implemented in FY 2012.

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 travel, procurement, accounting and financial 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 of 1978, as amended in 1988, and the Inspector General Reform Act of 2008

The FMC continues to have a very good record in resolving and implementing audit recommendations presented in its OIG reports. Section 5(b) of the Inspector General Act of 1978 requires agencies to report on final actions taken on OIG audit recommendations.

Briefly, during FY 2011, the Inspector General completed the following audits and reviews:

- FMC's Audited Financial Statements FY 2010
- FY 2010 Financial Statements Management Letter
- Independent Evaluation Report of FMC's FY 2010 Implementation of FISMA
- Review of the FMC's FY 2010 Privacy and Data Protection
- Review of the Office of Consumer Affairs and Dispute Resolution Services Processing of Informal Dockets
- Review of the FMC's Ocean Transportation Intermediary Financial Responsibility Program

The Inspector General's reviews disclosed no instances of questioned costs. The agency addressed a number of recommendations from these reviews, and it is expected that the remaining open recommendations will be resolved during FY 2012.

During FY 2011, no significant deficiencies were identified.

CHAIRMAN'S FMFIA STATEMENT OF ASSURANCE

The Federal Maritime Commission's (FMC) management is responsible for establishing and maintaining effective internal control and financial management systems that meet the objectives of the Federal Managers' Financial Integrity Act of 1982 (FMFIA).

In accordance with the requirements of the Office of Management and Budget (OMB) Circular A-123, *Management's Responsibility for Internal Control*, the FMC conducted its annual assessment of the effectiveness of the organization's internal controls to support effective and efficient programmatic operations, reliable financial reporting, and compliance with applicable laws and regulations; and whether the financial management system conforms to applicable financial systems requirements.

Based on the results of this assessment, the FMC provides reasonable assurance, as of September 30, 2011, that its internal controls over the effectiveness and efficiency of operations, reliable financial reporting and compliance with applicable laws and regulations were operating effectively and that no material weaknesses were found in the design or operation of our internal controls.

Further, based on our assessment, we determined that the FMC financial management system conforms to applicable financial systems requirements.

Signed /Richard A. Lidinsky, Jr./
Richard A. Lidinsky, Jr.
November 15, 2011

Chapter Two

Program Performance

Annual Performance Report

Introduction

The FMC's performance management system includes specific strategic goals, performance measures, and targets. The strategic goals represent the FMC's mission and reflect the overall outcomes and objectives the agency is working to achieve. This report describes progress towards performance targets in 2011 in furtherance of the Commission's mission to foster a fair, efficient, and reliable international ocean transportation system and to protect the public from unfair and deceptive practices. The FMC's strategic goals and objectives are as follows:

- **Maintain an Efficient and Competitive International Ocean Transportation System.**
  - Identify and take action to address substantially anti-competitive conduct or unfavorable conditions in U.S. trades.

- **Protect the Public from Unlawful, Unfair and Deceptive Ocean Transportation Practices and Resolve Shipping Disputes.**
  - Identify and take action to end unlawful, unfair and deceptive practices.
  - Prevent public harm through licensing and financial responsibility requirements.
  - Enhance public awareness of agency resources, remedies and regulatory requirements through education and outreach.
  - Impartially resolve international shipping disputes through alternative dispute resolution and adjudication.

The FMC quantitatively measured seven performance goals during the fiscal year. Six measures reached target goals with four exceeding FY 2011 targets. Each measure, target, and actual result is reported in the summary table below (Table 1) and includes a description of the data used to measure performance along with an explanation of the measures in place to validate and ensure integrity of the reported result.

Trend data for measures in place since 2010 is reflected in a Table 2 below. This data reflects continuous increases in agency efficiency and productivity – a result of both improved and streamlined processes, and enhanced focus on the critical processes being measured. Table 3 provides a status update on unmet targets for FY 2009 and 2010.

The Strategic Plan was revised in FY 2011 to remove a third strategic goal and its associated objectives and measures. The third goal was established for administrative support functions such as human resources, information technology and financial management. Each of these important functions is subject to its own stringent planning and measuring regimes pursuant to various laws and executive mandates. Those related plans support the strategic plan and are referenced and described therein.

The agency has forwarded this report to the President, with a copy to the Director, OMB, and appropriate Congressional committees. Additionally, this report has been placed on the FMC's Internet website to ensure that it is accessible to interested parties. All Commission employees have been advised to review this report.

Table 1: Summary of Performance Measure Results – FY 2011

Targeted performance compared to actual results.

Strategic Goal No. 1: Maintain an efficient and competitive international ocean transportation system.		
Performance Measure	**FY 2011 Target**	**FY 2011 Actual**
Measure: Percentage share of total U.S. international oceanborne trade moved by containership as an indicator of liner shipping efficiency. **2011 Target:** 18.5% **2011 Target Unmet: 17.9%** The containership sector fell short in fiscal year 2010 because the global recession affected consumer-related goods (usually transported by containership) more so than raw materials and semi-finished products (most often carried in other types of ships). In 2011, a 0.5% increase in the containership sector was achieved as projected. However, this increase was not sufficient to make up for the share lost in 2010. (Note: The result is based on fiscal year data through August 2011; September data is not yet available.) **Validation:** This outcome goal is measured by using data received from the United States Census Bureau's trade database, USA Trade Online, at www.usatradeonline.gov . Monthly aggregates of "Containerized Vessel" and "Total Vessel" standard weight in Kg for Imports and Exports were run and downloaded into MS Excel from the Harmonized System (HS) Port-level Data. The monthly values for Imports and Exports were then combined and aggregated for FY 2011. The percentage share of total U.S. international oceanborne trade moved by containership is calculated as the "Containerized Vessel" weight divided by "Total Vessel" weight, multiplied by 100.	18.5%	17.9%

Strategic Goal No. 2: Protect the public from unlawful, unfair and deceptive ocean transportation practices and resolve shipping disputes.		
Performance Measure	**FY 2011 Target**	**FY 2011 Actual**
Measure: Percentage of enforcement actions taken under the Shipping Act of 1984 successfully resolved through favorable judgment, settlement, issuance of default judgment, or compliance letter or notice. **2011 Target:** 72% **Validation:** This outcome goal is measured by examining enforcement case inventory and physically counting the number of cases resolved. The inventory is maintained for case load management, and monthly and quarterly reporting purposes. The data is constantly under review and frequently updated.	72%	82%
Measure: Percentage of decisions on completed OTI license applications rendered within 60 calendar days of receipt, facilitating lawful operation of OTIs with the appropriate character and experience requirements. **2011 Target:** 60% **Validation:** This outcome goal is measured by comparing data fields in an internal database that contains, among other data points, the date the OTI license application is accepted for processing and the date a licensing determination is made or the application process has been completed. The difference between these two dates is the length of time to render a decision on an OTI application accepted for processing. The database is maintained for daily case load management, and monthly and quarterly reporting purposes. The data is constantly under review and frequently updated.	60%	77%
Measure: Percentage of cruise line operators examined during the year that have the full financial coverage required by regulation to protect against loss from non-performance or casualty. **2011 Target:** 91% **Validation:** This outcome goal is measured by comparing reported financial coverage amounts against required coverage amounts. Approximately 200 cruise vessels are registered in and monitored by the Commission's Passenger Vessel (Cruise) Operator program. Operators covered by this program file semi-annual, monthly, and weekly unearned passenger revenue reports. This information is used to compare reported coverage against required coverage amounts.	91%	91%

Measure: Percentage of attendees at agency sponsored outreach presentations that rate the program as "Useful" or "Extremely Useful" in their compliance efforts. **2011 Target:** 75% **Validation: N/A**	75%	N/A[1]
Measure: Percentage of key Commission issuances, orders and reports are available through the Commission's website within 5 working days of receipt. **2011 Target:** 72% **Validation:** This outcome goal is measured by reviewing the workflow processes for posting documents to the Commission's website docket activity logs. The date that each docket activity log is updated with new filings or issuances is compared to the date the document is filed with or issued by the Commission in a particular proceeding. The case logs are used on a daily basis by agency staff and by the public, and as such, any discrepancies are discovered and remedied quickly.	72%	72%
Measure: Number of cases opened and closed each fiscal year using *ombuds* and ADR services assisting consumers to recover goods or funds. **2011 Target:** 625 **Validation:** This outcome goal is measured using data maintained by the Commission on each such case opened.	625	631
Measure: Percentage of formal complaints or Commission initiated orders of investigation completed within two years of filing or Commission initiation. **2011 Target:** 52% **Validation:** This outcome goal is measured by using docket activity logs maintained by the Commission and used for docket management, and monthly and annual reporting purposes. The docket logs are used on a daily basis by agency staff and by the public, and as such, any discrepancies are discovered and remedied quickly.	52%	60%

[1] In consultation with OMB, this outcome goal was removed for FY 2011 – 2015: "Percentage of attendees at agency sponsored outreach presentations that rate the program as 'Useful' or 'Extremely Useful' in their compliance efforts." The measure is not reflective of current agency outreach practices. It also proved logistically difficult to execute because most outreach is performed by FMC staff as invitees at non-FMC sponsored events.

Table 2: Status of 2009 & 2010 Unmet Targets

Performance Measure (2009)	FY 2009 Target	FY 2009 Actual
Measure: Percentage of complaints or investigations completed within two years of filing or Commission initiation beginning with cases filed or initiated in FY 2007. Strategic Goal 1: **Efficient Regulatory Process (2009)** **Report Status Update:** This measure is no longer tracked, but as similar measure tracking successful resolution of enforcement actions has exceeded targets in both 2010 and 2011.	60%	55%
Measure: Percentage of Active Electronic Docket Logs updated within 72 hours of receipt of key documents issued or filed in Commission proceedings. Strategic Goal 1: **Efficient Regulatory Process (2009)** **Report Status Update:** This measure is no longer tracked, but a similar measure tracking web accessibility of filings and issuances has met targets in both 2010 and 2011.	85%	55%
Measure: Percentage of minutes and monitoring reports received within regulatory deadlines or formal extension. Strategic Goal 2: **Compliance (2009)** **2009 Report Status Update:** This measure is no longer tracked.	95%	72-91%
Measure: Percentage of new and amended OTI applications that are processed with 45 days. Strategic Goal 2: **Compliance (2009)** **Report Status Update:** The measure of the percentage of OTI applications completed within 45 calendar days for FY 2009 was updated in the FY 2010 – 2015 Strategic Plan to 90 business days. The measure exceeded the target in FY 2010. BCL is now tracking OTI licensing with a target of 60 calendar days and exceeded that target in FY 2011.	80%	5%
Measure: Number of investigations opened to address alleged harm to the public as a result of Shipping Act violations. Strategic Goal 2: **Compliance (2009)** **Status Report Update:** This measure is no longer tracked.	50	34
Measure: The number of technology solutions that are designed and implemented and used by the Commission to facilitate process improvement through the use of databases and record keeping systems. Strategic Goal 4: **Technological Efficiencies (2009)** **Report Status Update:** This measure is no longer tracked by this report.	6	0
Measure: Cumulative number of technology solutions that are designed and implemented and used by the Commission to facilitate process improvement through the use of databases and record keeping systems since FY 2007 (including current fiscal year). Strategic Goal 4: **Technological Efficiencies (2009)** **Report Status Update:** This measure is no longer tracked by this report.	12	0
Measure: Number of technology-related programs and systems developed or implemented that achieve full compliance with Federal information security mandates. Strategic Goal 4: **Technological Efficiencies (2009)** **Report Status Update:** This measure is no longer tracked by this report.	12	2
Measure: Number of awareness, recruitment, training, new-employee orientation, workforce development, and quality of life initiatives offered to agency employees. Strategic Goal 5: **Management Capabilities (2009)** **Report Status Update:** This measure is no longer tracked by this report.	250	216
Measure: Percent of payments (user fees, penalties, etc.) received electronically via Pay.gov versus older technologies (e.g., checks). Strategic Goal 5: **Management Capabilities (2009)** **Report Status Update:** This measure is no longer tracked.	25%	0
Measure: Received "unqualified opinion" from financial statement auditors with respect to the current fiscal year. Strategic Goal 5: **Management Capabilities (2009)** **Report Status Update:** FY 2009, the audit was complete in November 2009 and received "unqualified audit opinion". This measure is no longer tracked by this report.	Yes	Not available
Performance Measure (2010)	**FY 2010 Target**	**FY 2010 Actual**
Measure: Percentage share of total U.S. international oceanborne trade moved by containership as an indicator of liner shipping efficiency. **Strategic Goal No. 1: Maintain An Efficient Competitive International Ocean Transportation System (2010)** **2010 Report Status Update:** This target was unmet in 2011 (see Table 1 above).	18%	17.4%

Table 3: Performance Measure Trends FY 2010-2011

Performance Measure	FY 2010 Target	FY 2010 Actual	FY 2011 Target	FY 2011 Actual
Strategic Goal No. 1: Maintain an efficient and competitive international ocean transportation system.				
Measure: Percentage share of total U.S. international oceanborne trade moved by containership as an indicator of liner shipping efficiency.	18%	17.4%	18.5%	17.9%
Strategic Goal No. 2: Protect the public from unlawful, unfair and deceptive ocean transportation practices and resolve shipping disputes.				
Measure: Percentage of enforcement actions taken under the Shipping Act of 1984 successfully resolved through favorable judgment, settlement, issuance of default judgment, or compliance letter or notice.	70%	72.9%	72%	82%
Measure: Percentage of decisions on completed OTI license applications rendered within 60 calendar days of receipt, facilitating lawful operation of OTIs with the appropriate character and experience requirements.	55%	65%	60%	77%
Measure: Percentage of cruise line operators examined during the year that have the full financial coverage required by regulation to protect against loss from non-performance or casualty.	90%	90 %	91%	91%
Measure: Percentage of attendees at agency sponsored outreach presentations that rate the program as "Useful" or "Extremely Useful" in their compliance efforts.	70%	100%	75%	**N/A***
Measure: Percentage of key Commission issuances, orders and reports are available through the Commission's website within 5 working days of receipt.	70%	77.1%	72%	72%
Measure: Number of cases opened and closed each fiscal year using *ombuds* and ADR services assisting consumers to recover goods or funds.	550	556	625	631
Measure: Percentage of formal complaints or Commission initiated orders of investigation completed within two years of filing or Commission initiation.	50%	56%	52%	60%

* See Table 1: Summary of Performance Measure Results – FY 2011, regarding status of this measure.

Chapter Three

Auditor's Reports and Financial Statements

Chapter Three AUDITOR'S REPORT and FINANCIAL STATEMENTS

Message from the Chief Financial Officer

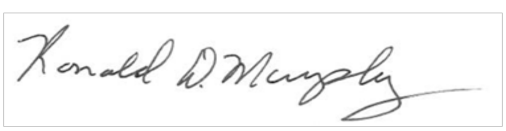
I am pleased to present the Federal Maritime Commission's consolidated financial statements for the fiscal year 2011 Performance and Accountability Report. I am proud to report that an independent auditor has once again rendered an unqualified opinion on the FMC's financial statements, which highlights for the President, the Congress and the American people the continuing commitment of the Federal Maritime Commission to maintain sound financial management of the resources entrusted to us. The FMC now has received an unqualified opinion in each of the eight years in which independent financial audits have been conducted, attesting to the FMC's commitment to high quality financial management.

The FMC's financial condition is sound, and the Commission has sufficient internal controls in place to ensure its budget authority is not exceeded and that funds are utilized efficiently and effectively.

During FY 2011, the FMC continued its focus on internal controls, as mandated by OMB Circular A-123. Our financial management staff is to be commended for consistently finding ways to provide budget information in concise, reliable, and understandable formats. In 2011, we completed corrective actions on a number of audit recommendations. Quarterly financial statements were issued 15 days after the end of each quarter, and our FY 2011 PAR is being published on November 15, 2011.

I wish to acknowledge our staff and financial service provider for their dedication to the FMC's mission and their diligent efforts in maintaining the unqualified opinion on our financial statements. Even as financial oversight and accountability requirements grow more complex and challenging, the FMC is steadfastly committed to improving financial management and producing accurate and reliable financial statements. We will focus in fiscal year 2012 on maintaining an unqualified audit opinion and will continue to use timely, reliable, and comprehensive financial information when making agency decisions. I anticipate that the FMC will continue its high level of quality financial management.

Sincerely,



Ronald D. Murphy
Chief Financial Officer

November 15, 2011

Chapter Three AUDITOR'S REPORT and FINANCIAL STATEMENTS

PRINCIPAL STATEMENTS

LIMITATIONS OF THE FINANCIAL STATEMENTS

The principal statements have been prepared to report the financial position and results of operations of the FMC, pursuant to the requirements of the Chief Financial Officers Act of 1990, as amended by the Government Management Reform Act of 1994. These statements have been prepared from the books and records of the FMC in accordance with the formats prescribed by the Office of Management and Budget. However, these statements differ from the financial reports used to monitor and control budgetary resources that are prepared from the same books and records. The principal statements should be read with the realization they are for a component of the U.S. government, a sovereign entity. Liabilities not covered by budgetary resources cannot be liquidated without the enactment of an appropriation, and the payment of all liabilities other than for contracts can be abrogated by the sovereign entity. Other limitations are included in the footnotes to the principal statements. The accompanying notes are an integral part of these statements.

The Federal Maritime Commission's financial statements were audited by Dembo, Jones, Pennington, Healy & Marshall, P.C., under contract to the FMC's Office of the Inspector General.

FEDERAL MARITIME COMMISSION
Office of Inspector General
Washington, DC 20573-0001

November 9, 2011

Office of Inspector General

The Honorable Richard A. Lidinsky, Jr.
Chairman
Federal Maritime Commission

I am pleased to provide you with the attached audit report required by the Accountability for Tax Dollars Act of 2002 (ATDA), which presents an unqualified opinion on the Federal Maritime Commission's (FMC) FY 2011 financial statements. The audit results indicate that FMC has established an internal control structure that facilitates the preparation of reliable financial and performance information. We commend FMC for the noteworthy accomplishment of attaining an unqualified (clean) opinion for the eighth consecutive year.

The Office of Inspector General (OIG) engaged the independent certified public accounting firm of Dembo Jones Healy Pennington & Marshall, P.C. (DJHPM) to perform the audit of the FMC's financial statements for the fiscal year ended September 30, 2010. The contract required that the audit be performed in accordance with U.S. Generally Accepted Government Auditing Standards and Office of Management and Budget (OMB) audit guidance.

In its audit of the Federal Maritime Commission, DJHPM found:

- the financial statements were fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles;

- there were no material weaknesses in internal control over financial reporting (including safeguarding assets) and compliance with laws and regulations; and

- no reportable noncompliance with laws and regulations tested.

To fulfill our responsibilities under ATDA and related legislation for ensuring the quality of the audit work performed, the OIG monitored DJHPM's audit of FMC's FY 2011 financial statements by:

- reviewing DJHPM's approach and planning of the audit;
- evaluating the qualifications and independence of its auditors;

- monitoring the progress of the audit at key points;
- examining its work papers related to planning the audit, assessing FMC's internal control, and substantive testing;
- reviewing DJHPM's audit report to ensure compliance with *Government Auditing Standards* and OMB Bulletin No. 07-04, as amended;
- coordinating the issuance of the audit report; and
- performing other procedures we deemed necessary.

Our review disclosed no instances where DJHPM did not comply, in all material respects, with U.S. Generally Accepted Government Auditing Standards. However, our review cannot be construed as an audit in accordance with U.S. Generally Accepted Government Auditing Standards. It was not intended to enable us to express, and we do not express, any opinion on FMC's financial statements, conclusions about the effectiveness of internal control, or conclusions on compliance with laws and regulations. DJHPM is solely responsible for the attached auditor's report dated November 8, 2011, and the conclusions expressed in the report.

We appreciate the cooperation and courtesies extended to both DJHPM and OIG staff during the audit.

Sincerely,

/Adam R. Trzeciak/
Inspector General

Attachment

cc: Commissioners
Managing Director

DJHPM
Dembo, Jones, Healy, Pennington & Marshall, P.C.
Certified Public Accountants and Consultants

Chairman Lidinsky:

We have audited the accompanying balance sheet of the Federal Maritime Commission (FMC) as of September 30, 2011 and 2010, and the related statements of net cost, changes in net position, budgetary resources, and custodial activity for the years then ended. In our audits of the Federal Maritime Commission for the fiscal years September 30, 2011 and 2010, we found

- the financial statements are presented fairly, in all material respects, in conformity with U.S. generally accepted accounting principles,
- no material weaknesses or significant deficiencies in internal control over financial reporting (including safeguarding assets),
- no reportable noncompliance with laws and regulations we tested.

The following sections discuss in more detail (1) these conclusions, and (2) our audit objectives, scope, and methodology.

Opinion on Financial Statements

In our opinion, the financial statements including the accompanying notes present fairly, in all material respects, in conformity with U.S. generally accepted accounting principles, the Federal Maritime Commission's assets, liabilities, and net position as of September 30, 2011 and 2010; and net costs; changes in net position; budgetary resources; and custodial activity for the years then ended.

Consideration of Internal Control

In planning and performing our audit, we considered the Federal Maritime Commission's internal control over financial reporting as a basis for designing our auditing procedures and to comply with the Office of Management and Budget (OMB) audit guidance for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on internal control and compliance or on management’s assertion on internal control included in MD&A. Accordingly, we do not express an opinion on internal control over financial reporting and compliance or on management's assertion on the effectiveness of the entity’s internal control over financial reporting.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses.

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A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected by the entity's internal control.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by the entity's internal control.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily disclose all deficiencies in the internal control that might be material weaknesses or significant deficiencies. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses or significant deficiencies, as defined above.

We noted other non-reportable matters involving internal control and its operation that we will communicate in a separate management letter to FMC management.

Compliance With Laws and Regulations

Our tests of the Federal Maritime Commission's compliance with selected provisions of laws and regulations for fiscal year 2011 disclosed no instances of noncompliance that would be reportable under U.S. generally accepted government auditing standards or OMB audit guidance. However, the objective of our audit was not to provide an opinion on overall compliance with laws and regulations. Accordingly, we do not express such an opinion.

Objectives, Scope, and Methodology

The Federal Maritime Commission's management is responsible for (1) preparing the financial statements in conformity with U.S. generally accepted accounting principles, (2) establishing, maintaining, and assessing internal control to provide reasonable assurance that the broad control objectives of the Federal Managers' Financial Integrity Act are met, and (3) complying with applicable laws and regulations.

We are responsible for obtaining reasonable assurance about whether the financial statements are presented fairly, in all material respects, in conformity with U.S. generally accepted accounting principles. We are also responsible for (1) obtaining a sufficient understanding of internal control over financial reporting and compliance to plan the audit, (2) testing compliance with selected provisions of laws and regulations that have a direct and material effect on the financial statements and laws for which OMB audit guidance requires testing.

In order to fulfill these responsibilities, we

- examined, on a test basis, evidence supporting the amounts and disclosures in the financial statements;

- assessed the accounting principles used and significant estimates made by management;

- evaluated the overall presentation of the financial statements;

- obtained an understanding of the FMC and its operations, including its internal control related to financial reporting (including safeguarding assets), and compliance with laws and regulations (including execution of transactions in accordance with budget authority);

- tested relevant internal controls over financial reporting and compliance, and evaluated the design and operating effectiveness of internal control;

- considered the design of the process for evaluating and reporting on internal control and financial management systems under the Federal Managers' Financial Integrity Act; and

- tested compliance with selected provisions of laws and regulations.

We did not evaluate all internal controls relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act, such as those controls relevant to preparing statistical reports and ensuring efficient operations. We limited our internal control testing to controls over financial reporting and compliance. Because of inherent limitations in internal control, misstatements due to error or fraud, losses, or noncompliance may nevertheless occur and not be detected. We also caution that projecting our evaluation to future periods is subject to the risk that controls may become inadequate because of changes in conditions or that the degree of compliance with controls may deteriorate. In addition, we caution that our internal control testing may not be sufficient for other purposes.

We did not test compliance with all laws and regulations applicable to the Federal Maritime Commission. We limited our tests of compliance to selected provisions of laws and regulations that have a direct and material effect on the financial statements and those required by OMB audit guidance that we deemed applicable to the Federal Maritime Commission's financial statements for the fiscal year ended September 30, 2011. We caution that noncompliance may occur and not be detected by these tests and that such testing may not be sufficient for other purposes.

We performed our audit in accordance auditing standards generally accepted in the United States; the standards applicable to the financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and OMB guidance.

Dembo, Jones, Healy, Pennington & Marshall, P.C.

Rockville, Maryland
November 8, 2011

FEDERAL MARITIME COMMISSION
BALANCE SHEET
AS OF SEPTEMBER 30, 2011 AND 2010
(In Dollars)

		2011		2010
Assets:				
Intragovernmental				
Fund Balance With Treasury (Note 2)	$	3,792,671	$	4,862,018
Total Intragovernmental		3,792,671		4,862,018
Accounts Receivable, Net (Note 3)		979		114
Property, Equipment, and Software, Net (Note 4)		525,021		629,719
Other (Note 5)		300		1,728
Total Assets	$	4,318,971	$	5,493,579
Liabilities:				
Intragovernmental				
Accounts Payable (Note 6)	$	146,636	$	687,333
Employer Contributions and Payroll Taxes Payable		188,998		181,479
Unfunded FECA Liability (Note 7)		1,956		1,741
Other		870		-
Custodial Liability		979		114
Total Intragovernmental		339,439		870,667
Accounts Payable (Note 6)		103,362		273,306
Accrued Payroll and Leave		951,116		1,051,210
Employer Contributions and Payroll Taxes Payable		24,546		22,613
Unfunded Leave (Note 7)		1,229,110		1,217,002
Actuarial FECA Liability (Note 7)		5,910		11,821
Total Liabilities	$	2,653,483	$	3,446,619
Net Position:				
Unexpended Appropriations	$	2,378,313	$	2,647,804
Cumulative Results of Operations		(712,825)		(600,844)
Total Net Position	$	1,665,488	$	2,046,960
Total Liabilities and Net Position	$	4,318,971	$	5,493,579

The accompanying notes are an integral part of these financial statements.

FEDERAL MARITIME COMMISSION
STATEMENT OF NET COST
FOR THE YEARS ENDED SEPTEMBER 30, 2011 AND 2010
(In Dollars)

		2011		2010
Program Costs:				
Operational and Administrative (Note 10)				
Gross Costs	$	17,474,598	$	17,931,656
Net Program Costs	$	17,474,598	$	17,931,656
Formal Proceedings (Note 10)				
Gross Costs	$	7,576,489	$	7,227,972
Less: Earned Revenue		(39,856)		(118,744)
Net Program Costs	$	7,536,633	$	7,109,228
Office of Inspector General (Note 10)				
Gross Costs	$	721,109	$	679,070
Less: Earned Revenue		(19,336)		(3,285)
Net Program Costs	$	701,773	$	675,785
Office of Equal Employment Opportunity (Note 10)				
Gross Costs	$	198,706	$	206,652
Net Program Costs	$	198,706	$	206,652
Net Cost of Operations	$	25,911,710	$	25,923,321

The accompanying notes are an integral part of these financial statements.

FEDERAL MARITIME COMMISSION
STATEMENT OF CHANGES IN NET POSITION
FOR THE YEARS ENDED SEPTEMBER 30, 2011 AND 2010
(In Dollars)

		2011		2010
Cumulative Results of Operations:				
Beginning Balances	$	(600,844)	$	(879,264)
Budgetary Financing Sources:				
Appropriations Used		24,236,436		24,626,223
Other Financing Sources (Non-Exchange):				
Imputed Financing Sources (Note 11)		1,563,293		1,575,518
Total Financing Sources		25,799,729		26,201,741
Net Cost of Operations		(25,911,710)		(25,923,321)
Net Change		(111,981)		278,420
Cumulative Results of Operations	$	(712,825)	$	(600,844)
Unexpended Appropriations:				
Beginning Balances	$	2,647,804	$	3,214,566
Budgetary Financing Sources:				
Appropriations Received		24,135,000		24,135,000
Other Adjustments		(168,055)		(75,539)
Appropriations Used		(24,236,436)		(24,626,223)
Total Budgetary Financing Sources		(269,491)		(566,762)
Total Unexpended Appropriations	$	2,378,313	$	2,647,804
Net Position	$	1,665,488	$	2,046,960

The accompanying notes are an integral part of these financial statements.

FEDERAL MARITIME COMMISSION
STATEMENT OF BUDGETARY RESOURCES
FOR THE YEARS ENDED SEPTEMBER 30, 2011 AND 2010
(In Dollars)

	2011	2010
Budgetary Resources:		
Unobligated Balance:		
Unobligated Balance Brought Forward, October 1	$ 1,303,927	$ 867,458
Recoveries of Prior Year Unpaid Obligations	103,585	582,606
Budget Authority		
Appropriation	24,135,000	24,135,000
Spending Authority From Offsetting Collections		
Earned		
Collected	59,192	122,029
Subtotal	24,194,192	24,257,029
Permanently Not Available	(168,055)	(75,539)
Total Budgetary Resources	$ 25,433,649	$ 25,631,554
Status of Budgetary Resources:		
Obligations Incurred		
Direct	$ 24,128,553	$ 24,205,598
Reimbursable	59,192	122,029
Subtotal	24,187,745	24,327,627
Unobligated Balance		
Apportioned	25,375	10,273
Unobligated Balance Not Available	1,220,529	1,293,654
Total Status of Budgetary Resources	$ 25,433,649	$ 25,631,554
Change in Obligated Balance:		
Obligated Balance, Net		
Unpaid Obligations, Brought Forward, October 1	$ 3,558,091	$ 3,910,216
Obligations Incurred Net (Note 13)	24,187,745	24,327,627
Gross Outlays	(25,095,485)	(24,097,146)
Recoveries of Prior Year Unpaid Obligations, Actual	(103,585)	(582,606)
Total, Unpaid Obligated Balance, Net, End of Period	$ 2,546,766	$ 3,558,091
Net Outlays:		
Gross Outlays	$ 25,095,485	$ 24,097,146
Offsetting Collections	(59,192)	(122,029)
Distributed Offsetting Receipts	2,430,482	1,250,668
Net Outlays	$ 27,466,775	$ 25,225,785

The accompanying notes are an integral part of these financial statements.

FEDERAL MARITIME COMMISSION
STATEMENT OF CUSTODIAL ACTIVITY
FOR THE YEARS ENDED SEPTEMBER 30, 2011 AND 2010
(In Dollars)

	2011	2010
Revenue Activity:		
Sources of Cash Collections:		
Miscellaneous	2,430,482	1,250,668
Total Cash Collections (Note 15)	2,430,482	1,250,668
Accrual Adjustments	865	(69,122)
Total Custodial Revenue	2,431,347	1,181,546
Disposition of Collections:		
Transferred to Others (by Recipient)	2,430,482	1,250,668
Retained by the Reporting Entity	865	(69,122)
Total Disposition of Collections	2,431,347	1,181,546
Net Custodial Activity	$ -	$ -

The accompanying notes are an integral part of these financial statements.

FEDERAL MARITIME COMMISSION
NOTES TO THE FINANCIAL STATEMENTS

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. Reporting Entity

The Federal Maritime Commission (FMC) was established as an independent regulatory agency on August 12, 1961. FMC is responsible for the regulation of oceanborne transportation in the foreign commerce of the United States (U.S.). The principal statutes or statutory provisions administered by the Commission are the Shipping Act of 1984, the Foreign Practices Act of 1988, and section 19 of the Merchant Marine Act of 1920, and sections 2 and 3 of Public Law No. 89-777. Most of these statutes were modified by the passage of the Ocean Shipping Reform Act of 1998, which took effect in 1999.

The Commission: monitors the activities of ocean common carriers, marine terminal operators (MTOs), 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 trade monitoring, enforcement and dispute resolution programs 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, service contracts, and service arrangements 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 (OTIs) in the U.S., ensures that all OTIs are bonded or maintain other evidence of financial responsibility, and ensures that passenger vessel operators (PVOs) demonstrate adequate financial responsibility in case of nonperformance of voyages or injury to passengers.

The FMC is composed of five Commissioners appointed for five-year terms by the President with the advice and consent of the Senate. The President designates one of the Commissioners to serve as Chairman, who is also the chief executive and administrative officer of FMC.

The FMC reporting entity is comprised of General Funds and General Miscellaneous Receipts.

General Funds are accounts used to record financial transactions arising under congressional appropriations or other authorizations to spend general revenues.

General Fund miscellaneous receipts are accounts established for receipts of non-recurring activity, such as fines, penalties, fees and other miscellaneous receipts for services and benefits.

The FMC makes custodial collections and holds custodial receivables that are non-entity assets and are transferred to Treasury at fiscal year end.

B. Basis of Presentation

The financial statements have been prepared to report the financial position, net cost of operations, changes in net position, and the status and availability of budgetary resources of the FMC. The statements are a requirement of the Accountability of Tax Dollars Act of 2002. They have been prepared from, and are fully supported by, the books and records of FMC in accordance with the hierarchy of accounting principles generally accepted in the United States of America, standards approved by the Federal Accounting Standards Advisory Board (FASAB), OMB Circular A-136, *Financial Reporting Requirements,* and FMC accounting policies which are summarized in this note. These statements, with the exception of the Statement of Budgetary Resources, are different from financial management reports, which are also prepared pursuant to OMB directives that are used to monitor and control the FMC's use of budgetary resources.

The statements consist of the Balance Sheet, Statement of Net Cost, Statement of Changes in Net Position, Statement of Budgetary Resources, and the Statement of Custodial Activity. In accordance with OMB Circular A-136, the financial statements and associated notes are presented on a comparative basis. Unless specified otherwise, all amounts are presented in dollars.

C. Budgets and Budgetary Accounting

Congress usually enacts appropriations to permit the FMC to incur obligations for specified purposes. In fiscal years 2011 and 2010, the FMC was accountable for General Fund appropriations. The agency recognizes budgetary resources as assets when cash (funds held by the U.S. Treasury) is made available through the Department of Treasury General Fund warrants.

D. Basis of Accounting

Transactions are recorded on both an accrual accounting basis and a budgetary basis. Under the accrual method, revenues are recognized when earned, and expenses are recognized when a liability is incurred, without regard to receipt or payment of cash. Budgetary accounting facilitates compliance with legal requirements on the use of Federal funds. Balances on these statements may therefore differ from those on financial reports prepared pursuant to other OMB directives that are primarily used to monitor and control the FMC's use of budgetary resources.

E. Revenues & Other Financing Sources

Congress enacts annual appropriations to be used, within statutory limits, for operating and capital expenditures. Additional revenues are obtained from service fees and reimbursements from other government entities and the public, but these revenues are not available to the agency to fund operating expenses.

Appropriations are recognized as a financing source when expended. Revenues from service fees associated with reimbursable agreements are recognized concurrently with the recognition of accrued expenditures for performing the services. Appropriations expended for capitalized property and equipment are recognized as expenses when an asset is consumed in operations.

The FMC recognizes as an imputed financing source the amount of accrued pension and post-retirement benefit expenses for current employees paid on its behalf by the Office of Personnel Management (OPM).

F. Taxes

The FMC, as a Federal entity, is not subject to Federal, state, or local income taxes, and, accordingly, no provision for income taxes has been recorded in the accompanying financial statements.

G. Fund Balance with Treasury

The U.S. Treasury processes cash receipts and disbursements. Funds held at the Treasury are available to pay agency liabilities. FMC does not maintain cash in commercial bank accounts or foreign currency balances.

H. Accounts Receivable

Accounts receivable consists of amounts owed to the FMC by other Federal agencies, its employees and the general public. Accounts receivable in the Salaries and Expense Fund represent employee-related receivables. An allowance for uncollectible accounts receivable from the public is established when, based upon a review of outstanding accounts, management determines that collection is unlikely to occur considering the debtor's ability to pay. Debts six months or more past due are referred to the Department of Treasury for follow-up collection efforts in keeping with the Debt Collection Improvement Act of 1996 (DCIA). Treasury's Debt Management Services (DMS) administers the program and adds a fee equal to 28 percent of the amount of debt that is less than 2 years delinquent or 30 percent of debts delinquent by 2 years or more. Collections, net of fees, are returned to the FMC for remittance to the general fund of the Treasury.

I. Property, Equipment, and Software

Property, equipment and software represent furniture, fixtures, equipment, and information technology (IT) hardware and software which are recorded at original acquisition cost and are depreciated or amortized using the straight-line method over their estimated useful lives. Major alterations and renovations are capitalized, except wherein the tenant improvement allowance specified in lease agreements covers the costs of certain renovations. Maintenance and repair costs are expensed as incurred. The FMC's capitalization threshold is $25,000 for individual purchases. Applicable standard governmental guidelines regulate the disposal and convertibility of agency property, equipment and software. The useful life classifications for capitalized assets are as follows:

Description	Useful Life (years)
Leasehold Improvements	5
Office Furniture	5
Computer Equipment	5
Office Equipment	5
IT Software	5

J. Advances and Prepaid Charges

Advance payments are generally prohibited by law. There are exceptions, such as some reimbursable agreements, subscriptions, and payments to contractors and employees. Payments made in advance of the receipt of goods and services are recorded as advances or prepaid charges at the time of prepayment and recognized as expenses when the related goods and services are received.

K. Liabilities

Liabilities represent the amount of monies or other resources likely to be paid by the FMC as a result of transactions or events that have already occurred. No liability can be paid, however, absent an appropriation or other funding. Liabilities covered by budgetary or other resources are those liabilities for which Congress has appropriated funds or funding is otherwise available to pay amounts due. Liabilities for which an appropriation has not been enacted or other funds received are, therefore, classified as not covered by budgetary resources. The liquidation of liabilities not covered by budgetary or other resources is dependent on future congressional appropriations or other funding. There is no certainty that the appropriation will be enacted. Intragovernmental liabilities are claims against the FMC by other Federal agencies. Additionally, the government, acting in its sovereign capacity, can abrogate liabilities.

L. Accounts Payable

Accounts payable consists primarily of amounts owed to other Federal agencies and the public for contracts for goods or services, such as leases, utilities, telecommunications and consulting and support services.

M. Annual, Sick and Other Leave

Annual leave is accrued as it is earned, and the accrual is reduced as leave is taken. The balance in the accrued leave account is adjusted to reflect current pay rates. Liabilities associated with other types of vested leave, including compensatory, restored leave and sick leave in certain circumstances, are accrued at year-end, based on latest pay rates and unused hours of leave.

Funding will be obtained from future financing sources to the extent that current or prior year appropriations are not available to fund annual and other types of vested leave earned but not taken. Nonvested leave is expensed when used. Any liability for unused sick leave that is accrued but not taken by a Civil Service Retirement System (CSRS)-covered employee is transferred to the OPM upon the retirement of that individual. Credit is given for sick leave balances in the computation of annuities upon the retirement of Federal Employees Retirement System (FERS)-covered employees effective at 50% beginning FY2010 and 100% in 2014.

N. Accrued and Actuarial Workers' Compensation

The Federal Employees' Compensation Act (FECA) administered by the U.S. Department of Labor (DOL) addresses all claims brought by FMC employees for on-the-job injuries. The DOL bills each agency annually as its claims are paid, and the actual costs incurred are reflected as a liability to the agency. Payment of these bills is deferred for two years to allow for funding through the budget process. Similarly, employees that the FMC terminates without cause may receive unemployment compensation benefits under the unemployment insurance program also administered by the DOL, which bills each agency quarterly for paid claims. Future appropriations will be used for the reimbursement to DOL. The liability consists of (1) the net present value of estimated future payments calculated by the DOL, and (2) the unreimbursed cost paid by DOL for compensation to recipients under the FECA.

O. Retirement Plans

FMC employees participate in either the CSRS or the FERS. The employees who participate in CSRS are beneficiaries of FMC's contribution, equal to seven percent of pay, distributed to their annuity account in the Civil Service Retirement and Disability Fund.

Prior to December 31, 1983, all employees were covered under the CSRS program. From January 1, 1984 through December 31, 1986, employees had the option of remaining under CSRS or joining FERS and Social Security. Employees hired as of January 1, 1987 are automatically covered by the FERS program. All employees are eligible to contribute to the Thrift Savings Plan (TSP). For those employees participating in the FERS, a TSP account is automatically established and FMC makes a mandatory one percent contribution to this account. In addition, FMC makes matching contributions, ranging from one to four percent, for FERS eligible employees who contribute to their TSP accounts. Matching contributions are not made to the TSP accounts established by CSRS employees. For FERS participants, FMC also remits the employer's share of the required contribution. FERS employees and certain CSRS reinstatement employees are eligible to participate in the Social Security program after retirement.

The FMC recognizes the imputed cost of pension and other retirement benefits during the employees' active years of service. OPM actuaries determine pension cost factors by calculating the value of pension benefits expected to be paid in the future and communicate these factors to FMC for current period expense reporting. OPM also provides information regarding the full cost of health and life insurance benefits. FMC recognized the off-setting revenue as imputed financing sources to the extent these expenses will be paid by OPM. The FMC does not report on its financial statements information pertaining to the retire-ment plans covering its employees. Reporting amounts such as plan assets, accumulated plan benefits, and related unfunded liabilities, if any, is the responsibility of the OPM.

P. Other Post-Employment Benefits

FMC employees eligible to participate in the Federal Employees Health Benefits Plan (FEHBP) and the Federal Employees Group Life Insurance Program (FEGLIP) may continue to participate in these programs after their retirement. The OPM has provided FMC with certain cost factors that estimate the true cost of providing the post-retirement benefit to current employees. FMC recognizes a current cost for these and Other Retirement Benefits (ORB) at the time the employee's services are rendered. The ORB expense is financed by OPM, and offset by FMC through the recognition of an imputed financing source.

Q. Use of Estimates

The preparation of the accompanying financial statements in accordance with generally accepted accounting principles requires management to make certain estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

R. Net Position

Net position is the residual difference between assets and liabilities and is comprised of unexpended appropriations and cumulative results of operations. Unexpended appropriations represent the amount of unobligated and unexpended budget authority. Unobligated balances are the amount of appropriations or other authority remaining after deducting the cumulative obligations from the amount available for obligation. The cumulative results of operations are the net result of the FMC's operations since inception.

S. Imputed Costs/Financing Sources

Federal government entities often receive goods and services from other Federal government entities without reimbursing the providing entity for all the related costs. In addition, Federal government entities also incur costs that are paid in total or in part by other entities. An imputed financing source is recognized by the receiving entity for costs that are paid by other entities. FMC recognized imputed costs and financing sources in fiscal years 2011 and 2010 to the extent directed by OMB.

T. Contingencies

The FMC recognizes contingent liabilities when a past event or exchange transaction has occurred, a future outflow or other sacrifice of resources is probable, and the future outflow or sacrifice of resources is measurable. Liabilities are deemed contingent when the existence or amount of the liability cannot be determined with certainty pending the outcome of future events. FMC recognizes contingent liabilities, in the accompanying balance sheet and statement of net cost, when it is both probable and can be reasonably estimated. FMC discloses contingent liabilities in the notes to the financial statements when the conditions for liability recognition are not met or when a loss from the outcome of future events is more than remote. In some cases, once losses are certain, payments may be made from the Judgment Fund maintained by the U.S. Treasury rather than from the amounts appropriated to FMC for agency operations. Payments from the Judgment Fund are recorded as an "Other Financing Source" when made.

U. Expired Accounts and Cancelled Authority

Unless otherwise specified by law, annual authority expires for incurring new obligations at the beginning of the subsequent fiscal year. The account in which the annual authority is placed is called the expired account. For five fiscal years, the expired account is available for expenditure to liquidate valid obligations incurred during the unexpired period. Adjustments are allowed to increase or decrease valid obligations incurred during the unexpired period but not previously reported. At the end of the fifth expired year, the expired account is cancelled.

NOTE 2. FUND BALANCE WITH TREASURY

Fund balance with Treasury account balances as of September 30, 2011 and 2010 were as follows:

	2011	2010
Fund Balances:		
Appropriated Funds	$ 3,792,671	$ 4,862,018
Total	$ 3,792,671	$ 4,862,018
Status of Fund Balance with Treasury:		
Unobligated Balance		
Available	$ 25,375	$ 10,273
Unavailable	1,220,529	1,293,654
Obligated Balance Not Yet Disbursed	2,546,767	3,558,091
Total	$ 3,792,671	$ 4,862,018

The available unobligated fund balances represent the current-period amount available for obligation or commitment. At the start of the next fiscal year, this amount will become part of the unavailable balance as described in the following paragraph.

The unavailable unobligated fund balances represent the amount of appropriations for which the period of availability for obligation has expired. These balances are available for upward adjustments of obligations incurred only during the period for which the appropriation was available for obligation or for paying claims attributable to the appropriations.

The obligated balance not yet disbursed includes accounts payable, accrued expenses, and undelivered orders that have reduced unexpended appropriations but have not yet decreased the cash balance on hand. (See also Undelivered Orders at the End of the Period, Note 14.)

NOTE 3. ACCOUNTS RECEIVABLE

Accounts receivable balances as of September 30, 2011 and 2010 were as follows:

	2011	2010
With the Public		
Contractor/Vendor Receivables	$ 979	$ 114
Total Accounts Receivable	$ 979	$ 114

The accounts receivable is primarily made up of custodial collections.

Historical experience has indicated that the majority of the receivables are collectible. There are no material uncollectible accounts as of September 30, 2011 and 2010.

NOTE 4. PROPERTY, EQUIPMENT, AND SOFTWARE

Schedule of Property, Equipment, and Software as of September 30, 2011:

Major Class	Acquisition Cost	Accumulated Amortization/ Depreciation	Net Book Value
Leasehold Improvements	$ 225,000	$ 112,500	$ 112,500
Furniture & Equipment	520,566	288,624	231,942
Software-in-Development	180,579	-	180,579
Total	$ 926,145	$ 401,124	$ 525,021

Schedule of Property, Equipment, and Software as of September 30, 2010:

Major Class	Acquisition Cost	Accumulated Amortization/ Depreciation	Net Book Value
Leasehold Improvements	$ 225,000	$ 67,500	$ 157,500
Furniture & Equipment	520,566	228,926	291,640
Software-in-Development	180,579	-	180,579
Total	$ 926,145	$ 296,426	$ 629,719

NOTE 5. OTHER ASSETS

Other asset account balances as of September 30, 2011 and 2010 were as follows:

	2011	2010
With the Public		
Advances and Prepayments	$ 300	$ 1,728
Total Public Other Assets	$ 300	$ 1,728

FMC has one travel-related advance remaining at fiscal year end.

NOTE 6. ACCOUNTS PAYABLE

Liabilities include both intragovernmental accounts payable and other accounts payable. Intragovernmental liabilities are owed to other Federal entities for rent, printing costs, services of other agencies and leasehold improvements. In FY10, intragovernmental accounts payable also includes liabilities incurred for a video conferencing system and a telephone system. For the years ending September 30, 2011 and 2010, intragovernmental accounts payable totals $146,636 and $687,333, respectively. Other accounts payable are owed to non-Federal sources or to the general public, and includes liabilities for general supplies, training, studies, analysis, and/or evaluations, miscellaneous services, and operation and maintenance of equipment. For the years ending September 30, 2011 and 2010, the non-Federal accounts payable totals $103,362 and $273,306, respectively.

NOTE 7. LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

The liabilities for FMC as of September 30, 2011 and 2010 include liabilities not covered by budgetary resources. Congressional action is needed before budgetary resources can be provided. Although future appropriations to fund these liabilities are likely and anticipated, it is not certain that appropriations will be enacted to fund these liabilities.

		2011		2010
Intragovernmental – FECA	$	1,956	$	1,741
Intragovernmental – Unemployment Insurance		870		-
Unfunded Leave		1,229,110		1,217,002
Actuarial FECA		5,910		11,821
Total Liabilities Not Covered by Budgetary Resources	$	1,237,846	$	1,230,564
Accounts Payable		249,998		960,639
Accrued Funded Payroll and Leave		951,116		1,051,210
Employer Contributions and Payroll Taxes Payable		213,544		204,092
Custodial Liability		979		114
Total Liabilities Covered by Budgetary Resources	$	1,415,637	$	2,216,055
Total Liabilities	$	2,653,483	$	3,446,619

FECA and the Unemployment Insurance liabilities represent the unfunded liability for actual workers compensation claims paid on FMC's behalf and payable to DOL. FMC also records an actuarial liability for future workers compensation claims based on the liability to benefits paid (LBP) ratio provided by DOL and multiplied by the average of benefits paid over three years.

Unfunded leave represents a liability for earned leave and is reduced when leave is taken. The balance in the accrued annual leave account is reviewed quarterly and adjusted as needed to accurately reflect the liability at current pay rates and leave balances. Accrued annual leave is paid from future funding sources and, accordingly, is reflected as a liability not covered by budgetary resources. Sick and other leave is expensed as taken.

NOTE 8. OPERATING LEASES

FMC occupies office space in seven locations, of which six of the lease agreements are required to be accounted for as operating leases. Lease payments are increased annually based on the adjustments for operating cost and real estate tax escalations. The lease locations and terms are listed below:

Location	Term	Lease Expiration Date
Washington DC	10 years	10/31/2012
Jamaica, NY	5 years	07/01/2013
Houston, TX	10 years	09/14/2018
Tacoma, WA	10 years	06/30/2019
Hollywood, FL	10 years	05/31/2020
San Pedro, CA	10 years	09/30/2021

The lease amounts vary from year to year depending on the specific lease. The schedule of future payments for the term of the leases is as follows:

Fiscal Year		Totals
2012	$	2,970,399
2013		347,931
2014		71,819
2015		73,070
2016		74,665
Thereafter		264,886
Total Future Payments	$	3,802,770

The operating lease amount does not include estimated payments for leases with annual renewal options. Real estate taxes included in the Washington, D.C. lease may escalate depending on the market during the year they are due.

NOTE 9. CONTINGENCIES

FMC recognizes contingent liabilities when a past event or exchange transaction has occurred, a future outflow or other sacrifice of resources is probable and the future outflow or sacrifice of resources is measurable. There is one legal action pending against FMC in which claims have been asserted that may be based on action taken by FMC. Management intends to vigorously contest all such claims. Management believes, based on information provided by legal counsel, that losses, if any, for the case would not have a material impact on the Financial Statements. No loss accrual has been made for the case outstanding at September 30, 2011.

NOTE 10. INTRAGOVERNMENTAL COSTS AND EXCHANGE REVENUE

Intragovernmental costs and exchange revenue represent goods and services exchange transactions made between two reporting entities within the Federal government, and are in contrast to those with non-Federal entities (the public). Intragovernmental costs include payments to other Federal agencies for personnel benefits ($4,662,227 in FY2011), rent ($3,319,260 in FY2011), utilities, and other services. Payments made to non-Federal entities (the public) are comprised primarily of employee salaries and benefits ($14,842,054 in FY2011) and other services. Such costs are summarized as follows:

	2011	2010
Operational and Administrative		
Intragovernmental Costs	$ 5,107,709	$ 6,782,806
Public Costs	12,366,889	11,148,850
Total Program Costs	17,474,598	17,931,656
Net Program Costs	17,474,598	17,931,656
Formal Proceedings		
Intragovernmental Costs	1,553,388	2,145,204
Public Costs	6,023,101	5,082,768
Total Program Costs	7,576,489	7,227,972
Less: Intragovernmental Earned Revenue	(39,856)	(118,744)
Net Program Costs	7,536,633	7,109,228
Office of Inspector General		
Intragovernmental Costs	129,943	185,426
Public Costs	591,166	493,644
Total Program Costs	721,109	679,070
Less: Intragovernmental Earned Revenue	(19,336)	(3,285)
Net Program Costs	701,773	675,785
Office of Equal Employment Opportunity		
Intragovernmental Costs	33,614	55,943
Public Costs	165,092	150,709
Total Program Costs	198,706	206,652
Net Program Costs	198,706	206,652
Total Intragovernmental Costs	6,824,654	9,169,379
Total Public Costs	19,146,248	16,875,971
Total Costs	25,970,902	26,045,350
Less: Total Intragovernmental Earned Revenue	(59,192)	(122,029)
Total Net Cost	$ 25,911,710	$ 25,923,321

NOTE 11. IMPUTED FINANCING SOURCES

FMC recognizes as imputed financing the costs of future benefits which include health benefits, life insurance, pension and post-retirement benefit expenses for current employees. The assets and liabilities associated with such benefits are the responsibility of the administering agency, OPM. For the years ended September 30, 2011 and 2010 imputed financing was as follows:

	2011	2010
Office of Personnel Management	$ 1,563,293	$ 1,575,518
Total Imputed Financing Sources	$ 1,563,293	$ 1,575,518

NOTE 12. BUDGETARY RESOURCE COMPARISONS TO THE BUDGET OF THE UNITED STATES GOVERNMENT

The President's Budget that will include FY11 actual budgetary execution information has not yet been published. The President's Budget is scheduled for publication in February 2012 and can be found at the OMB Web site: *http://www.whitehouse.gov/omb/*. The 2012 Budget of the United States Government, with the "Actual" column completed for 2010, has been reconciled to the Statement of Budgetary Resources and there were no material differences.

NOTE 13. APPORTIONMENT CATEGORIES OF OBLIGATIONS INCURRED

Obligations incurred and reported in the Statement of Budgetary Resources as of September 30, 2011 and 2010 consisted of the following:

	2011	2010
Direct Obligations, Category A	$ 24,128,553	$ 24,205,598
Reimbursable Obligations, Category A	59,192	122,029
Total Obligations Incurred	$ 24,187,745	$ 24,327,627

Category A apportionments distribute budgetary resources by fiscal quarters.

NOTE 14. UNDELIVERED ORDERS AT THE END OF THE PERIOD

Undelivered orders represent goods and services which have been ordered but not yet received at fiscal year end. Statement of Federal Financial Accounting Standards No. 7, Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting, states that the amount of budgetary resources obligated for undelivered orders at the end of the period should be disclosed. For the years ending September 30, 2011 and 2010, respectively, undelivered orders amounted to the following:

	2011		2010	
Undelivered Orders	$	1,132,410	$	1,343,878
Total Undelivered Orders	$	1,132,410	$	1,343,878

NOTE 15. CUSTODIAL ACTIVITY

FMC is an administrative agency collecting for the General Fund. As a collecting entity, FMC measures and reports cash collections and refunds as custodial activity on the Statement of Custodial Activity. Cash collections result primarily from FMC regulatory activities to include the assessment of fines and penalties and the payment of license application fees by ocean transportation intermediaries. A small portion of amounts collected is for interest on past due fines, petitions, status changes and special permission fees.

Custodial receipts are broken out in the following general receipt funds:

	2011		2010	
Fines and Penalties	$	2,097,500	$	1,041,250
License Fees		336,252		213,492
User Fees, Net of Refunds		(3,270)		(4,074)
Total Custodial Collections	$	2,430,482	$	1,250,668

NOTE 16. RECONCILIATION OF NET COST OF OPERATIONS TO BUDGET

FMC has reconciled its budgetary obligations and non-budgetary resources available to its net cost of operations.

	2011	2010
Resources Used to Finance Activities:		
Budgetary Resources Obligated		
Obligations Incurred	$ 24,187,745	$ 24,327,627
Spending Authority From Offsetting Collections and Recoveries	(162,777)	(704,635)
Obligations Net of Offsetting Collections and Recoveries	24,024,968	23,622,992
Offsetting Receipts	2,430,482	1,250,668
Net Obligations	26,455,450	24,873,660
Other Resources		
Imputed Financing From Costs Absorbed By Others	1,563,293	1,575,518
Net Other Resources Used to Finance Activities	1,563,293	1,575,518
Total Resources Used to Finance Activities	28,018,743	26,449,178
Resources Used to Finance Items Not Part of the Net Cost of Operations:		
Change In Budgetary Resources Obligated For Goods,		
Services and Benefits Ordered But Not Yet Provided	211,467	1,003,229
Resources That Fund Expenses Recognized In Prior Periods	1,086	759
Budgetary Offsetting Collections and Receipts That Do		
Not Affect Net Cost of Operations		
Other	(2,430,482)	(1,250,668)
Resources That Finance the Acquisition of Assets	-	(479,066)
Total Resources Used to Finance Items Not Part of Net Cost of Operations	(2,217,929)	(725,746)
Total Resources Used to Finance the Net Cost of Operations	25,800,814	25,723,432
Components of the Net Cost of Operations That Will Not Require or		
Generate Resources in the Current Period:		
Components Requiring or Generating Resources in Future Periods		
Increase In Annual Leave Liability	12,109	141,469
Other	(5,911)	6,572
Total Components of Net Cost of Operations That Will Require or		
Generate Resources In Future Periods	6,198	148,041
Components Not Requiring or Generating Resources		
Depreciation and Amortization	104,698	51,848
Total Components of Net Cost of Operations That Will Not Require or		
Generate Resources	104,698	51,848
Total Components of Net Cost of Operations That Will Not Require or		
Generate Resources In The Current Period	110,896	199,889
Net Cost of Operations	$ 25,911,710	$ 25,923,321

Chapter FOUR

Other Accompanying Information

FEDERAL MARITIME COMMISSION
800 North Capitol Street, N.W.
Washington, DC 20573

Office of Inspector General

October 31, 2011

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

FROM: Inspector General

SUBJECT: Inspector General's Statement on the Federal Maritime Commission's Management and Performance Challenges

On November 22, 2000, the President signed the Reports Consolidation Act of 2000 (Public Law 106-531), an amendment to the Chief Financial Officers (CFO) Act of 1990. The Reports Consolidation Act requires inspectors general to provide a summary and assessment of the most serious management and performance challenges facing Federal agencies and their progress in addressing these challenges. The attached document responds to the requirements and provides the annual statement on Commission challenges to be included in the Federal Maritime Commission's (FMC) Performance and Accountability Report (PAR) for Fiscal Year 2011.

This year, the Office of Inspector General (OIG) has identified four management and performance challenges for inclusion in the FMC's FY 2011 PAR. These assessments are based on information derived from a combination of sources, including OIG audit and inspection work, Commission reports, and a general knowledge of the Commission's programs.

The Reports Consolidation Act of 2000 permits agency comment on the inspector general's statements. Agency comments, if applicable, are to be included in the final version of the PAR that is due on November 15, 2011.

Adam R. Trzeciak

Attachment

Office of Inspector General

FY 2011 Management Challenges

The Management Challenge: Financial Issues

Develop a user fee system that reflects total costs of providing an activity, consistent with Generally Accepted Accounting Principles. (This challenge was discussed in the prior year Management Challenge report by the IG.)

Agency Progress in Addressing the Challenge: The Office of Management and Budget (OMB) requires agencies to charge a fee reflecting total costs for agency activities that convey special benefits to recipients beyond those accruing to the general public. These costs include, but are not limited to, an appropriate share of: (i) direct and indirect personnel costs, including salaries and fringe benefits, such as medical insurance and retirement; and (ii) physical overhead, consulting and other indirect costs including material and supply costs, utilities, insurance, travel and rents or imputed rents on land, buildings or equipment. Every two years, the FMC updated its user fees to reflect what it considered the true costs of providing various services, such as license application fees, service contract filing fees and Freedom of Information Act document requests. However, the last update occurred in 2005.

In 2007, the Office of Inspector General (OIG) initiated a review of various aspects of the agency's process to establish user fees. During the initial weeks of the audit, the OIG determined that the agency followed a process that incorrectly set its user fees for various services, resulting in user fees that understated the agency's costs to provide these services. The OIG reported the finding to management which then took steps to reexamine its calculations in light of our finding. We suspended further audit steps while the agency amended its fee-setting formulas. No changes were made to the agency's fee-setting processes.

In early FY 2010, a new chairman was appointed by the President who, shortly thereafter, made changes to the organizational structure of the agency. Based on fee computation discussions between the newly appointed managing director and the inspector general, the OIG's analysis was revisited and a final report issued. In its response to the audit, management agreed that a re-evaluation of existing user fees should be made, and according to management's response, initiated a process to determine the full cost of services for which the agency assesses user fees, in accordance with the OMB requirements and applicable Federal financial accounting standards. The agency set a goal of December 31, 2010 to issue a final rule.

The Challenge Ahead: Almost two years later, the agency has made some progress in addressing issues and concerns surrounding implementation of user fees consistent with OMB guidelines. As of March 2011, the agency informed the OIG that it was performing an analysis on the impact of likely fee increases on industries regulated by the FMC and subject to the fees in question. While this analysis is worthwhile, there is little to suggest that the agency considers fees a priority. The OIG continues to recommend that the FMC request an exemption from OMB, enabling it to maintain fees at or near current levels if it believes, for policy reasons, that setting fees to capture full costs would not be in the best interest of the public or the industry.

The OIG also believes that the agency should eliminate all fees charged to users where the total annual fee collection is less than $1,000. Currently the FMC collects user fees for 28 different services; eleven of these collections average less than $1,000 per year.

The Management Challenge: Information Technology

To replace labor-intensive, manual processes with automated processes to enable the agency to do more with less.

Agency Progress in Addressing the Challenge: While the agency has made some progress in automating its many processes, it continues to operate largely in a paper-based, manual process environment. For example, the FMC has automated the front end of the license process, enabling applicants to apply for a license over the internet. On the other hand, the agency still lags behind many other Federal entities in automating basic business processes. The FMC is one of the few Federal agencies that does not accept "pay.gov" or electronic transfer of payments by the public for services it provides. The OIG recommended in 2006 that the agency transition to an electronic payment option, but as of October 2011, the agency is still working with Treasury officials for assistance in implementing such a system. So while license applicants can apply on line, they still must send in a check to cover application fees.

In the last year, the agency entered into a contract with a vendor to implement systems to improve FMC processes and procedures with regard to electronic document and records management capacity and functional capabilities for the agency. Specifically, one objective of the contract was to modernize the agency's document, workflow and records management systems to manage its organizational processes and business units. However the contract was scrapped just a few months into the performance period due to a disagreement between the agency and the vendor over the scope of work. The agency has since hired another contractor who, working with FMC technical and program staff, will start by defining business processes for each FMC bureau and office, assess existing database structures and processes to see where the agency needs to improve – and importantly, identify costs so that the agency can prioritize these improvements.

The Challenge Ahead: Modernizing an agency that has been dependent on manual, paper-based processes is not an easy task. New technology provided to the shipping community has created escalating demands on staff resources and staff capacity to meet these demands needs to be effectively managed. Funding for these projects has to compete with mission-critical needs. Changing people's habits may be even more of an obstacle.

Business processes currently used by agency staff did not arise overnight and they will not be changed without management support, training and an infusion of new employees. Often functions are built into applications that no longer serve a business need and continue to exist because "it's always been that way."

Based on projected workforce losses through retirement, hiring staff with the right mix of skills and abilities for the future will likely bring new, technologically-based approaches to the Commission's business processes. But existing staff possess an abundance of information and institutional knowledge and its input is critical to any modernization project. Decisions to modernize should only be made after a comprehensive plan is in place, allowing managers to make incremental improvements (due to budget realities) while ensuring all decisions are based on a common blueprint.

The Management Challenge: IT Security

The FMC, like all government agencies, has increased its dependence on information systems and the interconnectivity with the public and other external organizations, both foreign and domestic. With the increased dependence comes an increase in the number and severity of threats that can have adverse impacts on operations, assets and individuals. Given the potential for harm that can arise from environmental disruptions, human errors and purposeful attacks by hostile entities and other threats, the agency must place greater emphasis on the management of risk associated with information systems as it attempts to carry out its mission and business processes. The cornerstone of any effort to manage organizational risk related to information systems is an effective information security program.

While Federal laws and regulations provide a comprehensive structure for establishing an information security program, it is incumbent upon individual organizations to implement these directives in a manner that provides adequate security for protecting information and information systems. As threats continue to evolve in an environment where organizations have finite resources with which to protect themselves, security must become a risk-based activity where the operational and economic costs of guarding against potential threats are balanced against other short and long term requirements of the agency. Given limited resources, risk management is fundamental to an information security program.

Consideration must be given to how a range of diverse threats can expose existing vulnerabilities and cause harm to the organization. In the management of risk, organizations often have very little control over the threat side of the equation. This reality was driven home at the FMC this past summer when a massive power outage disabled all FMC-housed information systems, including email and other mission-critical applications.

Agency Progress in Addressing the Challenge: In the past four years, the FMC has taken concrete steps to protect the agency's systems – the most important being the accreditation of its Network and SERVCON applications - and has made progress in mitigating weaknesses which led to prior years' significant deficiencies concerning IT risk and recovery planning. The agency now has documented policies and procedures for many of its IT processes, and its annual security training program has been revamped to include protection of personally-identifiable information (PII) and other privacy-related issues. The agency installed scan software, enabling security staff to scan the FMC network for harmful activities and vulnerabilities. Just recently, the agency developed, for the first time in years, a system inventory.

Although progress has been noted, there are other areas where improvement is possible. Annual security training is beginning to show signs of noncompliance. Eight staff (6 percent) did not attend training this year. Patch software installed by the agency is not being used to identify needed patches. The OIG identified 3,400 critical and important patches that should have been assessed to determine whether they could safely be installed on the network. Audit logs are not being reviewed. These logs would identify adverse actions against the agency's network in time to take necessary evasive actions. The agency's contingency plan is still a draft and has not been tested. When the agency lost power in the summer of 2011, internal FMC systems, to include email and SERVCON, did not work. Access rights to agency systems are not reviewed. We identified access rights granted to external users who have not logged on in years (yet still maintain their rights to FMC systems).

The Challenge Ahead: IT threats are changing daily. Vulnerabilities arise overnight. Attacks are made on the IT resources of government organizations hourly, many by "thrill seekers" with little or no need or desire for data. Other attacks are more subtle – individuals with the means and knowledge from inside the agency can access data without authorization. Systems are compromised and data is often lost or destroyed in such cases. Fortunately the FMC has not fallen victim to "hackers." However, the agency must not become complacent.

The challenge for IT managers is, in many respects, unlike those faced in other areas of the agency. As we are asked to do more with less, many are turning to IT to streamline processes and replace manual tasks. This places great pressure to use scarce IT resources wisely to meet the needs of the agency. IT managers must work with program managers to understand their needs before developing systems at great expense. There has to be an overall plan to ensure systems that need to be are connected and "talk to each other." As importantly, security needs to be considered in the design of these systems, not layered on when the systems are being implemented.

The Management Challenge: Human Capital

To replace the increasing number of agency employees who are, or will, in the next few years, be eligible to retire; using the right combination of staff recruiting, training and retention tools to ensure that the agency workforce has the optimum skills to perform its duties.

Agency Progress in Meeting the Challenge: The FMC is a small agency that has established considerable in-house expertise in the legal, economic and organizational aspects of international liner shipping and the intermodal movement of ocean cargo. To continue to accomplish its goals, the Commission will need to maintain its relevant expertise through the recruitment, training and retention of highly qualified attorneys, economists, industry specialists, and information technology experts. The importance of focusing on recruitment and retention issues is critical considering that over fifty percent of the agency's workforce will be eligible for retirement in the next five years. In addition, all but two of FMC senior managers are eligible to retire in the next two years. The high levels of attrition due to these projected retirements and the related loss of institutional knowledge could severely impact the agency's ability to accomplish its mission.

To ensure that the agency's workforce successfully accomplishes its mission objectives, it has employed, or plans to employ, a multifaceted approach to address workforce issues. One approach has been on training and developing employees. While there is general training that can be provided to employees, much of the knowledge employees must have to do their work can only be obtained on the job or by designing specialized, in-house training courses. One training and development option under consideration is a consolidated approach including the use of individual development plans to assess employees' career goals, Commission needs, and training and developmental activities and options to support these goals and needs. An alternative used to temporarily infuse skills to address specific short-term projects or initiatives is the excepted service appointment of experts or consultants.

Part of a successful results-oriented performance culture is a performance management system that supports the needs of the agency. A high-performance climate can help attract and retain top performers. With this in mind, the agency revamped its performance appraisal systems to better tie employee performance to the agency's strategic goals and objectives. First line supervisors now have the tools and training to manage performance and deal with less than successful performance.

The Challenge Ahead: Moving forward, the increasing rate of change is more prevalent than in the past, influencing performance both organizationally and individually. Should a significant portion of experienced employees opt for retirement, the resulting skill gaps and loss of institutional knowledge in responding to differing circumstances could affect the FMC's ability to realize its mission and goals. Further, the FMC has very high retirement eligibility rates in its core of senior management. A robust succession plan with leadership succession as a focus will be a useful tool to address this challenge.

The FMC must ensure that training dollars are specifically focused on training that addresses mission critical skills and competencies and that training programs are aligned with agency strategic goals and performance objectives. A consolidated approach to training and development should be implemented, including on-the-job training; self development; coursework (including tuition reimbursement) and special assignments.

Chapter Four OTHER ACCOMPANYING INFORMATION

Comments on IG-Identified Management and Performance Challenges

The Inspector General identifies four management and performance challenges facing the FMC, as outlined below:

I *Financial Issues*

The Commission continues to work towards updating its user fees to reflect costs not only in accordance with Generally Accepted Accounting Principles, but also in accord with Federal Cost Accounting Standards. In that regard, proposed updates to user fees have been drafted based on a study of business processes and costs.

Changing the Commission's fees will require a rulemaking proceeding. Although proposed fee increases are largely nominal, in this time of economic uncertainty, the Commission wants to carefully consider the potential impact of increased fees on small businesses.

II *Information Technology*

Over the past year, the Commission has made significant progress in revamping its approach to information technology, with a significant focus on upgrading existing systems and establishing a framework for moving forward to automate Commission processes where feasible. The lifecycle cost of such technological improvements, however, especially an enterprise system, can be significant. The complex and ever changing characteristics of IT also demands significant investment to maintain appropriate staff skills.

At the beginning of FY 2012, the Commission entered into a new effort to assess and upgrade the agency's IT infrastructure. Following the initial assessment, we anticipate beginning the process of updating the Commission's systems. This will include the activation of Pay.gov. Preliminary efforts have been underway and recently IT staff met with Pay.gov representatives to obtain the technical documentation necessary to determine how to integrate the Pay.gov functionality with existing applications.

The Commission must balance the costs of maintaining and developing IT applications with the Commission's appropriations and the attainment of the Commission's mission. IT solutions must facilitate the achievement of the Commission's mission. As resources allow, we are proceeding with all deliberate speed to implement IT solutions without sacrificing our mission.

III *IT Security*

Management agrees that IT security is a critical element in IT planning and implementation, and that sound risk management principles are necessary to determine the degree of investment in IT security. Accordingly, the Commission has been and will continue to take sound steps to improve its information security.

With respect to the specific points raised in the IG's challenges, several comments are in order. All staff members have now completed the annual IT security awareness training. Although 3400 patches seems like a large number, it is not quite indicative of the actual circumstances. IT staff used installed software to identify the necessary patches, but at the time of the IG's statement had not scheduled their installation. Because of the number of work stations affected, one update could result in 600 to 1,200 patches. It would not be unusual to receive 5 to 10 updates at any given time. At this time, approximately 400 patches remain to be installed.

The Commission is continuing its efforts to implement additional security measures, as well as exploring cost effective alternatives for addressing the agency's needs in disaster recovery.

IV *Human Capital*

This is the most critical challenge facing the Commission over the next few years. A significant number of the Commission's workforce is currently eligible for retirement, and that number of retirement eligible employees will continue to grow over the next few years. We anticipate losing significant knowledge and skills through staff retirements.

The FMC's Human Capital and Workforce Plans include strategies to recruit and retain a highly qualified and diverse workforce. The Human Capital Plan includes improved marketing of the FMC; streamlining of the application process in alignment with Hiring Reform; targeting recruitment pools and areas of consideration to increase the diversity of applicants; and the potential use of recruitment and retention incentives. The Workforce Plan incorporates workforce diversity and succession planning strategies and goals. In order to meet mission objectives, the FMC is actively working to define and plan for the workforce of the future, consistent with the current Administration's programs and reform initiatives.

Serious workforce succession problems are anticipated in the near future due to the potential loss of retirement eligible individuals from the workforce. To address loss of critical leadership and technical skills, the FMC is utilizing strategic workforce planning as a tool to assess whether organizational elements have adequate staff and employees' skills align to critical job requirements. The Commission recently launched an SES Candidate Development Program class in anticipation of the loss of individuals in senior leadership positions. This 18-month program will result in increased bench strength to facilitate continuity of leadership. With regard to recruitment for technical skills, FMC management officials participated in various data collection processes to provide information identifying mission priorities, current workforce skills, mission critical occupations and skills needed to support mission accomplishment, mission and workforce trends, recruitment strategies, and communication issues. The resulting workforce and succession plans help define and shape FMC's overall present and future recruitment strategies.

It is easy to speak of a robust succession plan and training programs, but it is a much more difficult undertaking to implement such plans in the current budgetary environment. There has been no growth in the Commission's budget and, due to lack of funding, the Commission has been limited in its ability to hire new personnel to undergo training and development for the anticipated loss of knowledge. Accordingly, the Commission plans to implement leadership and knowledge management to identify agency leadership competencies so that continuity of leadership is ensured, knowledge is shared across the organization, and an environment of continuous learning is present. The Commission aims for effective management, continuity of leadership, improved accountability, and a learning environment that drives continuous improvement in performance.

Chapter Four OTHER ACCOMPANYING INFORMATION

Improper Payments Information Act

Narrative Summary of Implementation Efforts for FY 2011

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 low-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 would be offset by NFC. In FY 2011, the FMC had no overpayments. The FMC did not identify any improper collections through Intergovernmental Payments and Collections (IPAC) collections.

II. The FMC did not use a statistical sample to conduct its improper payment rate. The sample contains 100 percent of all disbursements made by the FMC. This was the case for all programs.

III. The FMC will continue to monitor all payments to maintain a zero dollar improper payment figure. To this end, the FMC will ensure that there is sufficient segregation of duties pertaining to payments concomitantly with closer scrutiny of all IPAC collections made against the Commission. 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 2011 with percentage forecasts through FY 2014.

Improper Payments Information Act Reduction Outlook FY 2011 - 2014 (millions)						
Program	**FY 11 Outlays**	**FY11 IP %**	**FY11 IP $**	**FY12 %**	**FY13 %**	**FY14 %**
Formal Proceedings	$0.00	0.00	$0.00	0.00	0.00	0.00
Inspector General	$0.00	0.00	$0.00	0.00	0.00	0.00
Equal Employment Opportunity	$0.00	0.00	$0.00	0.00	0.00	0.00
Operations and Administrative	$0.00	0.00	$0.00	0.00	0.00	0.00
Totals	**$0.00**	**0.00**	**$0.00**	**0.00**	**0.00**	**0.00**

V. The FMC has in place a segregation of duties to ensure that all invoices processed for payment are legitimate expenses of the agency. As of October 1, 2006, original accounts payable invoices have been received by BPD and forwarded to OBF via electronic media for internal processing and payment authorization. When an invoice is received, it is first verified as a valid invoice belonging to the agency. OBF matches the invoice to documentation provided by the COTR indicating that goods/services have been received by the Commission and approves the invoice for payment. BPD is advised of the purchase order the invoice is being paid against and the payment amount. OBF also ensures that sufficient funds have been obligated to make the payment and provides BPD with the period of performance. Once the payment authorization has been processed by OBF, the payment information is verified by a second staff member of OBF. At that point, the invoice is electronically returned to 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 and a third OBF staff member audits the payment information posted in the financial system.

The receipt of an invalid IPAC collection must be processed as a payment, as the funds have already been moved from the Treasury General Fund as a disbursement against the FMC's Agency Location Code (ALC). Invalid IPACs are then charged back to the billing agency to reverse the transaction. The internal controls in place remain unchanged, with close scrutiny of all invoices and subsequent payments.

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 is responsible for designating a Chief Financial Officer and has delegated financial responsibility to the Director, OBF. The Director of OBF 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 to pay the agency's expenses. The OBF is responsible for reducing and recovering improper payments, and keeps senior agency officials apprised 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 FY 2011, 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.

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

VIII. 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 reverse the collection at a later date. The ability to challenge the collection would reduce the number of improper collections made against the agency.

Summary of Financial Statement Audit

Summary of Financial Statement Audit					
Audit opinion	Unqualified				
Restatement	No				
Material Weakness	Beginning Balance	New	Resolved	Consolidated	Ending Balance
None	0	0	0	0	0