Federal Maritime Commission

Performance and Accountability Report

Fiscal Year 2012

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 2012 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

at (202) 523-5800

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About this Report

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.gpo.gov/fdsys/pkg/PLAW-106publ531/html/PLAW-106publ531.htm

- 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

There are four chapters in this report. The first, *Management's Discussion and Analysis* (MD&A), provides an overview of financial results, a high-level discussion of program performance, management assurances on internal control and financial management systems compliance; and other management information, initiatives, and issues. The second chapter, *Program Performance Information*, provides data on the agency's progress toward meeting its strategic goals and targets during fiscal year 2012. The third, *Financial Information*, provides financial details including a message from the Chief Financial Officer, the independent auditor's report, and the audited financial statements. The fourth chapter, *Other Accompanying Information*, includes a statement prepared by the IG summarizing what the Office of the Inspector General considers to be the most serious management and performance challenges facing the Agency; a report on improper payments, and a table summarizing the financial statement audit.

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A MESSAGE FROM THE CHAIRMAN

I am pleased to submit this Performance and Accountability Report for Fiscal Year 2012. It is the role of the Federal Maritime Commission, through its regulatory authority, to assist all segments of our waterborne commerce, especially U.S. importers and exporters, in regaining their vitality and creating jobs as the economy rebounds. 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 2012, 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.

As reflected in our Strategic Plan for 2010-2015, the FMC has a twofold strategic focus, 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 is especially important 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.

As the economy's growth slowed in fiscal year 2012, so too did the demand for ocean transportation. However, capacity adjustments implemented by carriers did not cause the vessel capacity shortages experienced in fiscal year 2010. For much of the fiscal year, shippers were able to ship their goods at much lower cost than in 2011. Meanwhile, liner vessel operators reported sharply lower earnings, resulting from lower rates across the board, In the latter part of fiscal year 2012, however, carriers began implementing a series of general rate increases that generated increased revenue.

Looming over the industry at the end of fiscal year 2012 was the possibility of a strike by U.S. east coast dockworkers. That possibility led most carriers to publish significant congestion surcharges. As the fiscal year came to a close, the parties agreed to renew talks to avoid a strike, and extended the existing contract through December 31, 2012.

Fiscal year 2012 was an active year at the Commission, as we continued facilitating U.S. exporters' access to foreign markets via ocean transportation, supporting the economic recovery, protecting American consumers, encouraging a sustainable ocean transportation industry, enhancing safety and security, and monitoring foreign practices to protect American jobs. Of significant note, the Commission's Bureau of Trade Analysis issued its *Study of the 2008 Repeal of the Liner Conference*

Exemption from European Union Competition Law. The study collected and analyzed data on the impact of the October 2008 European Union repeal of its block competition law exemption for liner conferences. Data analyzed included information regarding changes in carrier market structures, competition, services, vessel capacity, rates, and surcharges.

During fiscal year 2012, exported goods continued to grow, on pace to exceed the National Export Initiative's goal of doubling U.S. exports by 2015. While vessel capacity and container availability met demand, the Commission continued to utilize Rapid Response Teams to provide prompt solutions for commercial disputes between carriers and their customers.

The Commission assisted the U.S. Department of Agriculture's Agricultural Marketing Service (AMS) with its exporters' project to give more transparency and visibility to the chronic problem of locating empty containers for exports. AMS' Ocean Shipping Container Availability Report is published weekly and shows container availability at 18 U.S. port and inland locations, using data provided by nine leading ocean carriers. The report assists U.S. exporters in determining container availability each week, and contains projections two weeks in the future.

We have seen environmental issues become increasingly central to the agreements and shipping practices we monitor. The Commission's Marine Environmental Committee reviews filings at the agency for best environmental practices which can be put forward as models for adoption by other ports and companies. We have created a webpage to serve as an environmental issues clearinghouse for information on maritime environmental issues, news, resources, laws and regulations, and best practices.

As a result of requests from two U.S. senators and several members of the House of Representatives, the Commission conducted a study of the impacts and the extent to which the Harbor Maintenance Tax (HMT), other U.S. policies, and other factors may incentivize inbound container cargo to shift from U.S. seaports to competing ports located in Canada and Mexico. Accordingly, the Commission published an inquiry soliciting public views and information concerning the factors that may cause or contribute to such a shift in cargo. The Commission's report was issued in the fourth quarter of fiscal year 2012.

We have upgraded our website to provide improved public information, including better assistance to customers shopping for international shipping options; entered into a formal Memorandum of Understanding with the Federal Motor Carrier Safety Administration (FMCSA) to conduct joint investigative operations against international and interstate movers with a history of chronic complaints and violations and to engage Commission *ombuds* support in resolving problems for consumers; developed relationships for enhanced cooperation with trade associations representing household goods movers; developed information for ocean transportation intermediaries to distribute to consumers moving household goods; targeted outreach to local communities, particularly certain ethnic communities that regularly ship household goods overseas; and encouraged household goods movers to link their websites to the FMC's website for consumer information.

In furtherance of the Commission's policy to largely rely on the marketplace, we continued to place greater emphasis on timely and cost effective dispute resolution. The Commission's Office of Consumer Affairs and Dispute Resolution Services (CADRS) provided alternative dispute resolution in a growing number of increasingly complex matters, facilitating the continued flow of ocean commerce.

Area Representatives complement the activities of CADRS by providing information and resolving disputes where practical within their areas. Area Representatives also continued their efforts to investigate and prevent practices that are unfair and deceptive, working closely with the legal staff of the Commission's Bureau of Enforcement. Targeted violations focused on misdescription of cargo shipments that not only act as a deceptive practice to obtain lower transportation prices, but also may pose a serious safety and security risk by preventing vessel operators and port officials from knowing whether dangerous goods are being transported on vessels into the United States. During fiscal year 2012, the Bureau of Enforcement settled 18 enforcement cases by collecting $820,000 in penalties for such violations.

The Commission also was vigorous in carrying out its charge to monitor and prevent practices by foreign governments or entities that adversely affect American commerce. I hosted a visit from the Shanghai Shipping Exchange (SSE) to jointly discuss regulatory issues of China and the U.S. and create a climate of cooperation to overcome any barriers to international trade with China. We continue to follow developments in China closely to ensure that no unreasonable conditions exist that would impair U.S. commerce.

This Report covers our efforts during this fiscal year to foster an equitable, secure, and market-driven ocean transportation industry. Fiscal year 2012 was the fourth year in which we undertook quantitative measurement of performance goals, employing measures and targets. The Commission's actual performance is compared with the targeted levels of performance established in the agency's Strategic Plan for Fiscal Years 2010-2015. During the year, we focused on eight performance goals, while continuing our various ongoing day-to-day activities.

The fiscal year 2012 independent financial audit resulted in our ninth consecutive unqualified opinion. No material weaknesses were identified, nor were any significant deficiencies or instances of non-compliance with laws and regulations. In the Management Assurances section (see page 20), I provide my assurance 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.

I look forward to continuing to work with our dedicated staff, my 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.
Chairman

November 15, 2012

FEDERAL MARITIME COMMISSION

Chapter One

MANAGEMENT'S DISCUSSION and ANALYSIS

Fiscal Year 2012

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) 2012, 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 August 3, 2012), and covers the Commission's activities from October 1, 2011 through September 30, 2012.

Chapter One provides an overview of the Commission. 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.

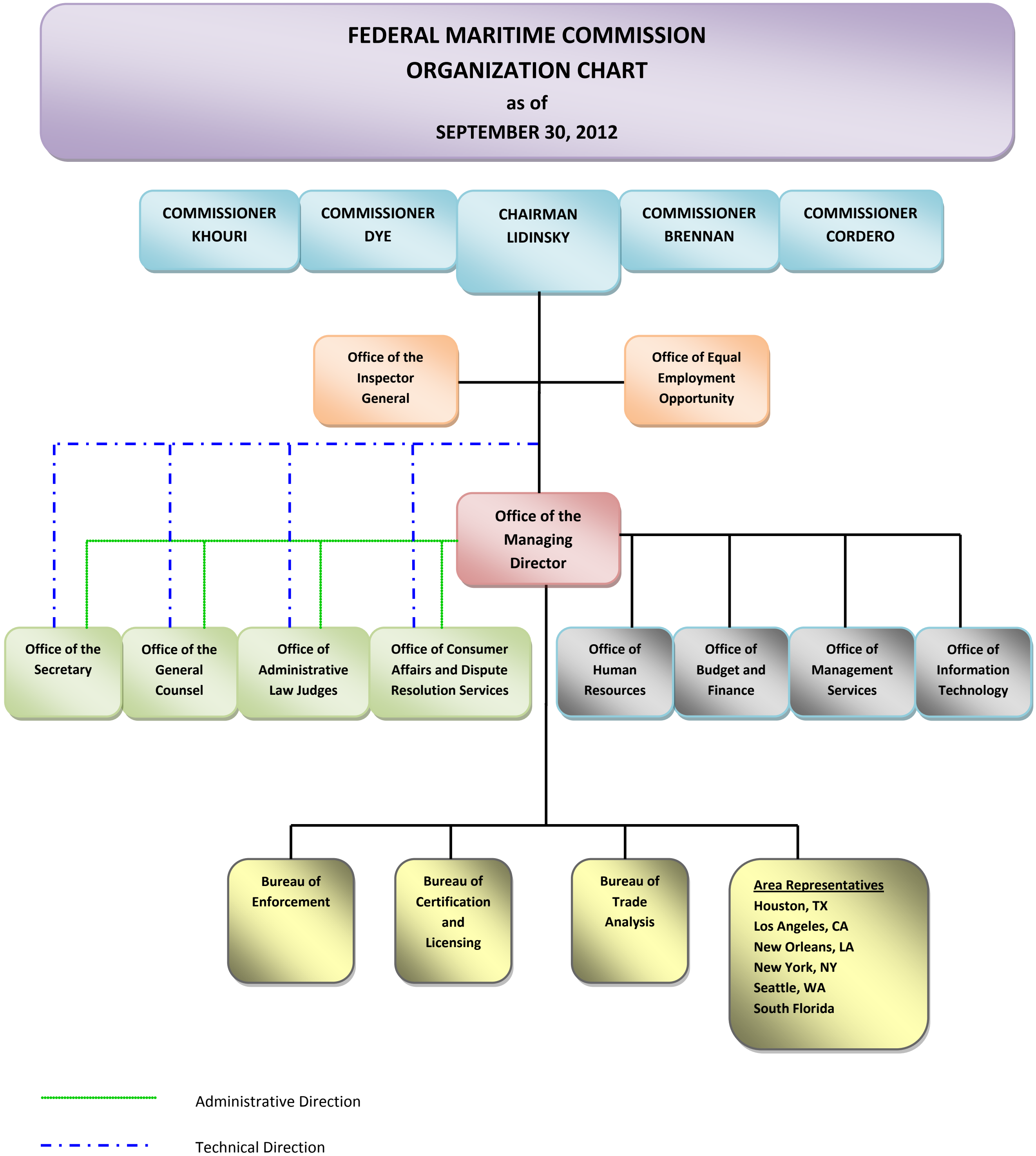
About the FMC

The Federal Maritime Commission (FMC, agency or Commission) is an independent agency which regulates oceanborne transportation in the foreign commerce of the United States. The Commission administers the Shipping Act of 1984 (1984 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). The Commission monitors the activities of ocean common carriers, marine terminal operators (MTOs), ports and ocean transportation intermediaries (OTIs) (non-vessel-operating common carriers and ocean freight forwarders) who operate in the U.S. foreign commerce to ensure that 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; reviews competitive activities of common carrier alliances and other agreements among common carriers and/or terminal operators; 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 FMC also issues licenses to qualified OTIs in the U.S., ensures that all OTIs are bonded or maintain other evidence of financial responsibility, and, pursuant to 46 U.S.C. §§ 44102 and 44103, ensures that passenger vessel operators (PVO) demonstrate adequate financial responsibility to indemnify passengers in the event of nonperformance of voyages or passenger injury or death.

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 Commission 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; Offices of the General Counsel (OGC); Secretary (OS); Consumer Affairs and Dispute Resolution Services (CADRS); Administrative Law Judges (OALJ); Equal Employment Opportunity (EEO); Inspector General (OIG); the Managing Director (OMD), Budget and Finance (OBF), Human Resources (OHR), Information Technology (OIT), and Management Services (OMS), the Bureaus of Certification and Licensing (BCL), Enforcement (BOE), and Trade Analysis (BTA); and Area Representatives (ARs). The majority of FMC personnel are located in Washington, D.C., with ARs stationed in New York, New Orleans, Los Angeles, Seattle, Houston and South Florida.


FEDERAL MARITIME COMMISSION
ORGANIZATION CHART
as of
SEPTEMBER 30, 2012
COMMISSIONER KHOURI
COMMISSIONER DYE
CHAIRMAN LIDINSKY
COMMISSIONER BRENNAN
COMMISSIONER CORDERO
Office of the Inspector General
Office of Equal Employment Opportunity
Office of the Managing Director
Office of the Secretary
Office of the General Counsel
Office of Administrative Law Judges
Office of Consumer Affairs and Dispute Resolution Services
Office of Human Resources
Office of Budget and Finance
Office of Management Services
Office of Information Technology
Bureau of Enforcement
Bureau of Certification and Licensing
Bureau of Trade Analysis
Area Representatives
Houston, TX
Los Angeles, CA
New Orleans, LA
New York, NY
Seattle, WA
South Florida
Administrative Direction
Technical Direction

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 6,500 regulated persons (passenger vessel operators, vessel-operating common carriers, marine terminal operators, conferences, OTIs, etc.).

Future Challenges

In the coming fiscal years, the Commission's policy and funding priorities will continue to center on fostering a viable and vibrant liner shipping environment critical to the nation's international trade and economic growth. We will emphasize the recently established Ready Response Teams and the Commission's role as an honest broker to resolve issues faced by exporters and importers alike. We will use myriad tools in order to protect the shipping public, stressing voluntary dispute resolution techniques to resolve issues quickly with minimal cost, but vigorously enforcing the Commission's governing statutes and regulations when necessary. In the current climate of budgetary constraints, the Commission is mindful of the importance of investing in information technology that can improve efficiency and provide greater public access, while reducing costs over time.

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 respond to those conditions. We have initiated a review of Commission regulations to ascertain their continued need and relevance to changing market conditions while also responding to public requests for review of regulations on issues such as tariff publication and agreements.

Evolving business models requiring Commission attention in the coming years are likely to include the increased use of MTO discussion agreements and OTI freight networks, and their impact on the shipping public. In protecting the public from harm, we will use an integrated approach, stressing industry compliance with licensing and other requirements, providing a variety of services for quick, fair resolution of disputes, and, where necessary, vigorously enforcing the Commission's governing statutes and regulations. The use of technology and dissemination of public information is of major importance; web-based and social media-based accessibility to Commission services and information will increasingly facilitate public interaction, while adding greater efficiencies to internal business processes. Overall emphasis will be placed on facilitating the commercial flow of exports and imports, and the FMC will continue to provide services and outreach to the shipping public to assist in the implementation of industry practices that can improve the ocean transportation system. These actions and more will provide the means for the FMC to accomplish its stated mission to foster a fair, efficient, and reliable international ocean transportation system and to protect the public from unfair and deceptive practices.

The accomplishment of the Commission's strategic goals is critical to the President's goals to encourage economic growth, invest in the future, and responsibly govern the nation. 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.

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.

Overall, 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. The Commission is especially concerned that the ocean transportation system fully supports the President's National Export Initiative.

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 2012 Program Performance Report is contained in *Chapter 2, Program Performance*. In FY 2012, 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 2012 was the fourth year in which the FMC undertook to quantify and measure performance goals. The Commission's actual performance in FY 2012 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 2010 and 2011 goals enabled us to set more realistic targets for fiscal year 2012 in the revised strategic plan.

Historical Performance of Strategic Goals and Objectives					
Strategic Goal	**Objective**	**Performance Measures**	**2010**	**2011**	**2012**
Goal 1. Maintain an Efficient and Competitive International Ocean Transportation System	**1.** Identify and take action to address substantially anti-competitive conduct or unfavorable conditions in U.S. trades.	Percentage share of total U.S. international ocean-borne trade moved by containership, as an indicator of liner shipping efficiency.	**TARGET**		
			18%	18.5%	19%
			ACTUAL		
			17.4%	17.9%	18.7%
Goal 2. Protect the public from unlawful, unfair and deceptive ocean transportation practices and resolve shipping disputes.	**1.** Identify and take action to end unlawful, unfair and deceptive practices.	Percentage of enforcement actions taken under the 1984 Act successfully resolved through favorable judgment, settlement, issuance of default judgment, or compliance letter or notice.	**TARGET**		
			70%	72%	74%
			ACTUAL		
			72.9%	82%	88%
	2. Prevent public harm through licensing and financial responsibility requirements.	Percentage of decisions on completed OTI license applica-tions rendered within 60 calendar days of receipt, facili-tating lawful operation of OTIs with the appropriate character and experience requirements.	**TARGET**		
			55%	60%	70%
			ACTUAL		
			65%	77%	90.2%
		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.	**TARGET**		
			90%	91%	92%
			ACTUAL		
			90%	91%	100%
	3. Enhance public awareness of agency resources, remedies and regulatory require-ments through educa-tion and outreach.*	Percentage of key Commission issuances, orders and reports are available through the Commission's website within 5 working days of receipt.	**TARGET**		
			70%	72%	74%
			ACTUAL		
			77.1%	72%	79%
	4. Impartially resolve international shipping disputes through ADR and adjudication.	Number of cases opened and closed each fiscal year using *ombuds* and ADR services assisting consumers to recover goods or funds.	**TARGET**		
			550	625	700
			ACTUAL		
			556	631	893**
		Percentage of formal complaints or Commission initiated orders of investigation completed within 2 years of filing or Commission initiation.	**TARGET**		
			50%	52%	54%
			ACTUAL		
			56%	60%	73%

* This measure was revised for FY 2011-2015. In FY 2010, the measure was: Percentage of decisions on completed OTI license applications rendered within 90 business days, facilitating lawful operation of OTIs with the appropriate character and experience requirements. The target for FY 2010 was 55%.

** The FY 2012 actual number of cases includes cases resolved by the Commission's Area Representatives. This is a new adjustment for this fiscal year.

Chapter One MANAGEMENT'S DISCUSSION and ANALYSIS

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 has continued to refine that plan, focusing on workforce and succession planning during FY 2012.

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.

In the last few years, 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 very 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. An SES Candidate Development Program class was launched late in FY 2010 in anticipation of the loss of individuals in senior leadership positions. The program was completed in FY 2012, and has resulted 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 2012 Federal Activities Inventory Reform Act (FAIR Act) Inventory to OMB in June 2012. The Inventory identified 73 of the agency's 132 FTEs as commercial activity FTEs. No challenges to its commercial inventories have ever been received.

Improved Financial Performance - For the ninth straight year, the FMC received an unqualified opinion on its financial statements in FY 2012. 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 2012, a large scale scanning project was completed and now the entire body of historical Commission decisions is 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 FY 2012, the Commission's website was redesigned. The new graphic design and layout significantly improved content organization to render a more citizen-centered website, enhanced navigation, adding more social networking/communications capabilities, and further improving search engine optimization to improve public visibility of the Commission's website and services. The redesign followed a process of gathering valuable input from representatives of the shipping industry, intermediaries, the public, and the media, in an effort to improve the quality, clarity, and accessibility of information that the Commission provides to the shipping public. This upgrade supports the goals of the agency's Plain Writing Act of 2010 Plan and President Obama's directive that government should be transparent, participatory, and collaborative.

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

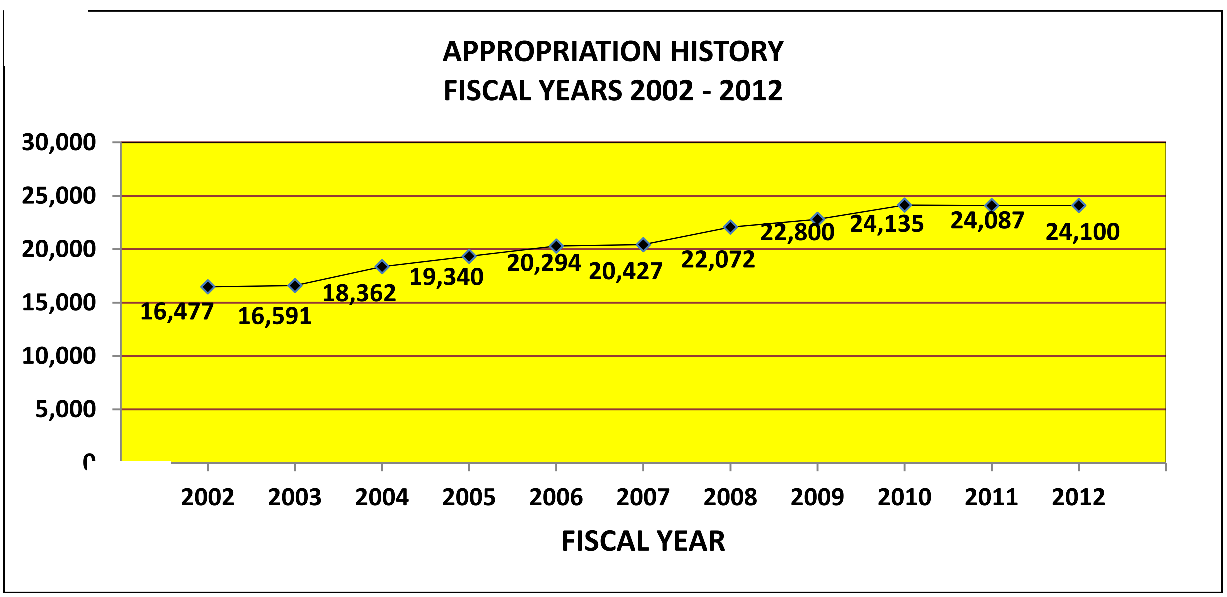
The FMC's financial condition as of September 30, 2012 is sound, and the Commission has sufficient internal controls in place to ensure its budget authority is not exceeded and that funds are utilized efficiently and effectively. The FMC's accounting services provider, the Bureau of the Public Debt (BPD), 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 Generally Accepted Accounting Principles (GAAP) recognized 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 2012 was $24,100,000, an increase of $13,270 above the FY 2011 funding level. Additionally, the Commission had reimbursable budget authority of $54,660 for work performed by FMC staff for other government entities.

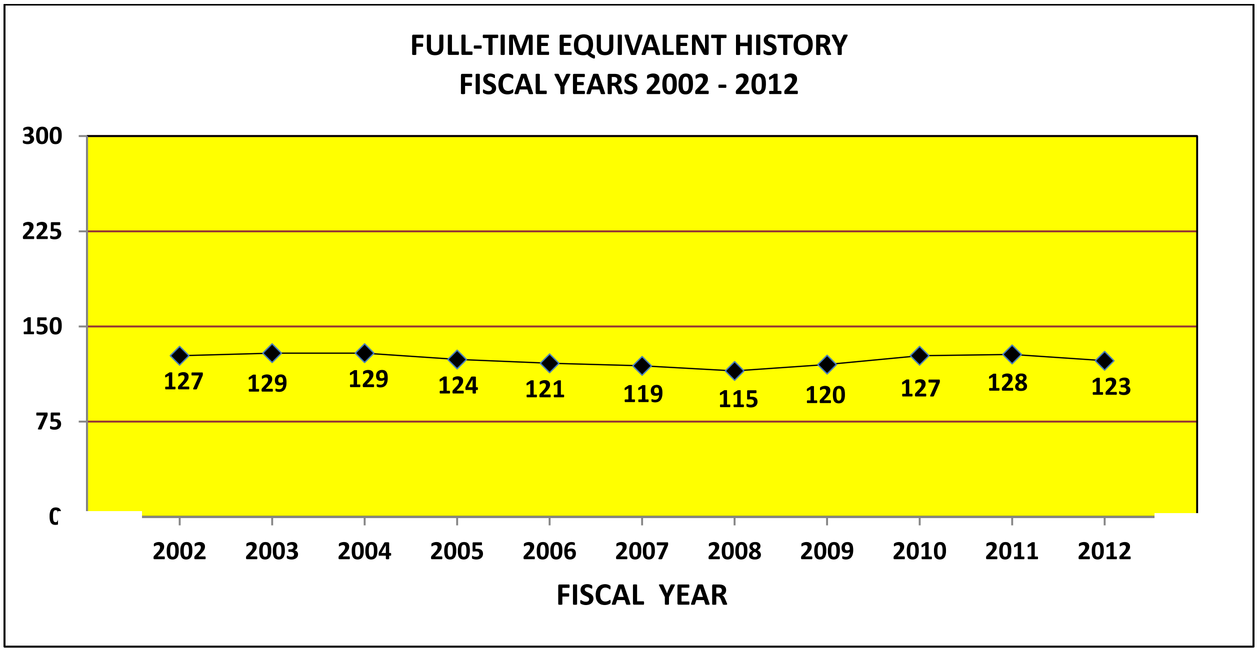
Although the FMC collects remittances for user fees and penalties, the agency is not authorized to offset any of its budget authority by utilizing these funds. The collections are deposited directly into the Treasury General Fund, and captured in the Statement of Custodial Activity which can be found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

Appropriation History



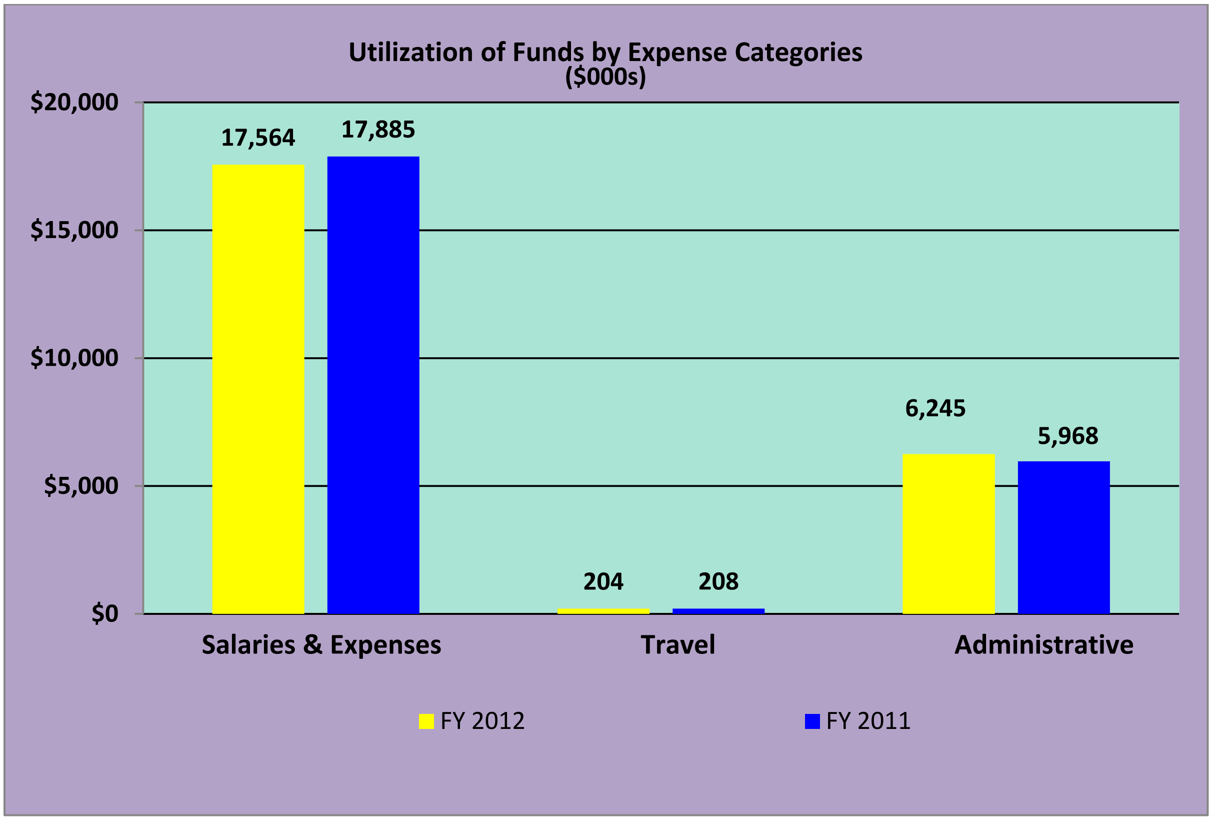
Full-time Equivalent History

The FMC's Full-time Equivalent (FTE) level is largely driven by our annual appropriation level; however, some years unanticipated vacancies in such offices as 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 2002 through 2004. This was followed by annual declines through 2008, with increases in 2009 through 2011. In 2012, the Commission's FTE level dropped to 123. 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 2012 appropriations for the FMC in the amount of $24,100,000 through P.L. 112-74. During FY 2012, obligations against the appropriation totaled $24,013,347, representing 99.64% of the approved funding level. The Commission spent $24.013 million as follows: 73.14% for salaries and benefits, .85% for official travel expenses, and 26.01% for administrative expenses (e.g., rent, government and commercial contracts, furniture, printing, and equipment maintenance). The unobligated balance of $86,652 will remain available for legitimate increases to existing FY 2012 obligations.



Audit Results

The FMC again received an unqualified opinion on its FY 2012 financial statements from the auditing firm of Regis & Associates, 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 $4,678,998 as of September 30, 2012. This represents an increase over FY 2011 of $360,027. The FMC's assets reported in the balance sheet are summarized in the accompanying table.

Summary of Assets as of September 30, 2012		
	FY 2012	**FY 2011**
Fund Balance with Treasury	$4,254,644	$3,792,671
Accounts Receivable	$4,031	$979
Capital Assets	$420,323	$525,021
Other	$0	$300
Total Assets	**$4,678,998**	**$4,318,971**

The Fund Balance with Treasury of $4,254,644 represents the FMC's largest asset and represents 90.9% of the agency's total assets. This is an increase of $461,973 over FY 2011. 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 $4,031 for outstanding receivables billed to non-Federal entities and FMC employees. This accounts for less than 1% of the FMC's total assets.

Capital Assets, also known as Property, Equipment and Software, accounts for 9% of the FMC's total assets as of September 30, 2012. The net value of $420,323 accounts for the depreciation of all assets and represents the current book value of those assets.

Summary of Liabilities

The FMC's Liabilities totaled $2,778,854 as of September 30, 2012, an increase of $125,371 total liabilities from FY 2011. The majority of the increase is related to increased accounts payables for rent and capitalized leasehold improvements, including obligations for IT-related contracts and systems and relocation allowances for an FMC employee.

Summary of Liabilities as of September 30, 2012		
	FY 2012	**FY 2011**
Accounts Payable	$378,498	$249,998
Payroll Taxes	$215,623	$213,544
Federal Employee Benefits	$6,234	$8,736
Custodial Liabilities	$256	$979
Accrued Liabilities	$2,178,243	$2,180,226
Total Liabilities	**$2,778,854**	**$2,653,483**

The FMC's accounts payable as of September 30, 2012 was $378,498. This represents the funds owed for goods and services received from vendors. 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.

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 2012 is an increase of $234,656 over FY 2011. The increase can be attributed to expenses for new IT-related contracts and systems.

Unexpended Appropriations represents the total authority granted by Congress that the FMC has not expended as of September 30, 2012. Cumulative results of operations represents the net results of all operations of the FMC.

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.

Changes in Net Position Summary as of September 30, 2012		
	FY 2012	**FY 2011**
Unexpended Appropriations	$2,759,038	$2,378,313
Cumulative Results of Operation	11/6/2012	($712,825)
Total Net Position	**$2,800,257**	**$1,665,488**

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, 2012		
	FY 2012	**FY 2011**
Operational and Administrative	$16,866,478	$17,474,598
Formal Proceedings	$7,374,383	$7,536,633
Office of the Inspector General	$730,573	$701,773
Office of Equal Employment Opportunity	$193,612	$198,706
Net Cost of Program Services	**$25,165,046**	**$25,911,710**

Analysis of the Statement of Budgetary Resources

The Statement of Budgetary Resources (SBR) shows the source of the agency's budgetary resources and the status of those resources at the end of the reporting period. The statement 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 2012, the FMC had total budgetary resources available of $25,423,734. This represents a decrease of $9,915. The FMC incurred total obligations of $24,138,684 in FY 2012.

Statement of Budgetary Resources as of September 30, 2012		
	FY 2012	**FY 2011**
Total Budgetary Resources	**$25,423,734**	**$25,433,649**
Obligations Incurred	$24,138,684	$24,187,745
Unobligated Balance Unavailable	$1,198,398	$1,220,529
Unobligated Balance Available	$86,652	$25,375
Total Status of Budgetary Resources	**$25,423,734**	**$25,433,649**

Chapter One MANAGEMENT'S DISCUSSION and ANALYSIS

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 22 recommendations from 2012 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 2012, the FMC maintained a percentage of on-time payments of over 99.3%. This is a slight improvement over FY 2011.

In FY 2012, the FMC paid interest payments in the amount of $7.00. The two late payments were due to COR certification delays. The FMC will continue to strive towards 100% on-time vendor payments in future years, to match our 100% on-time credit card payment to vendors.

Biennial Review of User Fees

The Chief Financial Officers Act requires agencies to conduct biennial reviews 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. 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 2011. The cost of the user fees will be re-calculated based upon final FY 2012 costs and implementation of the new fees will begin in FY 2013.

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 acquires travel, procurement, accounting and financial services from Treasury's Bureau of Public Debt. The Commission verifies and reconciles all financial statements and reports prior to submission, and has remained in compliance with all reporting thresholds.

Inspector General Act of 1978, as amended in 1988, and the Inspector General Reform Act of 2008

The FMC continues to have a 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 2012, the Inspector General completed the following audits and reviews:

- FY 2011 Audited Financial Statements
- FY 2011 Financial Statements Management Letter
- FY 2011 Implementation of FISMA
- Review of BOE's Compliance Program
- Review of the Controls Over the Procurement, Lease and Use of the Agency's Vehicle

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 2013.

During FY 2012, 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, 2012, 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.
November 15, 2012

Chapter Two

PROGRAM PERFORMANCE INFORMATION

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 2012 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. Five measures reached and exceeded FY 2012 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 through FY 2012.

Chapter Two PROGRAM PERFORMANCE INFORMATION

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 2012

Targeted performance compared to actual results.

Strategic Goal No. 1: Maintain an efficient and competitive international ocean transportation system.		
Performance Measure	**FY 2012 Target**	**FY 2012 Actual**
Measure: Percentage share of total U.S. international oceanborne trade moved by containership as an indicator of liner shipping efficiency. **2012 Target:** 19% **2012 Target Unmet:** This target was first established on the basis of two components – a baseline figure plus a projected constant annual gain on top of that baseline. At the time the plan's annual targets were established, liner shipping's share of US international oceanborne trade moved by container ship (as an indicator of liner efficiency) stood at 17.5% (FY 2009). This data point became the target's baseline figure. The annual target in each subsequent year of the five-year plan was based on an anticipated incremental annual gain in this share of 0.5%. However, in FY 2010 no increment occurred; in fact liner's share of US international oceanborne trade contracted slightly by 0.1%. In the following year, FY 2011, although our incremental target of a 0.5% increase in share was achieved, the magnitude of this gain wasn't sufficient to make up for the ground lost in the previous fiscal year as a result of the global recession. This year's incremental gain of 0.8% exceeds our target incremental gain of 0.5% per year by a good margin which has helped move liner's absolute share of US oceanborne trade closer to the original target set for the sector. **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 2012. 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.	19%	18.7%

Strategic Goal No. 2: Protect the public from unlawful, unfair and deceptive ocean transportation practices and resolve shipping disputes.		
Performance Measure	**FY 2012 Target**	**FY 2012 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. **2012 Target:** 74% **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.	74%	88%
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. **2012 Target:** 70% **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.	70%	90.2%
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. **2012 Target:** 92% **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.	92%	100%

Measure: Percentage of key Commission issuances, orders and reports that are available through the Commission's website within 5 working days of receipt. **2012 Target:** 74% **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.	74%	79%
Measure: Number of cases opened and closed each fiscal year using *ombuds* and ADR services assisting consumers to recover goods or funds. **2012 Target:** 700 **Note:** The FY 2012 actual number of cases includes cases resolved by the Commission's Area Representatives. This is a new adjustment for this fiscal year. **Validation:** This outcome goal is measured using data maintained by the Commission on each such case opened and closed.	700	893
Measure: Percentage of formal complaints or Commission initiated orders of investigation completed within two years of filing or Commission initiation. **2012Target:** 54% **Validation:** This outcome goal is measured using docket activity logs maintained by the Commission. 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.	54%	73%

Table 2: Performance Measure Trends FY 2010-2012

Strategic Goal No. 1: Maintain an efficient and competitive international ocean transportation system.						
Performance Measure	**FY 2010 Target**	**FY 2010 Actual**	**FY 2011 Target**	**FY 2011 Actual**	**FY 2012 Target**	**FY 2012 Actual**
Measure: Percentage share of total U.S. international ocean borne trade moved by containership as an indicator of liner shipping efficiency.	18%	17.4%	18.5%	17.9%	19%	18.7%
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%	74%	88%
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%	70%	90.2%
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%	92%	100%
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***	**N/A***	**N/A***
Measure: Percentage of key Commission issuances, orders and reports that are available through the Commission's website within 5 working days of receipt.	70%	77.1%	72%	72%	74%	79%
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	700	893
Measure: Percentage of formal complaints or Commission initiated orders of investigation completed within two years of filing or Commission initiation.	50%	56%	52%	60%	54%	73%

* 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 3: Status of 2009 - 2012 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. A similar measure tracking successful resolution of enforcement actions has exceeded targets in 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.	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 ocean borne trade moved by containership as an indicator of liner shipping efficiency. **Strategic Goal No. 1: Maintain An Efficient Competitive International Ocean Transportation System (2010)**	18%	17.4%
Performance Measure (2011)	**FY 2011 Target**	**FY 2011 Actual**
Measure: Percentage share of total U.S. international ocean borne trade moved by containership as an indicator of liner shipping efficiency. **Strategic Goal No. 1: Maintain An Efficient Competitive International Ocean Transportation System (2011)**	18.5%	17.9%
Performance Measure (2012)	**FY 2012 Target**	**FY 2012 Actual**
Measure: Percentage share of total U.S. international ocean borne trade moved by containership as an indicator of liner shipping efficiency. **Strategic Goal No. 1: Maintain An Efficient Competitive International Ocean Transportation System (2012)**	19%	18.7%

Chapter Three

FINANCIAL INFORMATION

Message from the Chief Financial Officer

I am pleased to report that in fiscal year 2012, the FMC maintained its record of strong fiscal stewardship on behalf of the American people. For the ninth consecutive year, independent auditors gave us an unqualified (clean) opinion on our financial statements. Our auditors also stated for the controls they tested, they found no material weaknesses, significant control deficiencies, or nonconformances with the Federal Managers' Financial Integrity Act and other applicable laws and regulations.

This unqualified opinion on the FMC's financial statements highlights for the President, the Congress and the American people the continuing commitment of this agency to maintain sound financial management of the resources entrusted to us. This attests to the FMC's high standards and 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 2012, the FMC continued its focus on internal controls, as mandated by OMB Circular A-123. Our financial management staff is to be highly commended for consistently finding ways to provide budget information in concise, reliable, and understandable formats. In 2012, other notable accomplishments include completing corrective actions on a number of audit recommendations, maintaining an internal control environment through developing and maintaining appropriate guidance and training for staff, sustaining a green rating from the Department of the Treasury on the accuracy and timeliness of financial reporting practices involving Fund Balance with Treasury transactions, and paying 99.3 percent of all invoices received from vendors on time. Quarterly financial statements were issued 15 days after the end of each quarter, and our FY 2012 PAR is being published on November 15, 2012.

I wish to acknowledge the diligent efforts of our staff and financial service provider for their dedication to the FMC's mission and their efforts in maintaining an 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. While pleased with our FY 2012 accomplishments, we will strive to improve all aspects of financial performance and to maintain high financial management standards in FY 2013. We are committed to promoting effective internal controls and resolving any impediments to assure fairly presented financial statements and improve the auditor's ability to issue an unqualified audit opinion next year.

Sincerely,

Ronald D. Murphy
Chief Financial Officer

November 15, 2012

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 Regis & Associates, PC, under contract to the FMC's Office of the Inspector General.

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

November 14, 2012

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 2012 financial statements. The audit results indicate that the FMC has established an internal control structure that facilitates the preparation of reliable financial and performance information. We commend the FMC for the noteworthy accomplishment of attaining an unqualified (clean) opinion for the ninth consecutive year.

The Office of Inspector General (OIG) engaged the independent certified public accounting firm of Regis & Associates, P.C. (Regis) to perform the audit of the FMC's financial statements for the fiscal year ended September 30, 2012. 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, Regis 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 Regis's audit of FMC's FY 2012 financial statements by:

- reviewing Regis'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 the FMC's internal control, and substantive testing;
- reviewing Regis'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 Regis 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 the FMC's financial statements, conclusions about the effectiveness of internal control, or conclusions on compliance with laws and regulations. Regis is solely responsible for the attached auditor's report dated November 9, 2012, and the conclusions expressed in the report.

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

Sincerely,

Adam R. Trzeciak
Inspector General

Attachment

cc: Commissioners
Managing Director

REGIS & ASSOCIATES, PC

MANAGEMENT CONSULTANTS &
CERTIFIED PUBLIC ACCOUNTANTS

INDEPENDENT AUDITORS' REPORT

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

In accordance with the Accountability of Tax Dollars Act of 2002, we have audited the accompanying balance sheets of the Federal Maritime Commission as of September 30, 2012 and 2011, and the related statements of net cost, changes in net position, budgetary resources, and custodial activity for the years then ended. In our audit of the Federal Maritime Commission's financial statements for fiscal years ended September 30, 2012 and 2011, we found:

- the financial statements are presented fairly, in all material respects, in conformity with U.S. Generally Accepted Accounting Principles;
- no material weaknesses in internal control over financial reporting (including safeguarding assets), and compliance with laws and regulations; and
- no reportable noncompliance with the laws, and regulations we tested.

The following sections discuss in more detail (1) these conclusions, (2) our audit objectives, scope and methodology, (3) agency comments, and our evaluation.

Opinion on Financial Statements

In our opinion, the financial statements, including the accompanying notes, present fairly, in all material respects, the Federal Maritime Commission's assets, liabilities, and net position as of September 30, 2012 and 2011; and net costs; changes in net position; budgetary resources; and custodial activity for the years then ended, in conformity with accounting principles generally accepted in the United States of America.

1400 Eye Street, NW, Suite 425, Washington, DC 20005 Tel 202-296-7101 Fax 202-296-7284

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 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 the Management's Discussion and Analysis (MD&A) section of the Federal Maritime Commission's Performance and Accountability Report for Fiscal Year 2012. 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. However, for the controls we tested, we found no material weakness in internal control over financial reporting (including safeguarding assets) and compliance.

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 and compliance was for the limited purpose described in the first paragraph of this section, and would not necessarily disclose all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies, or material weaknesses. 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.

Compliance with Laws and Regulations

Our tests of the Federal Maritime Commission's compliance with selected provisions of laws and regulations for fiscal year 2012 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, (3) performing limited procedures with respect to certain other information appearing in the Annual Financial Statements, and (4) expressing an opinion on these financial statements based on our audit.

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 caution that our internal control testing may not be sufficient for other purposes and 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.

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, 2012. 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 with auditing standards generally accepted in the United States and OMB audit guidance.

Agency Comments and Our Evaluation

The Federal Maritime Commission concurred with the facts and conclusions in our report. See Appendix A.

Regis & Associates, PC
Washington, DC

November 9, 2012

APPENDIX A -

FEDERAL MARITIME COMMISSION COMMENTS ON
DRAFT AUDIT REPORT

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

November 14, 2012

Office of Inspector General

Regis & Associates, PC
Lateef Abassi, CPA
1400 Eye Street, NW Suite 425
Washington DC 20005

Dear Mr. Abassi,

I have reviewed the draft audit report provided to me relating to your audit of the Federal Maritime Commission for the fiscal year ended September 30, 2012. I concur with the facts and conclusions in the draft report.

Sincerely,

Adam R. Trzeciak
Inspector General

Attachment

cc: Commissioners
Managing Director

FEDERAL MARITIME COMMISSION
BALANCE SHEET
AS OF SEPTEMBER 30, 2012 AND 2011

		2012		2011
Assets:				
Intragovernmental				
Fund Balance With Treasury (Note 2)	$	4,254,644	$	3,792,671
Total Intragovernmental		4,254,644		3,792,671
Accounts Receivable, Net (Note 3)		4,031		979
Property, Equipment, and Software, Net (Note 4)		420,323		525,021
Other		-		300
Total Assets	$	4,678,998	$	4,318,971
Liabilities:				
Intragovernmental				
Accounts Payable	$	201,490	$	146,636
Employer Contributions and Payroll Taxes Payable		191,260		188,998
Unfunded FECA Liability (Note 6)		324		1,956
Custodial Liability (Note 6)		256		979
Other		-		870
Total Intragovernmental		393,330		339,439
Accounts Payable		177,008		103,362
Federal Employee and Veterans' Benefits (Note 6)		5,910		5,910
Accrued Liabilities		901,485		951,116
Employee Contributions and Payroll Taxes Payable		24,363		24,546
Unfunded Leave (Note 6)		1,276,758		1,229,110
Total Liabilities	$	2,778,854	$	2,653,483
Net Position:				
Unexpended Appropriations - Other Funds		2,759,038		2,378,313
Cumulative Results of Operations - Other Funds		(858,894)		(712,825)
Total Net Position	$	1,900,144	$	1,665,488
Total Liabilities and Net Position	$	4,678,998	$	4,318,971

The accompanying notes are an integral part of these financial statements

FEDERAL MARITIME COMMISSION
STATEMENT OF NET COST
FOR THE YEARS ENDED SEPTEMBER 30, 2012 AND 2011

	2012	2011
Program Costs:		
Operational and Administrative		
Gross Costs	$ 16,908,154	$ 17,474,598
Less: Earned Revenue	(41,676)	-
Net Program Costs	$ 16,866,478	$ 17,474,598
Formal Proceedings		
Gross Costs	$ 7,374,383	$ 7,576,489
Less: Earned Revenue	-	(39,856)
Net Program Costs	$ 7,374,383	$ 7,536,633
Office of Inspector General		
Gross Costs	$ 743,557	$ 721,109
Less: Earned Revenue	(12,984)	(19,336)
Net Program Costs	$ 730,573	$ 701,773
Office of Equal Employment Opportunity		
Gross Costs	$ 193,612	$ 198,706
Net Program Costs	$ 193,612	$ 198,706
Net Cost of Operations (Note 8)	$ 25,165,046	$ 25,911,710

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, 2012 AND 2011

	2012	2011
Cumulative Results of Operations:		
Beginning Balances	$ (712,825)	$ (600,844)
Budgetary Financing Sources:		
Appropriations Used	23,560,395	24,236,436
Other Financing Sources (Non-Exchange):		
Imputed Financing Sources (Note 11)	1,458,582	1,563,293
Total Financing Sources	25,018,977	25,799,729
Net Cost of Operations	(25,165,046)	(25,911,710)
Net Change	(146,069)	(111,981)
Cumulative Results of Operations	$ (858,894)	$ (712,825)
Unexpended Appropriations:		
Beginning Balances	$ 2,378,313	$ 2,647,804
Budgetary Financing Sources:		
Appropriations Received	24,100,000	24,135,000
Other Adjustments	(158,880)	(168,055)
Appropriations Used	(23,560,395)	(24,236,436)
Total Budgetary Financing Sources	380,725	(269,491)
Total Unexpended Appropriations	$ 2,759,038	$ 2,378,313
Net Position	$ 1,900,144	$ 1,665,488

The accompanying notes are an integral part of these financial statements

FEDERAL MARITIME COMMISSION
STATEMENT OF BUDGETARY RESOURCES
FOR THE YEARS ENDED SEPTEMBER 30, 2012 AND 2011

	2012	2011
Budgetary Resources:		
Unobligated Balance Brought Forward, October 1	$ 1,245,904	$ 1,303,927
Recoveries of Prior Year Unpaid Obligations	182,051	103,585
Unobligated balance from prior year budget authority, net	1,269,074	1,287,727
Appropriations	24,100,000	24,086,730
Spending authority from offsetting collections	54,660	59,192
Total Budgetary Resources	$ 25,423,734	$ 25,433,649
Status of Budgetary Resources:		
Obligations Incurred (Note 12)	$ 24,138,684	$ 24,187,745
Unobligated balance, end of year:		
Apportioned	86,652	25,375
Unapportioned	1,198,398	1,220,529
Total unobligated balance, end of year	1,285,050	1,245,904
Total Status of Budgetary Resources	$ 25,423,734	$ 25,433,649
Change in Obligated Balance:		
Unpaid Obligations, Brought Forward, October 1	$ 2,546,766	$ 3,558,091
Adjustment to obligated balance, start of year	(2,969,594)	(2,546,766)
Obligated balance, start of year, as adjusted	(422,828)	1,011,325
Obligations Incurred	24,138,684	24,187,745
Outlays (gross)	(23,533,805)	(25,095,485)
Recoveries of Prior Year Unpaid Obligations	(182,051)	(103,585)
Obligated balance, end of year		
Unpaid obligations, end of year	2,969,594	2,546,766
Obligated balance, end of year	$ 2,969,594	$ 2,546,766
Budget Authority and Outlays, Net:		
Budget authority, gross	$ 24,154,660	$ 24,145,922
Actual offsetting collections	(54,660)	(59,192)
Budget Authority, net	$ 24,100,000	$ 24,086,730
Outlays, gross	$ 23,533,806	$ 25,095,485
Actual offsetting collections	(54,660)	(59,192)
Outlays, net	23,479,146	25,036,293
Distributed Offsetting Receipts	664,935	2,430,482
Agency outlays, net	24,144,081	27,466,775

The accompanying notes are an integral part of these financial statements

FEDERAL MARITIME COMMISSION
AS OF SEPTEMBER 30, 2012 AND 2011
STATEMENT OF CUSTODIAL ACTIVITY

	2012	2011
Revenue Activity:		
Sources of Cash Collections:		
Miscellaneous	$ 1,006,298	$ 2,430,482
Total Cash Collections (Note 13)	1,006,298	2,430,482
Accrual Adjustments	-	865
Total Custodial Revenue	$ 1,006,298	$ 2,431,347
Disposition of Collections:		
Transferred to Others (by Recipient)	$ 1,006,298	$ 2,430,482
Retained by the Reporting Entity		865
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. The 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, as amended by the Ocean Shipping Reform Act of 1998 (OSRA), the Foreign Shipping Practices Act of 1988 (FSPA), section 19 of the Merchant Marine Act of 1920, and sections 2 and 3 of Public Law No. 89-777.

The Commission monitors the activities of ocean common carriers, marine terminal operators (MTOs), ports and ocean transportation intermediaries (OTIs) (non-vessel-operating common carriers and freight forwarders) who operate in the U.S. foreign commerce to ensure that 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; reviews competitive activities of common carrier alliances and other agreements among common carriers and/or terminal operators; 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 FMC also issues licenses to qualified OTIs in the U.S., ensures that all OTIs are bonded or maintain other evidence of financial responsibility, and, pursuant to 46 U.S.C. §§ 44102 and 44103, ensures that passenger vessel operators (PVO) demonstrate adequate financial responsibility to indemnify passengers in the event of nonperformance of voyages or passenger injury or death.

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 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.

The FMC has rights and ownership of all assets reported in these financial statements. FMC does not possess any non-entity assets.

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, as amended*, 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 financial statements and associated notes are presented on a comparative basis. Unless specified otherwise, all amounts are presented in dollars.

C. 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.

D. Fund Balance with Treasury

Fund Balance with Treasury is the aggregate amount of the FMC's funds with Treasury in expenditure and receipt, accounts. Appropriated funds recorded in expenditure accounts are available to pay current liabilities and finance authorized purchases.

FMC does not maintain bank accounts of its own, has no disbursing authority and does not maintain cash held outside of Treasury. Treasury disburses funds for FMC on demand.

E. 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.

F. 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

G. 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.

H. Liabilities

Liabilities represent the amount of funds likely to be paid by the FMC as a result of transactions or events that have already occurred.

The FMC reports its liabilities under two categories, Intragovernmental and With the Public. Intragovernmental liabilities represent funds owed to another government agency. Liabilities With the Public represents funds owed to any entity or person that is not a federal agency, including private sector firms and federal employees. Each of these categories may include liabilities that are covered by budgetary resources and liabilities not covered by budgetary resources.

Liabilities covered by budgetary resources are liabilities funded by a current appropriation or other funding source. These consist of accounts payable and accrued payroll and benefits. Accounts payable represent amounts owed to another entity for goods ordered and received and for services rendered except for employees. Accrued payroll and benefits represent payroll costs earned by employees during the fiscal year which are not paid until the next fiscal year.

Liabilities not covered by budgetary resources are liabilities that are not funded by any current appropriation or other funding source. These liabilities consist of accrued annual leave, actuarial FECA, and the amounts due to Treasury for collection and accounts receivable of civil penalties.

I. 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.

J. 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.

K. 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 offsetting 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 retirement 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.

L. 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.

M. 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.

N. 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 2012 and 2011 to the extent directed by OMB.

O. 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.

NOTE 2. FUND BALANCE WITH TREASURY

Fund balance with Treasury account balances as of September 30, 2012 and 2011 were as follows:

		2012		2011
Fund Balances:				
Appropriated Funds	$	4,254,644	$	3,792,671
Total	$	4,254,644	$	3,792,671
Status of Fund Balance with Treasury:				
Unobligated Balance				
Available	$	86,652	$	25,375
Unavailable		1,198,398		1,220,529
Obligated Balance Not Yet Disbursed		2,969,594		2,546,767
Total	$	4,254,644	$	3,792,671

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 10.)

NOTE 3. ACCOUNTS RECEIVABLE

Accounts receivable balances as of September 30, 2012 and 2011 were as follows:

	2012	2011
With the Public		
Accounts Receivable	$ 4,031	$ 979
Total Accounts Receivable	$ 4,031	$ 979

The accounts receivable is primarily made up of employee receivables and custodial collections.

Historical experience has indicated that the majority of the receivables are collectible. There are no material uncollectible accounts as of September 30, 2012 and 2011.

NOTE 4. PROPERTY, EQUIPMENT, AND SOFTWARE

Schedule of Property, Equipment, and Software as of September 30, 2012:

Major Class	Acquisition Cost	Accumulated Amortization/ Depreciation	Net Book Value
Leasehold Improvements	$ 225,000	$ 157,500	$ 67,500
Furniture & Equipment	315,250	143,006	172,244
Software-in-Development	180,579	-	180,579
Total	$ 720,829	$ 300,506	$ 420,323

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

NOTE 5. LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

The liabilities for FMC as of September 30, 2012 and 2011 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.

		2012		2011
Intragovernmental – FECA	$	324	$	1,956
Intragovernmental – Unemployment Insurance		-		870
Actuarial FECA		5,910		5,910
Unfunded Leave		1,276,758		1,229,110
Total Liabilities Not Covered by Budgetary Resources	$	1,282,992	$	1,237,846
Accounts Payable		378,498		249,998
Accrued Funded Payroll and Leave		901,485		951,116
Employer Contributions and Payroll Taxes Payable		215,623		213,544
Custodial Liability		256		979
Total Liabilities	$	2,778,854	$	2,653,483

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 6. 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
2013	$ 347,931
2014	71,819
2015	73,070
2016	74,665
2017	75,665
Thereafter	189,221
Total Future Payments	$ 832,371

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

NOTE 7. CONTINGENCIES

FMC did not have any material commitments or contingencies that met disclosure requirements as of September 30, 2012. FMC records commitments and contingent liabilities for legal cases in which payment has been deemed probable and the amount of potential liability has been estimated. 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. In FY2012, based on information provided by legal counsel, FMC estimates a possible liability of $300,000 in connection with this lawsuit. There were no contingent liabilities as of September 30, 2012.

NOTE 8. 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). Such costs are summarized as follows:

	2012	2011
Operational and Administrative		
Intragovernmental Costs	$ 4,811,649	$ 5,107,709
Public Costs	12,096,505	12,366,889
Total Program Costs	16,908,154	17,474,598
Less: Intragovernmental Earned Revenue	(41,676)	-
Net Program Costs	16,866,478	17,474,598
Formal Proceedings		
Intragovernmental Costs	1,529,477	1,553,388
Public Costs	5,844,906	6,023,101
Total Program Costs	7,374,383	7,576,489
Less: Intragovernmental Earned Revenue	-	(39,856)
Net Program Costs	7,374,383	7,536,633
Office of Inspector General		
Intragovernmental Costs	129,247	129,943
Public Costs	614,311	591,166
Total Program Costs	743,558	721,109
Less: Intragovernmental Earned Revenue	(12,984)	(19,336)
Net Program Costs	730,574	701,773
Office of Equal Employment Opportunity		
Intragovernmental Costs	28,549	33,614
Public Costs	165,063	165,092
Total Program Costs	193,612	198,706
Net Program Costs	193,612	198,706
Total Intragovernmental costs	6,498,922	6,824,654
Total Public costs	18,720,784	19,146,248
Total Costs	25,219,706	25,970,902
Less: Total Intragovernmental Earned Revenue	(54,660)	(59,192)
Total Net Cost	$ 25,165,046	$ 25,911,710

NOTE 9. 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, 2012 and 2011 imputed financing was as follows:

	2012	2011
Office of Personnel Management	$ 1,458,582	$ 1,563,293
Total Imputed Financing Sources	$ 1,458,582	$ 1,563,293

NOTE 10. BUDGETARY RESOURCE COMPARISONS TO THE BUDGET OF THE UNITED STATES GOVERNMENT

The President's Budget that will include FY12 actual budgetary execution information has not yet been published. The President's Budget is scheduled for publication in February 2013 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 2011, has been reconciled to the Statement of Budgetary Resources and there were no material differences.

NOTE 11. APPORTIONMENT CATEGORIES OF OBLIGATIONS INCURRED

Obligations incurred and reported in the Statement of Budgetary Resources as of September 30, 2012 and 2011 consisted of the following:

	2012	2011
Direct Obligations, Category A	$ 24,084,024	$ 24,128,553
Reimbursable Obligations, Category A	54,660	59,192
Total Obligations Incurred	$ 24,138,684	$ 24,187,745

Category A apportionments distribute budgetary resources by fiscal quarters.

NOTE 12. 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, 2012 and 2011, respectively, undelivered orders amounted to the following:

	2012	2011
Undelivered Orders	$ 1,473,988	$ 1,132,410
Total Undelivered Orders	$ 1,473,988	$ 1,132,410

NOTE 13. 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:

	2012	2011
Fines, Penalties, and Forfeitures	$ 665,000	$ 2,097,500
General Fund Proprietary Receipts (user fees)	341,673	336,252
Refund of User Fees	(375)	(3,270)
Total Custodial Collections	$ 1,006,298	$ 2,430,482

NOTE 14. 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.

	2012	2011
Resources Used to Finance Activities:		
Budgetary Resources Obligated		
Obligations Incurred	$ 24,138,684	24,187,745
Spending Authority From Offsetting Collections and Recoveries	$ (236,711)	(162,777)
Obligations Net of Offsetting Collections and Recoveries	23,901,973	24,024,968
Offsetting Receipts	664,935	2,430,482
Net Obligations	24,566,908	26,455,450
Other Resources		
Imputed Financing From Costs Absorbed By Others	1,458,582	1,563,293
Net Other Resources Used to Finance Activities	1,458,582	1,563,293
Total Resources Used to Finance Activities	26,025,490	28,018,743
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	(341,579)	211,467
Resources That Fund Expenses Recognized In Prior Periods	(2,502)	1,086
Other	(664,935)	(2,430,482)
Total Resources Used to Finance Items Not Part of Net Cost of Operations	(1,009,016)	(2,217,929)
Total Resources Used to Finance the Net Cost of Operations	25,016,474	25,800,814
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	47,648	12,109
Other	-	(5,911)
Total Components of Net Cost of Operations That Will Require or Generate Resources In Future Periods	47,648	6,198
Components Not Requiring or Generating Resources		
Depreciation and Amortization	104,698	104,698
Total Components of Net Cost of Operations That Will Not Require or Generate Resources	100,924	104,698
Total Components of Net Cost of Operations That Will Not Require or Generate Resources In The Current Period	148,572	110,896
Net Cost of Operations	$ 25,165,046	$ 25,911,710

Chapter FOUR

Other Accompanying Information

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

October 18, 2012

Office of Inspector General

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 2012.

This year, the Office of Inspector General (OIG) has identified three management and performance challenges for inclusion in the FMC's FY 2012 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, 2012.

Adam R. Trzeciak

Attachment

Office of Inspector General

FY 2012 Management Challenges

1. *The Management Challenge*: Financial Issues

For the last several years, agency programs have competed with each other for scarce resources to meet all needs and priorities. Like most federal agencies, the FMC's appropriations have fallen below budget requests, necessitating tough choices. Added to the challenge faced by all agencies is the threat of sequestration, where millions of dollars may be slashed from agency budgets, leaving each agency to make even more difficult choices regarding how best to serve the public and what programs to curtail or eliminate.

Agencies must manage their resources in such a way that prioritizes needs while closely monitoring spending. Often, estimates made in the beginning of the year, especially for contracts and other services provided by external organizations, result in leftover funds that, if timely spotted, can be used to address other agency needs. In a recent audit of the agency's transit subsidy program, the OIG found that the FMC has taken steps to monitor funds to identify surpluses early enough in the fiscal year to reallocate them into other areas. This is an improvement over just a few years ago where the agency only learned of surplus program funds in the last days of the fiscal year, making planning to use them inefficient and difficult.

Agency Progress in Addressing the Challenge

In the FY 2012 financial statement audit, the OIG found that the agency has made improvements from prior years to close out contracts, but the agency's goal should be to close all contacts once the Contracting Officer's Representative (COR) verifies that services have been rendered or products delivered. When services have been provided or deliverables met, it is the responsibility of the COR to notify the contracting officer to request that the remaining funds be deobligated. If done timely, the funds can be reallocated into other areas. When contracts remain open unnecessarily, the agency is missing the opportunity to use excess funds in other priority areas.

The Challenge Ahead

The agency does not issue so many contracts that additional staffing resources are required to ensure funds are managed closely and contracts are closed timely. But the agency must make doing so a priority to enable early reallocation of funds and deter improper payment.

2. The Management Challenge: **Information Technology**

To remediate prior years' information technology (IT) deficiencies and security vulnerabilities, both agency and OIG- identified, resulting from the Federal Information Security Management Act (FISMA) evaluation and other assessment efforts.

Agency Progress in Addressing the Challenge

While the agency has made some progress in remediating IT-related deficiencies, the number and severity of prior year IT deficiencies remains unacceptably high. For example, the OIG's follow up on prior year unimplemented recommendations identified 16 prior year recommendations agreed to by management that remain unimplemented. Some of these date back to 2007. The OIG estimates that the cost to address these recommendations is, in most cases, minimal: 14 of the 16 deficiencies require no new equipment and minimal investment of Office of Information Technology (OIT) staff hours to remediate or correct.

The OIG believes that management has not prioritized fixing vulnerabilities that, for the most part, have not resulted in performance problems. On the other hand, the OIG's repeated admonitions regarding the agency's failure to adequately test Continuity of Operations Planning procedures, instead relying on verbal assurances from IT personnel, led to a multiple-day hiatus in the agency's email and other vital internet businesses processes in June 2011. In short, vulnerabilities can lead to problems when least expected. The OIT needs to clearly review each deficiency and make a firm commitment to remediate the deficiencies as soon as possible. It is almost always far less expensive to address vulnerabilities before problems arise than it is to repair the resulting damage.

The Challenge Ahead

While the number and sophistication of threats continue to increase almost on a daily basis, the agency should not turn its back on prior year vulnerabilities to focus on current security challenges. Both are important. FISMA implicitly recognizes that not all vulnerabilities can be addressed. Rather, agencies are called to prioritize their vulnerabilities and weaknesses, and to address those vulnerabilities considered to be the most serious. In the OIG's FY 2011 security evaluation, we began to include broad estimates of resources needed to implement the recommendations and close vulnerabilities. This should assist OIT staff to budget its resources to close these recommendations. But in the one year since employing this new approach, little has changed. OIT faces two related challenges: to make security a priority equivalent with operations, and to remediate vulnerabilities timely. The best practice would be to identify deadlines and focus on remediation in the first few months after the FISMA evaluation when security is paramount on staff's mind.

3. __The Management Challenge:__ **Information Technology**

The FMC, like all government agencies, has increased its dependence on information systems and on 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 purposeful attacks by hostile entities and other threats, the agency must place greater emphasis on performing monthly vulnerability scans of agency network and workstations.

Agency Progress in Addressing the Challenge

Network scans are commonplace among government agencies and are generally run several times a year. Scans provide useful information to network administrators, such as virus identification, whether the latest patch information and service packs for servers are running, as well as the existence of open ports, protocols, and services. The scans help agencies guard against vulnerabilities that can bring down a network and/or destroy data.

The FMC has excluded network scans from its information security toolbox. The last scan performed by OIT occurred in 2008.

In the OIG's FY 2012 FISMA evaluation, the OIG performed a vulnerability scan and identified multiple technical vulnerabilities that require little OIT resources to remediate. OIG attempts to run an internal scan during the FY 2011 FISMA exercise were rebuffed by senior management who were uncertain of the scan's impact on the network, fearing that the network would "crash" or suffer other unnamed negative effects. It should be noted that the Chief Information Officer favored the scan and supported the OIG's efforts to perform the scan.

The FMC should not rely on the OIG to perform annual scans, primarily because OIG scans are run, at most, annually. This is a far too infrequent schedule.

The Challenge Ahead

IT threats are changing daily and vulnerabilities arise on a constant basis. Attacks are made on the IT resources of government organizations hourly, many by "thrill seekers" with little or no need or desire for data. The challenge for IT managers is to identify those threats as they arise and then remediate them immediately.

The agency should make the investment to purchase and maintain current, appropriate vulnerability scanning software. Furthermore, the agency should devote IT resources to run the scans, which usually occur after hours, as well as analyze the results of those scans. Lastly, IT personnel will also be required to remediate the vulnerabilities noted from the scans in a timely manner. Thus, the agency's challenge will be to make the investment in both IT resource time and funding.

Chapter Four OTHER ACCOMPANYING INFORMATION

Comments on IG-Identified Management and Performance Challenges

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

I *Financial Issues*

Management agrees that tough budget choices must be made under the current fiscal climate and that the agency's programs are competing for scarce resources. Our goal is always to carefully prioritize and manage spending throughout the fiscal year so that all funds are put to the best use. We will continue to closely monitor expenditures in order to reallocate funds where needed throughout the year.

II *Information Technology*

The Commission has recently awarded several contracts to address a number of IT needs, including Disaster Recovery/Continuity of Operations issues. We plan to migrate our email and certain other applications to a cloud environment, saving money while at the same time providing recovery capability. We also are developing an Enterprise Content Management/ Enterprise Platform Solution over a multi-year period, which will address many of the remaining FMC system vulnerabilities. We are also working to address remaining open FISMA issues.

III *Information Technology*

The Commission recently hired a new Director of IT with significant security expertise. We are committed to developing a security plan that provides optimum security and tests, within available resources.

Improper Payments Information Act

Narrative Summary of Implementation Efforts for FY 2012

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 2012, 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 2012 with percentage forecasts through FY 2015.

Improper Payments Information Act Reduction Outlook FY 2012 - 2015 (millions)						
Program	**FY 12 Outlays**	**FY12 IP %**	**FY12 IP $**	**FY13 %**	**FY14 %**	**FY15 %**
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 2012, 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