

FEDERAL MARITIME COMMISSION



MANAGEMENT'S DISCUSSION *and* ANALYSIS

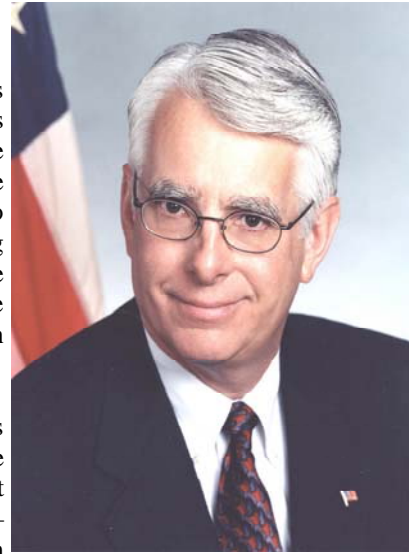


Fiscal Year 2006

MANAGEMENT'S DISCUSSION & ANALYSIS

A MESSAGE FROM THE CHAIRMAN

It is my pleasure to present the Federal Maritime Commission's Management's Discussion and Analysis for FY 2006. This Management's Discussion and Analysis represents the dedication and achievement of the agency's 122 employees. Because of their efforts, the FMC continues to be held in high regard by the industry it oversees. We are committed to developing programs and processes that will enable us to meet the changing demands of an always-evolving industry. In doing so, we strive to increase performance efficiencies and the effectiveness of our workforce to both be responsive to changing business practices and to better serve the American public and our stakeholders.



As a transportation/trade regulatory agency, our Vision is to ensure fairness and efficiency in U.S. maritime commerce. Our mandate is to help remove impediments to fair competition – undue controls, influences or non-market barriers imposed by any nation, carrier, cargo owner or intermediary – which can adversely affect U.S. oceanborne trade. Our regulatory system allows for the necessary oversight with minimal disruption to the efficient flow of U.S. imports and exports, ensuring that fair competition exists in the ocean transportation industry while allowing the industry to conduct business as efficiently as possible.

I am pleased to report that the FMC continues to position its resources with greater precision and effectiveness in order to continue to achieve its mandate within budget resources. FMC thus has achieved nearly all of its performance goals. In FY 2006, the FMC broadened its efforts to implement the President's Management Agenda initiative to expand electronic government by improving the management of information through the more effective use of available technologies, by streamlining the delivery of services and information to regulated entities, other government agencies and the public, and by further automating agency systems and enhancing the use of agency databases to allow staff to discharge program responsibilities more effectively.

As the chief administrative officer of the agency, one of my responsibilities is to ensure that our resources are efficiently managed and effectively used. The FMC has evaluated its management controls and financial management system, as required by the Federal Managers' Financial Integrity Act, and I can certify, with reasonable assurance, that the Commission is in compliance with the provision of that Act. The FMC is proud of its FY 2006 accomplishments and looks forward to providing high-quality service to the American public in future years.

Sincerely,

A handwritten signature in blue ink that reads "Steven R. Blust". The signature is written in a cursive, slightly stylized font.

Steven R. Blust
Chairman, Federal Maritime Commission



Introduction

This Management's Discussion and Analysis represents the completion of the Federal Maritime Commission's program and financing management process for Fiscal Year 2006, which began with mission and program planning, continued with the formulation and justification of FMC's budget submission to the President and Congress, through budget execution, and ended with a report of our program performance and the use of resources. This report was prepared pursuant to the requirements of the Chief Financial Officers Act, as amended by the Reports Consolidation Act, and OMB Circular No-A136 (Revised), and covers the Commission's activities from October 1, 2005, through September 30, 2006.

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

About the FMC

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

Organization

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

In FY 2006, the FMC's appropriation totaled \$20,294,010 which funded 122 full-time-equivalent staff.



Regulatory Responsibility

The FMC's regulatory responsibilities include:

- **Protecting shippers and carriers engaged in the foreign commerce of the U.S. from restrictive or unfair foreign laws, regulations, or business practices that harm U.S. shipping interests or ocean trade.**
- **Reviewing operational and pricing agreements among ocean common carriers and marine terminal operators ("MTOs"), to ensure that they do not have excessively anticompetitive effects.**
- **Reviewing and maintaining a system containing the service contracts between ocean common carriers and shippers, and service arrangements between non-vessel-operating common carriers ("NVOCCs") and shippers, and using this system to guard against anticompetitive practices and other unfair prohibited acts.**
- **Ensuring that common carriers' rates and charges are accessible to the shipping public in private, electronically accessible systems.**
- **Regulating rates, charges, and rules of government-owned or -controlled carriers to ensure that they are just and reasonable and are not unfairly undercutting private competitors.**
- **Issuing passenger vessel certificates evidencing financial responsibility of vessel owners or charters to pay judgments for personal injury or death or to repay fares for the nonperformance of a voyage or cruise.**
- **Licensing OTIs to protect the public from unqualified, insolvent, or dishonest companies.**
- **Ensuring that OTIs maintain sufficient financial responsibility to protect the shipping public from financial loss.**
- **Investigating discriminatory rates, charges, classifications, and practices of common carriers, MTOs, and OTIs operating in the foreign commerce of the U.S.**

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

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



Regulatory Responsibility (continued)

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

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

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

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

The FMC oversees approximately 5,400 regulated persons (passenger vessel operators, conferences, OTIs, NVOCCs, etc.).

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

Future Challenges

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

In response to industry changes, the Commission continues to review its regulatory initiatives to ensure that agency resources are utilized in a manner best suited to accomplish statutory obligations with a minimum of government intervention and regulatory cost. Similarly, we have implemented new internal business processes that are more responsive to the needs of the industry and other government agencies.

Cooperative working arrangements with front-line security agencies remain in place. Effective use of emerging information technologies continues to facilitate our efforts.



Program Performance Overview

The FMC, like other Federal agencies, provides an annual performance plan to Congress, pursuant to the Government Performance and Results Act (“GPRA”). The FMC has organized its performance goals to achieve its strategic goals. The FMC’s FY 2003-FY 2008 Strategic Plan is available on the FMC’s website. The complete FY 2006 Program Performance Report is contained in *Chapter 2, Program Performance*, in the Performance and Accountability Report. Briefly, in FY 2006, the Commission focused on refining 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 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. Further, we simplified and refined the agency’s performance appraisal system and developed a strategic succession plan for agency senior executives and non-SES upper level managers. Overall, we are pleased with the success we achieved in addressing our stated goals and objectives.

Achieving Strategic Goal Results

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

President’s Management Agenda

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

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

Strategic Management of Human Capital – The FMC focused heavily on succession planning during FY 2006. We reviewed our performance appraisal system, implemented an SES Candidate Development Program and an Emerging Leaders Program, and initiated a pilot Individual Development Plan Program.

Budget and Performance Integration – The Strategic Plan and Annual Performance Plan continue to represent the fundamental framework for the agency’s planning and budgeting activities. Funding and 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.



President's Management Agenda (continued)

Competitive Sourcing - The FMC submitted its FY 2006 Federal Activities Inventory Reform Act Inventory to OMB in June 2006. The Inventory identified 79 of the agency's 126 FTEs as commercial activity FTEs. No challenges to its commercial inventories have ever been received.

Expanded Electronic Government - During the fiscal year, the FMC made a number of filings in significant docketed proceedings available on the agency's website, as well as a significant number of historical agency decisions. Further, the FMC's SERVCON system was upgraded. The FMC upgraded service and support for the agency's online Agreements Library, and also upgraded a number of internal databases to streamline and simplify agency operations during FY 2006.

Improved Financial Performance - The FMC received an unqualified opinion on its financial statements in FY 2006, for the third straight year. The FMC will continue to strive to achieve unqualified audit opinions.

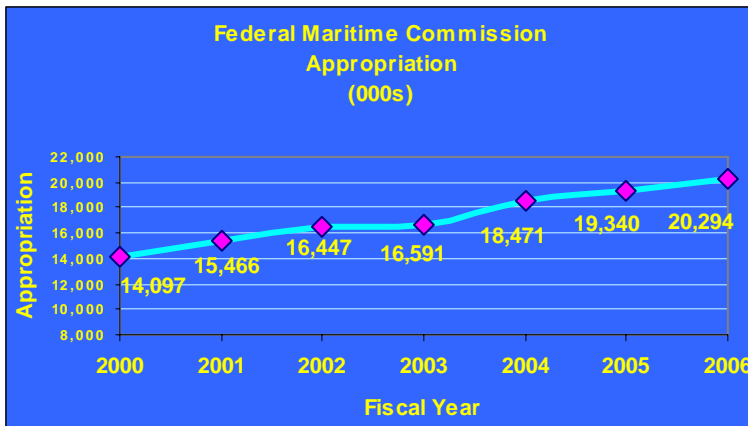
Financial Performance Overview

As of September 30, 2006, the financial condition of the FMC was sound with respect to having sufficient funds to meet program needs and adequate control of funds in place to ensure obligations did not exceed budget authority. The FMC's accounting services provider, the Bureau of the Public Debt ("BPD"), prepared the agency's financial statements in accordance with accounting standards codified in the Statements of Federal Financial Accounting Standards and the Office of Management and Budget Circular A-136, *Financial Reporting Requirements (Revised 7/24/2006)*.



Sources of Funds

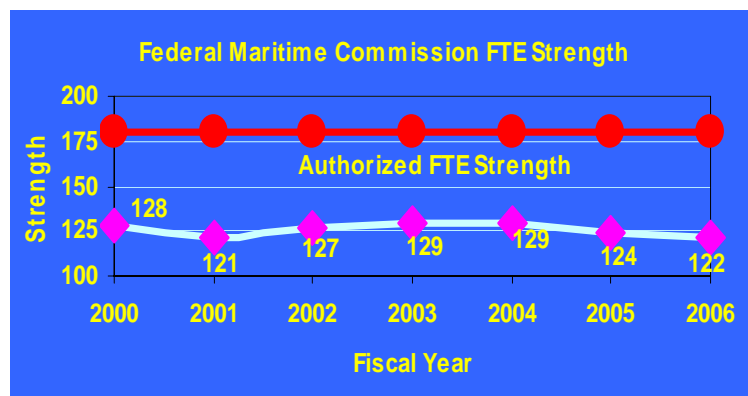
The FMC has a single source of funds, Salaries and Expenses, funded by an annual appropriation that is available for commitments and obligations incurred during the fiscal year in which the authority was granted. The FMC's total new budget authority for fiscal year 2006 was just over 20 million. This represents a net increase in budget authority over fiscal year 2005 of \$950,000 dollars. Although the FMC collects remittances for "user fees" and "fines and penalties," the agency is not authorized to offset any of its budget authority by utilizing these funds. The



collections are deposited directly into the Treasury General Fund, and captured in the Statement of Custodial Activity which can be found in *Chapter 3, Auditors' Reports and Financial Statements*, in the Performance and Accountability Report.

Personnel Strength History

The FMC's actual FTE level has fluctuated slightly since 2000. After an initial decline in 2001, the FMC experienced modest growth in its FTE level through 2004, followed by a recent decline. The agency has endeavored to develop the appropriate mix of staffing and other available means to ensure the effective accomplishment of our mission.

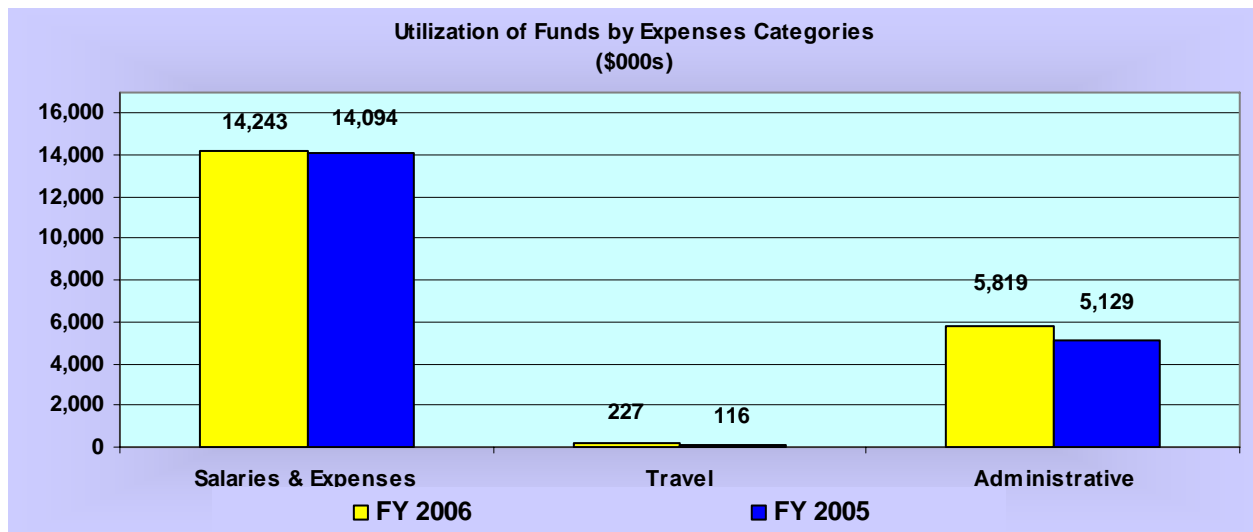


In recent years, the Commission has been authorized a total of 180 full-time-equivalent positions. Due to appropriation levels, the Commission has been required to maintain full-time personnel levels much lower than authorized.



Uses of Funds by Expense Category

In FY 2006, the FMC incurred new obligations of \$20.3 million, which was a \$905 thousand dollars increase over fiscal year 2004. Approximately 70% of the total appropriation was used for salaries and benefits. Of the remaining budget authority, 1% was used for Commission travel expenses and the remaining 29% was used for administrative expenses also known as operating expenses (e.g., rent, furniture, printing, maintenance). The unobligated authority balance of \$4,636 will remain active for four years to service FMC-established requirements.



Audit Results

The FMC received an unqualified opinion on its FY 2005 financial statements from the auditing firm of Clifton Gunderson LLP under contract through the FMC's Inspector General. For FY 2006, the FMC was again awarded an unqualified opinion on its financial statements. Comparative statements can be located in *Chapter 3, Auditors' Reports and Financial Statements*, in the Performance and Accountability Report.

Financial Statement Highlights

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

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



Analysis of the Balance Sheet

The FMC's assets in fiscal year 2006 were \$2,710,231 as of September 30, 2006. This represents an increase over fiscal year 2005 of \$440,625. The FMC's assets reported in the balance sheet are summarized in the accompanying table.

Summary of Assets as of September 30, 2006		
	FY 2006	FY 2005
Fund Balance with Treasury	\$2,676,163	\$2,217,146
Accounts Receivable	\$2,961	\$2,021
Capital Assets	\$30,353	\$50,439
Other	\$754	\$0.00
Total Assets	\$2,710,231	\$2,269,606

The Fund Balance with Treasury represents the FMC's largest asset of \$2,676,163 as of September 30, 2006. This is an increase of 20.7% over fiscal year 2005 and represents 98.7% of the agency's total assets. The Fund Balance with Treasury is comprised only of annual appropriations maintained by the Department of the Treasury to address current liabilities.

Accounts Receivable as of September 30, 2006, was at \$2,961. This is a 46.5% increase over fiscal year 2005, and accounts for .001% of the FMC's total assets.

Capital Assets, also known as Property, Plant and Equipment, accounts for 1.2% of the FMC's total assets as of September 30, 2006. The "Net" value of \$30,353 accounts for the depreciation of all assets and represents the current book value of those assets.

The FMC's Liabilities totaled \$2,287,089 as of September 30, 2006. The accompanying table depicts an increase of \$329,540 total liabilities over fiscal year 2005. Accounts Payable represents the total goods and services received by the FMC as of September 30, 2006. The FMC is not in receipt of a billing from the various vendors as of the close of fiscal year 2006. 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.

Summary of Liabilities as of September 30, 2006		
	FY 2006	FY 2005
Accounts Payable	\$275,054	\$197,294
Payroll Taxes Payable	\$114,014	\$93,366
Federal Employee Benefits	\$1,070,638	\$979,235
Accrued Liabilities	\$827,383	\$687,654
Total Liabilities	\$2,287,089	\$1,957,549

Net Position is the difference between total assets and total liabilities. The total net position for fiscal year 2006 is an increase of \$111,085 from fiscal year 2005. Unexpended Appropriations represents the total authority granted by Congress that the FMC has not expended as of September 30, 2006. Cumulative Results of Operations represents the net results of all operations of the FMC.

Net Position Summary as of September 30, 2006		
	FY 2006	FY 2005
Unexpended Appropriations	\$1,453,216	\$1,231,683
Cumulative Results of Operations	(\$1,030,074)	(\$919,626)
Total Net Position	\$423,142	\$312,057

The decrease in Cumulative Results is due mainly to the net decrease in Capital Assets as of September 30, 2006.



Analysis of the Statement of Net Cost

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

Summary of the Statement of Net Cost as of September 30, 2006		
	FY 2006	FY 2005
Office of Administration	\$8,449,512	\$6,763,548
Office of Operations	\$7,132,804	\$7,352,269
Formal Proceedings	\$4,958,503	\$5,771,665
Office of Inspector General	\$469,885	\$433,223
Office of Equal Employment Opportunity	\$135,722	\$90,712
Net Cost of Program Services	\$21,146,426	\$20,411,417

Analysis of the Statement of Changes in Net Position

The Statement of Changes in Net Position, found on page nine, reports the change in the agency's net position during the reporting period. The statement is a summary of two factors, Unexpended Appropriations and Cumulative Results in Operations. The increase of \$111,085 from fiscal year 2005 to fiscal year 2006 is due principally to the net change in Cumulative Results of Operations due to further depreciation of Capital Assets and an increase in unexpended appropriations.

Analysis of the Statement of Budgetary Resources

The Statement of Budgetary Resources ("SBR") shows the source of the agency's budgetary resources and the status of those resources at the end of the reporting period. The statement also shows the relationship between budgetary resources and the status of the resources. The total budgetary resources must be equal to the status of budgetary resources at all times. A more detailed SBR can be found in *Chapter 3, Auditors' Report and Financial Statements*, in the Performance

Summary of the Statement of Budgetary Resources as of September 30, 2006		
	FY 2006	FY 2005
Total Budgetary Resources	\$20,473,727	\$19,622,729
Obligations Incurred	\$20,346,990	\$19,441,873
Unobligated Balance	\$126,737	\$180,856
Status of Budgetary Resources	\$20,473,727	\$19,622,729

and Accountability Report. For fiscal year 2006, the FMC had total budgetary resources available of \$20,473,727. This represents a 4.3% increase over fiscal year 2005 budgetary resources available of \$19,622,729. For fiscal year 2006, the SBR shows the FMC had incurred obligations of \$20,346,990, representing 99.4% of funding available, and had an unobligated balance of \$126,737.

Analysis of the Statement of Financing

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



Improper Payments Information Act

Narrative Summary of Implementation Efforts for FY 2006 and Agency Plans for FY 2006—FY 2009

- I. The Federal Maritime Commission has not identified any program that in and of itself constitutes a high-risk for improper payments. Therefore, the FMC considers all of its payments to fall within the realm of high-risk. As such, the FMC has instituted a separation of duties concerning payments that has been very successful in curtailing any improper payments. The National Finance Center (“NFC”) became the agency’s payroll provider in 2002 and is responsible for monitoring and reporting on any payroll-related payments. Any overpayments made to an FMC employee by the NFC on behalf of the FMC are offset by NFC. In FY 2006, 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 one hundred percent of all disbursements made by the FMC. This was the case for all programs.
- III. In order to reduce the rate of improper payments, the FMC will continue to monitor all payments to maintain a zero dollar improper payment figure. To this end, the FMC will ensure that there are sufficient segregation of duties pertaining to payments concomitantly with closer scrutiny of all IPAC collections made against the Commission. The 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 2006 with percentage forecasts through FY 2009.

Improper Payment Reduction Outlook FY 2006 - FY2009 (Millions)						
Program	FY06 Outlays	FY06 IP %	FY06 IP \$	FY07 %	FY08 %	FY09 %
Formal Proceedings	0.00	0.0000	0.0000	0.00	0.00	0.00
Inspector General	0.00	0.0000	0.0000	0.00	0.00	0.00
Equal Employment Opportunity	0.00	0.0000	0.0000	0.00	0.00	0.00
Operations	0.00	0.0000	0.0000	0.00	0.00	0.00
Administration	0.00	0.0000	0.0000	0.00	0.00	0.00
Totals	0.00	0.0000	0.0000	0.00	0.00	0.00



Improper Payments Information Act (continued)

- V. The FMC has in place a segregation of duties to ensure that all invoices processed for payment are legitimate expenses of the agency. When an invoice is received it is first verified as a valid invoice belonging to the agency. The invoice is then processed by the OMS to identify the proper purchase order the payment is to be expensed against. The OFM then processes the invoice against the purchase order to ensure that there are sufficient funds available on the purchase order to make the payment. If there are insufficient funds remaining on the purchase order, a request is made to modify the purchase order to increase funding. Once the payment authorization has been processed, it is verified by a second member of the OFM. From there the payment request is forwarded to the BPD for processing. When the payment is loaded into the Oracle database, a final funds availability check is made by the financial system against the fund controls set for the FMC. Currently the fund controls are set to the summary appropriation level. Beginning 10/01/06, the original invoices are received by BPD and forwarded to OFM via electronic media. This effects another level of scrutiny for every invoice and subsequent payment disbursed by BPD on behalf of the FMC.

The receipt of an invalid IPAC collection must be processed as a payment for the reason that the funds have already been moved from the Treasury General Fund as a disbursement against the FMC's Agency Location Code ("ALC"). The internal controls in place remain unchanged, with a closer scrutiny paid to 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 has delegated financial responsibility to the Director, OFM. The Director of OFM has the responsibility to ensure that all disbursements made by BPD on behalf of the FMC are legitimate expenses of the agency and that there are sufficient funds available. The OFM 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 fiscal year 2006, the FMC requested funding to maintain the contract between the FMC and BPD for financial support and platform access to the Oracle database through Oracle's Discoverer portal.
- VIII. There are no statutory or regulatory barriers that limit the agency's ability to take corrective actions to address any improper payments.
- IX. The current IPAC system does not allow an agency to refuse a collection against its ALC through the General Fund it deems improper. The end result is a requirement to make the payments during the accounting period in which the collection was made and reverse the collection at a later date. The ability to challenge the collection would reduce the number of improper collections made against the agency, therefore reducing the number of improper payments.



Systems, Controls, and Legal Compliance

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

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

Federal Managers' Financial Integrity Act

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

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

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

FY 2006 Integrity Act Results

The Chairman of the FMC determined that, as of September 30, 2006, the management controls of the FMC provide reasonable assurance that the objectives of the FMFIA are being met, and that the FMC, as a whole, is in compliance with section 2 of the FMFIA. The FMC's financial management systems also are in substantial compliance with the objectives of the FMFIA, and the Commission is in compliance with section 4 of the FMFIA.

During the fiscal year, the FMC mitigated two significant deficiencies (formerly called "material weaknesses" by OMB) which were first identified in a previous fiscal year. These significant deficiencies were in the information technology program.



FY 2005 Integrity Act Results (continued)

The first of the two significant deficiencies was the quality of certification and accreditation (“C&A”) documents and security self-assessments. To mitigate the deficiency, the FMC hired an IT Security Officer who conducted a review of the agency’s systems and developed updated C&A documents for them. Disaster recovery testing was accomplished, and infrastructure and security upgrades were implemented on the FMC Network.

The second of the two significant deficiencies was the lack of assurance that a contractor-operated system (SERVCON) was configured and operated under Federal security guidelines. The FMC terminated the contract to operate the system off-site, transferred management of SERVCON to FMC in-house staff, and rewrote the system’s security and password features. Disaster recovery testing was then accomplished.

The FMC is pleased to report that these significant deficiencies were mitigated.

During FY 2006, as a result of the Inspector General’s review of the agency’s implementation of FISMA, a finding was made which the FMC is reporting as a significant deficiency: C&A documents developed for the FMC network and applications do not provide enough information to evaluate the threats, vulnerabilities, safeguards and risks associated with operating the systems in a production environment. The FMC plans to address this deficiency through an application of appropriate NIST standards and requirements while also taking into account the size of the agency and the systems involved when developing additional materials for the C&A documents. We anticipate that this significant deficiency will be mitigated during FY 2007.

The existence of a significant deficiency does not preclude a statement of overall compliance, as the deficiency is not sufficient to prevent reasonable assurance of overall compliance.

Federal Financial Management Improvement Act

The Federal Financial Management Improvement Act (“FFMIA”) requires agencies to implement and maintain systems that comply substantially with: Federal financial management system requirements; applicable Federal accounting standards; and the standard general ledger at the transaction level. The Act requires the agency head to determine whether the agency’s financial management systems comply with the FFMIA and to develop remediation plans for systems that do not comply.

FY 2006 Federal Financial Management Improvement Act Results

The Chairman of the FMC determined that, as of September 30, 2006, FMC’s financial management systems were in substantial compliance with the FFMIA. In making his determination, the Chairman considered the results of audits conducted by outside auditors in successive fiscal years, in addition to Inspector General reports, among other resources.

Prompt Payment Act

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 2006, the FMC maintained a percentage of on-time payments at 92.8%. The interest payments of \$44.11 were primarily a result of new invoice processing procedures that were implemented mid-year. The FMC will continue to strive towards 100% on-time payments in future years. The FMC has maintained a 100% on-time electronic/credit-card payment to its vendors.



Debt Collection Improvement Act

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

Biennial Review of User Fees

The Chief Financial Officers Act requires agencies to conduct a biennial review of fees and other charges imposed by agencies, and to make revisions to cover program and administrative costs incurred. During FY 2005, the FMC published its revised fees subsequent to its biennial review. The fees are posted on the FMC’s website. In FY 2007 the FMC will again conduct its biennial review.

Performance Measure Summary

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

Inspector General Act

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

Briefly, during fiscal year 2006, the Inspector General completed the following audits/inspections:

- Audit of FY 2005 Financial Statements
- Audit of FY 2005 FISMA Compliance
- IG Assessment of Management Challenges Facing the FMC
- Audit of Data Accuracy in BOE’s Tracking System
- Audit of Payroll Processing Transactions
- Audit of FY 2006 FISMA/Privacy Compliance

The Inspector General’s reviews disclosed no instances of questioned costs nor were any recommendations made that funds be put to better use. The FMC has addressed a number of recommendations from these reviews, and it is anticipated that the ones which remain outstanding will be completed in FY 2007.

During FY 2006, the agency mitigated two significant deficiencies which had been identified in a previous fiscal year. The Inspector General, in his FY 2006 FISMA Review, identified one significant deficiency related to the agency information security program; it is anticipated that corrective action on that deficiency will be completed in FY 2007.