FEDERAL MARITIME COMMISSION
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January 15, 2009

Office of Inspector General

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TO: Commissioner Brennan
Commissioner Creel
Commissioner Dye

FROM: Adam R. Trzeciak
Inspector General

SUBJECT: Transmittal of the OIG FY 2008 Management Letter

When performing an audit of an agency's major financial systems and accounting processes, auditors often detect deficiencies in internal controls that do not rise to a level of seriousness to be reported in the auditor's opinion. These findings are communicated to the auditee in a management letter. Attached is a copy of the FY 2008 Financial Statement Management Letter that reports on such findings.

During the annual review, findings within the same general area as earlier findings are likely to occur. Consequently, the Management Letter begins with reporting on the status of prior year findings. This is not necessarily an indication that management is not addressing these issues. Rather, it reflects that certain areas are vulnerable to accounting errors or system breakdowns and need constant oversight.

This year's management letter contains the status of three prior-year findings and two new findings.

The OIG will continue to review areas vulnerable to accounting error and report any findings in next year's management letter.

I am available to discuss the letter at your convenience.

Attachment

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

Federal Maritime Commission
Washington, D.C.

In planning and performing our audit of the financial statements of the **Federal Maritime Commission (FMC)** as of **September 30, 2008**, in accordance with auditing standards generally accepted in the United States of America and Government Auditing Standards, issued by the Comptroller General of the United States, we considered the FMC's internal control over financial reporting as a basis for designing our auditing procedures for the purposes of expressing our opinion on the financial statements, and not for the purpose of expressing an opinion on the effectiveness of the Agency's internal control. However, based on our audit, we are providing the following findings and recommendations.

Prior Year Findings - Updated

Finding 1. Errors in the Reconciliation of Annual Leave Accrual

All agency employees are required to complete a timesheet on a biweekly basis to document hours worked and leave taken during the pay period. The FMC uses the proprietary software program STAR – System for Time and Attendance Reporting – to record employee work and leave hours. Timekeepers are responsible for entering the information into the STAR system and printing a hard copy of the biweekly input for review and certification by the employee and his/her supervisor. Timekeepers send the certified attendance information to the FMC's payroll servicing agent, the U.S. Department of Agriculture's National Finance Center's (NFC), via direct link, for processing.

Notwithstanding the certification process, an employee or timekeeper will, on occasion, discover an error in the employee's leave balance(s). According to FMC staff, this error often results from a breakdown in the above-described certification process. For example, some employees may not review their biweekly time and attendance information before it is submitted to NFC by the timekeeper because the employee is on leave or travel when the cards are prepared. Once the error is detected, the timekeeper notifies FMC's Office of Financial Management (OFM), who then manually makes the correction in the NFC system. After this change is made, then OFM notifies the timekeeper, who then makes the correction in STAR. If the timekeeper makes the correction in STAR without notifying OFM, or the correction is not made by the timekeeper per instructions from OFM, the NFC will prepare a leave error report identifying the imbalance between the two systems.

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During fieldwork on the annual financial statement audit for FY 2007, we reviewed the FMC's leave error report for pay period No. 20. We identified eight employees with leave balance errors as identified on leave error reports. These differences were deemed minor, however, we believe that this reconciliation is important to ensure that the accrued annual leave balances in the agency's records and on the agency's financial statements is accurate.

As most, if not all, errors are occurring when timekeepers either fail to (i) enter corrections into STAR after those corrections are made by OFM staff into the NFC system, or (ii) notify OFM when making the correction into STAR, we believe that many leave error reports can be prevented by simply having OFM make corrections into both systems at the same time.

FY 2007 Recommendation: We recommend that the Office of Financial Management make corrections in the STAR and NFC payroll systems to centralize and consolidate the leave error correction function.

FY 2008 Follow Up: The Office of Financial Management is now making corrections in the STAR and NFC payroll systems. The OIG noted that the number of leave errors has been reduced because of this change. We consider this comment closed.

Finding 2. Accounts Payable are Understated

Accounts payable (or payables) represent amounts owed for purchases of goods or services. During the year, payables are recorded when an invoice, packing slip or receiving report is received by the agency. The Office of Management Services (OMS) reviews all obligations at year end and establishes an accrual for all services and goods received by year end (e.g., to recognize that money is owed in the period that the goods were received). For example, an invoice for computer monitors that were delivered on September 15 (FY 2007) may not be sent by the manufacturer until October 10 (FY 2008). The expense should be recorded on the FY 2007 books because the monitors were received in FY 2007.

We reviewed accounts payable at year end to ensure that all expenses for goods and services were properly recorded in the appropriate period. During our review, we identified approximately $16,000 in additional FY 2007 payables that were not recorded by the agency. Without making the necessary adjustments, the payables would be erroneously recorded as FY 2008 expenses, even though the goods were received in FY 2007. This would understate the FMC's liabilities on its financial statements.

Identifying expenses when they occur near the end of the fiscal year is a two-step process requiring agency staff (generally finance or procurement staff) (i) to identify large contract and purchase items and to follow up with the contracting officer's technical representatives or other contact points to inquire whether the goods were received, and (ii) to estimate the dollar amount of services that were received since the prior invoice up through the end of the fiscal year (September 30). The amounts are then accrued as payables.

The OMS's accrual process did not include this important step, instead relying on invoices received either in FY 2007 or FY 2008. Invoices that were not received by the agency in time for its review were not included in the payable amounts. We believe that neglecting this step, although not material to the financial statements in FY 2007, could have a significant impact on accruals in years where a large volume of goods/services are delivered near fiscal year end.

FY 2007 Recommendation: We recommend that OMS establish procedures to review large contracts at year end to determine whether goods or services have been received and to establish an accrual to record the value of the goods/services received.

FY 2008 Follow up: During the year, the OMS established a Standard Operating Procedure (SOP) to review large procurements at year-end for accruals. Under this SOP, OMS reviews all procurements over $10,000 at year end with Contracting Officer's Technical Representative (COTR) to determine that accruals are properly reflected on all contracts above the scope. No exceptions were noted during our testing and we concluded that the OMS new procedure adequately addressed our prior year comment. This comment is considered closed.

Finding 3. Obligations not Established for Field Office Lease

The FMC maintains field offices (a.k.a. area offices) in: New York, NY; Miami, FL; New Orleans, LA; Houston, TX; Seattle, WA; and Los Angeles, CA. The FMC leases office space from private landlords in some markets and from government agencies in other markets.

The area office in Los Angeles, CA, has a month to month lease with another federal agency for office space. When we reviewed lease expense as part of our fieldwork performed in July, 2007, we learned that the agency had not been billed for this space and had not established an obligation to record, for budgetary purposes, the rent commitment in dollars.

In August 2007, OMS established the obligation for rent in Los Angeles in the amount of $10,000. During the same month, OMS contacted the General Services Administration to establish a Memorandum of Understanding with the federal agency in Los Angeles and a normal payment cycle for this space.

FY 2007 Recommendation: We recommend that rent obligations be made at the beginning of the fiscal year for all leased properties, and that the agency establish procedures to ensure that agency funds are obligated before the next rent cycle begins.

FY 2008 Follow Up: During our audit we noted that the rent obligations were made at the beginning of the year. We consider this comment closed.

Current Year Findings

Finding 1. Agency floor on erroneous payments is set too low

Commission Order 78, *Collection of Erroneous Payments Made To Or On Behalf of Commission Employees*, (erroneous payments policy) sets forth the procedures for the recovery of erroneous payments. An erroneous payment is defined as a payment made that should not have been made or an overpayment, and may be due to procedural or administrative errors.

The agency's Deputy Director of Administration (DDA) is responsible for the determination of indebtedness. When an erroneous payment is made, the Director, Office of Financial Management (OFM), prepares a detailed statement of the facts and circumstances causing the erroneous payment. The DDA validates the debt based on information furnished by the OFM Director. The Chairman is the only agency employee authorized to consider a waiver of collection of the payment upon request from the employee.

It is the Commission's policy to take action to recoup all erroneous payments in excess of $1.00.

During our fieldwork on the FY 2008 financial statement audit, the OIG reviewed documentation relating to controls over erroneous payments. The OIG learned of an erroneous claim made by an employee on a travel voucher. Due to a procedural error by the agency, the traveler had been paid the claimed amount before OFM had completed its inquiry. The amount erroneously paid was $15.

This transaction generated several e-mails and discussions that ultimately focused on per diem claims (deductions for a vendor-provided meal) and the timing of OFM's inquiry – much of it coming <u>after</u> the claim had been paid. OFM told the OIG that agency policy to seek to recoup all claims over $1.00 left it little flexibility, notwithstanding the de minimus amount in question.

We are not questioning the actions of either party concerning this transaction. However, we believe the episode highlights the need to revisit the agency's erroneous payments policy. It is difficult to imagine any scenario where the agency comes out ahead by aggressively seeking to collect a few dollars owed to it because of mistake or error. Rather, management needs the discretion to forgive small claims made in error (without involving the FMC Chairman) while continuing to pursue intentional false claims, regardless of the amounts involved.

Neither OFM nor the OIG believe that this individual attempted to defraud the federal government. The employee was a first-time traveler who was not familiar with all federal travel regulations. The traveler was intimidated by sanctions for submitting false claims (fines and/or imprisonment) and laboriously researched this case. For its part, OFM followed the agency's policies on vendor-provided meals and erroneous payments.

To resolve this $15 claim, the OIG estimates that the agency (OFM, the traveler, and the traveler's coworkers and supervisor) spent 25 hours in research and discussions.[1] If all involved were paid at a fully loaded average rate of $75 an hour (both conservative estimates), we calculate that the agency spent over $1,500 to recover $15, or $100 for each $1 recovered. While we do not underestimate the deterrent effect of OFM actions on future, would-be violators, we believe that the costs to the agency to enforce a policy that seeks to recoup $1.00 far exceed its benefits.[2]

<u>Recommendation:</u> The OIG recommends that the Office of Administration seek Commission approval to revise Commission Order 78, *Collection of Erroneous Payments Made to Or On Behalf of Commission Employees,* to give the Director of Administration the authority to forgive erroneous payments of $25 or less.

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[1] OIG estimates are based in large part on a log maintained by the traveler documenting hours spent researching and discussing the case with coworkers.

[2] We believe that our calculated estimate of agency costs to resolve this $15 transaction is not representative of all erroneous payment resolution costs.

Finding 2. The Office of Management Services is not Optimally Using the Agency's Procurement Services Provider

The Federal Maritime Commission (FMC) contracted with the Bureau of Public Debt, Administrative Resource Center (BPD/ARC) to provide accounting, travel and procurement services to the agency. BPD/ARC charges for services based on actual direct and indirect costs of providing services in accordance with an agreed-upon cost schedule. The cost schedule is updated at the beginning of each annual service period. Costs are set for the service period, regardless of the number of transactions BPD/ARC processes on behalf of the FMC.

During our review, the OIG focused on the procurement-related services provided to the agency by BPD/ARC, specifically simple acquisitions support. According to the Federal Acquisition Regulation (FAR) 2.101, simplified acquisitions consist of any acquisitions under $100,000, with some exceptions. Specific services provided by BPD include maintaining purchase order files, issuing guidance to agency staff on purchasing methodologies to obtain needed goods or services; and preparing acquisition purchase descriptions, work statements and final awards.

In FY 2008, the BPD's cost to provide acquisition support to the FMC was $134,571. This amount includes both transaction-based and overhead costs. Transaction costs are extrapolated from prior year procurement activity, and include full-time equivalent (FTE) labor as well as procurement system usage. Overhead costs include system labor support, PRISM application and underlying support software fees, as well as other components, such as network, firewalls, telecommunications, etc. FMC procurement costs are broken down as follows:

BPD FY2008 Procurement Costs Breakdown

Procurement Services	$ 72,600
Procurement System Services	35,160
OIT Costs	26,811
Total	$ 134,571

The OIG notes that the $72,600 Procurement Services costs represent the direct labor paid (i.e., FTE) to BPD for processing procurement transactions. The remaining amount ($61,971) represents FMC's costs for using BPD systems. The latter cost remains essentially constant, regardless of whom (BPD or FMC) uses the system to process a procurement transaction.

The OIG researched procurement information from the agency's on-line procurement system, PRISM, to identify and compare the number and dollar amount of FY 2008 transactions processed by BPD with the number processed in-house, i.e., by FMC's Office of Management Services. The following tables summarize our findings:

	BPD/ARC	OMS/FMC
Number of Transactions		
Original Orders:	29	144
Amendments:	27	110
Total:	56	254
Transaction Dollar Amounts		
Original Orders:	$ 916,340	$ 1,488,744
Amendments:	674,525	3,949,257
Total:	$ 1,590,865	$ 5,438,001

The agency paid $72,600 to BPD for direct labor to process 56 transactions, or $1,300 per transaction processed. [3] Further, the FMC processed over four times as many transactions as did BPD and the average dollar value for transactions processed at BPD was greater than those processed at FMC ($33,389 vrs. $21,409). Finally, 29 percent of all BPD-processed transactions were processed in the last two months of the fiscal year, compared with 44 percent of OMS-processed transactions.

In a prior audit report issued in May, 2007, the OIG recommended that management "consider transferring OA's contracting function to the Bureau of Public Debt." [4] The recommendation was made in response to weaknesses identified in the agency's procurement process. In its comments on the audit, management informed the IG that "procurement requests above the $5,000 threshold are now sent to the Bureau of Public Debt for procurement action." [5] Notwithstanding, the OIG identified 76 actions that exceeded the $5,000 threshold that were processed by OMS in FY 2008, with 33 processed in the first 10 months of the fiscal year.

The OIG believes that OMS is not using BPD acquisition services optimally and is not complying with its earlier response to rely on BPD to process transactions exceeding $5,000. In prior discussions, OMS told the OIG that BPD will not process transactions that it receives with less than 60 days remaining in the fiscal year (to allow sufficient time for competitive bidding). BPD staff confirmed this standard, but also indicated that it is to be applied on a case-by-case basis. For example, as noted above, 29 percent of all FY 2008 transactions sent to BPD were processed in the final two months of the fiscal year.

Recommendation: The OIG recommends that the Office of Management Services establish quotas for simple acquisitions to be processed by BPD/ARC, increasing by at least 10 percent each year.

[3] Of the 56 transactions, the OIG identified six contract actions (which generally require more labor effort to process), 22 small purchases averaging $33,389 per transaction, and 28 interagency transactions which, according to BPD, require little time or effort to process.

[4] Audit of Contracts FMC-05-00021 and FMC-06-00007, Procurement of Consulting Services, A07-02

[5] Management comments to A07-02, April 23, 2007. p.2

We believe that the implementation of these recommendations will provide the **Federal Maritime Commission** with a stronger system of internal controls while also making its operations more efficient. We will be happy to discuss the details of these recommendations with you and assist in any way possible with their implementation.

Management comments to this letter are attached in their entirety.

While this report is intended solely for the information and use of the management of the **Federal Maritime Commission**, it is also a matter of public record, and its distribution is, therefore, not restricted.

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

Rockville, Maryland
January 15, 2009

FEDERAL MARITIME COMMISSION

Office of Administration

Memorandum

To : Inspector General **Date:** January 14, 2009

From : Deputy Director of Administration

Subject : Comments on Draft Transmittal of the OIG FY 2008 Management Letter

I have reviewed the recommendations in the instant draft transmittal. Below are our comments regarding corrective actions which will be effected to address the recommendations.

Recommendation #1. The OIG recommends that the Office of Administration seek Commission approval to revise Commission Order 78, *Collection of Erroneous Payments Made to or on Behalf of Commission Employees*, to give the Director of Administration the authority to forgive erroneous payments of $25 or less.

OA agrees that C.O. 78, ***Collection of Erroneous Payments Made to or on Behalf of Commission Employees,*** should be amended to give the Director of Administration authority to forgive erroneous payments of $25; however, the authority should be limited to travel-related expenses. The head of the agency should retain the authority to forgive other erroneous payments. Commission Order 78 will be updated accordingly.

OA will also update C.O. 55, ***Official Travel***, to reflect the new authority given to the Director of Administration regarding the ability to waive travel-related expenses. We expect to have the Commission Orders updated by June 30, 2009.

Recommendation #2. The OIG recommends that the Office of Management Services establish quotas for simple acquisitions to be processed by BPD/ARC, increasing by at least 10 percent each year.

OA concurs with the recommendation and agrees to ensure that BPD receives a greater percentage of the procurement actions in the second, third, and fourth quarters of FY09, especially the higher-level, more sophisticated transactions. In 2008, with multiple CRs, many acquisitions had to be processed inhouse by our own staff. Notwithstanding, success will be partially dictated by the Commission's spending patterns, ongoing budget (CR) developments, the time frame in which acquisition requests are approved, their dollar thresholds, etc.

Anthony Haywood