Federal Maritime Commission

Performance and Accountability Report

Fiscal Year 2010

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 2010 Performance and Accountability Report is

published by the Federal Maritime Commission

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

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

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

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

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

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

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

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

  http://www.oig.lsc.gov/legis/pl110-409.pdf

- The Government Performance and Results Act of 1993 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://govinfo.library.unt.edu/npr/library/misc/s20.html

- 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 Act of 2002 provides for estimates and reports of improper payments by Federal agencies. The Act can be found at the following URL:

  http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_public_laws&docid=f:publ300.107.pdf

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A MESSAGE FROM THE CHAIRMAN

As the Chairman of the Federal Maritime Commission, I am pleased to submit this Performance and Accountability Report for Fiscal Year 2010. It is the role of the FMC, through its regulatory authority, to assist all segments of our waterborne commerce, especially U.S. importers and exporters, in regaining their vitality and stimulating job growth 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 2010, the FMC continued to strive to maintain a viable ocean highway for efficiently transporting U.S. imports and exports. We continued to meet legislative mandates, overseeing dominant and emerging ocean shipping trades and monitoring the impact on the United States of actions by other nations in regulating their ocean carriers. We continued to ensure that shippers and regulated entities such as ocean common carriers, ocean transportation intermediaries, ports, and other participants involved in the entire maritime logistics chain were provided with an efficient and reliable ocean transportation system.

The FMC has a twofold strategic focus, as reflected in our Strategic Plan for 2010-2015, in 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. 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. We especially are concerned that the ocean transportation system not impede achievement of the President's National Export Initiative.

The ocean transportation system faced significant difficulties in fiscal year 2010. Effective implementation of the Federal Maritime Commission's (FMC) mission to foster a fair, efficient and reliable international ocean transportation system and protect the public from unfair and deceptive practices was uniquely important this fiscal year due to challenging trade and operational conditions. Particularly hard hit were U.S. importers and exporters that found it difficult during most of the year to ship their cargo because of insufficient vessel capacity or lack of available shipping containers. In addition, shippers faced rapidly increasing transportation costs, often unexpectedly and without sufficient advance warning. The highlighted actions provide an overview of agency activities in pursuit of its mission. Central to all of these actions was a reorganization of the Commission.

My January 2010 reorganization was an important first step towards a revitalized FMC. In close consultation with Congress and FMC staff, we took advantage of what worked best during the Commission's forty-nine year history, while modernizing to keep pace with an ocean transportation industry that continues to grow in size and importance. The new organization reestablishes the Managing Director to ensure that the Commission's major offices are cohesively directed toward achieving fair and efficient ocean transportation that helps improve the nation's economy. Heightened priority was also given to the role of the newly independent Office of Consumer Affairs and Dispute Resolution Services to assist exporters and other consumers, and to work with the public and ocean transportation industry to resolve disputes quickly and with minimal costs to all parties.

In 2010, the Commission initiated two major investigations into significant areas of concern affecting shipping industry consumers. Fact Finding Investigation No. 26, *Vessel Capacity and Equipment Availability in the United States Export and Import Liner Trades,* was initiated to ascertain existing conditions and practices in the U.S. liner trades that appeared to impede U.S. oceanborne imports and exports. Exporters especially were encountering difficulty shipping their products due to capacity and equipment constraints, coupled with alleged ocean carrier practices that were preventing many from reaching their markets. This was especially disconcerting in light of President Obama's directive to use Federal resources to increase U.S. exports over the next five years. Fact Finding No. 27, *Potentially Unlawful, Unfair or Deceptive Ocean Transportation Practices Related to the Movement of Household Goods or Personal Property in U.S.-Foreign Oceanborne Trades,* seeks to develop a record of the nature, scope and frequency of potentially unlawful, unfair or deceptive ocean transportation practices in the shipment of household goods. This investigation will further the Commission's Strategic Goal to protect the public from unlawful, unfair or deceptive ocean transportation practices and resolve shipping disputes.

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

The fiscal year 2010 independent financial audit resulted in the FMC's seventh consecutive unqualified opinion. The independent auditors did not identify any material weaknesses, significant deficiencies, or instances of non-compliance with laws and regulations. In the Management Assurances section (see page 17), I provide my assurances that the FMC has no material weaknesses to report. I am also pleased to report that the FMC financial and performance data presented in this Report are complete, reliable, and accurate in keeping with the guidance from the Office of Management and Budget.

On August 12, 2011, the Commission will mark its 50th year anniversary of becoming an independent agency charged with administration of the regulatory provisions of the shipping laws. I look forward to working with our dedicated staff, fellow Commissioners and shippers, ocean transportation intermediaries, ocean carriers, terminals, and ports, as well as my government counterparts in other nations to ensure 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, 2010

FEDERAL MARITIME COMMISSION

Chapter One

MANAGEMENT'S DISCUSSION and ANALYSIS

Fiscal Year 2010

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) 2010, 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 September 29, 2010), and covers the Commission's activities from October 1, 2009 through September 30, 2010.

Chapter One provides an overview of the FMC. It consists of nine sections: *Introduction* describes the agency, its mission and structure; *Regulatory Responsibility* describes its regulatory mandate; *Future Challenges* includes information about the changes in the maritime industry; *Program Performance Overview* reports on the FMC's success in achieving its strategic goals; *President's Management Agenda* describes activities related to the relevant initiatives; *Financial Performance Overview* discusses the FMC's financial position and audit results; *Financial Statement Highlights* gives an overview of the major financial statements; *Systems, Controls, and Legal Compliance* discloses the FMC's compliance with certain legal and regulatory requirements; and the *Chairman's FMFIA Statement of Assurance*, which provides assurance that the FMC's financial management system conforms to applicable financial systems requirements, and that no material weaknesses were found in the design or operation of internal controls.

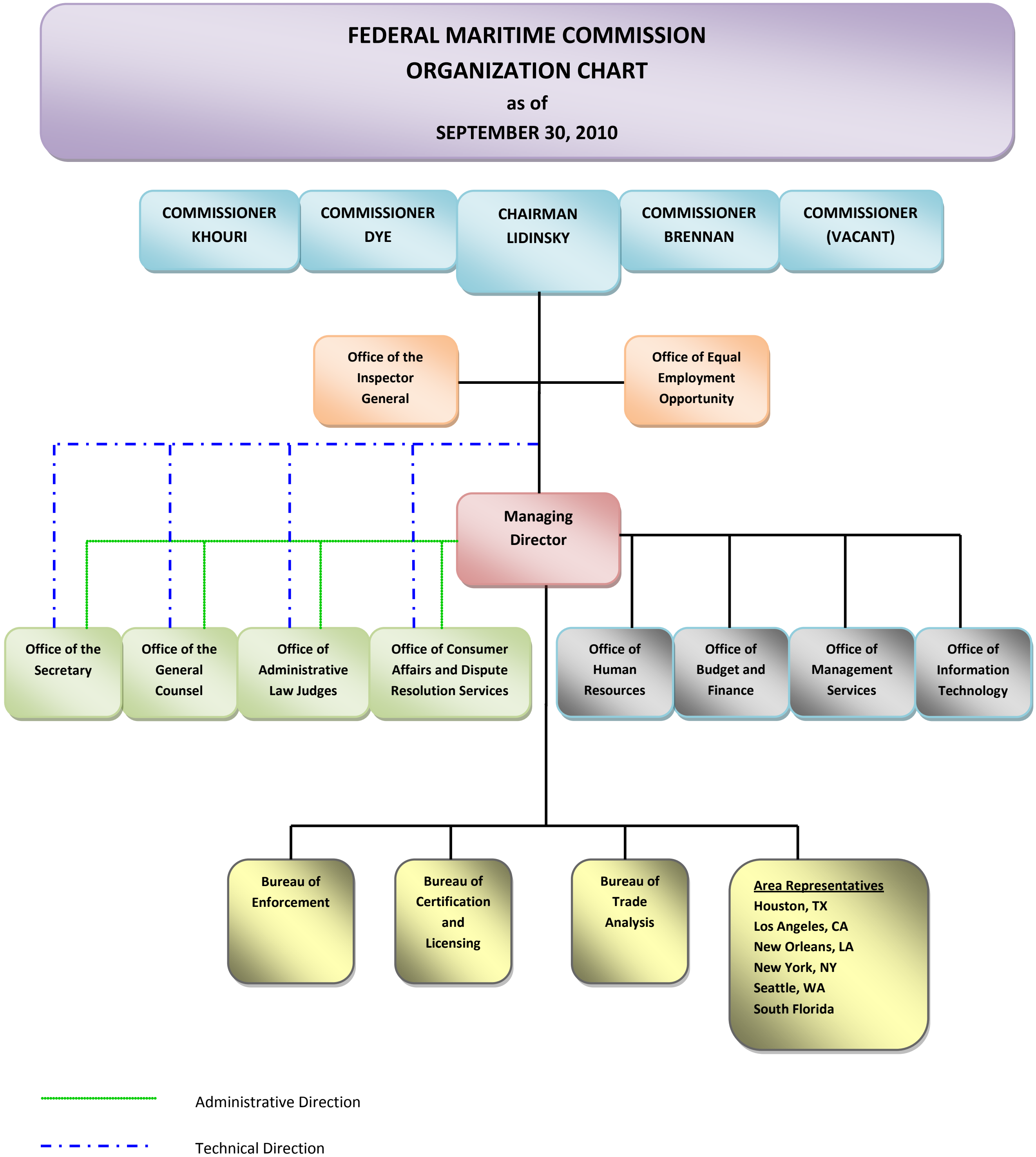
About the FMC

The Federal Maritime Commission (FMC or agency) is an independent regulatory agency which administers the Shipping Act of 1984 (1984 Act or Shipping Act) as amended by the Ocean Shipping Reform Act of 1998 (OSRA); section 19 of the Merchant Marine Act, 1920 (1920 Act); the Foreign Shipping Practices Act of 1988 (FSPA); and sections 2 and 3 of Public Law (P.L.) 89-777 (46 U.S.C. §§ 44102 and 44103) (passenger vessel certification). The Commission: monitors the activities of ocean common carriers, marine terminal operators (MTOs), conferences, ports and ocean transportation intermediaries (non-vessel-operating common carriers and ocean freight forwarders) who operate in the U.S. foreign commerce to ensure they maintain just and reasonable practices; maintains trade monitoring, enforcement and dispute resolution programs designed to assist regulated entities in achieving compliance and to detect and appropriately remedy malpractices and violations of the prohibited acts set forth in section 10 of the 1984 Act; monitors the laws and practices of foreign governments which could have a discriminatory or otherwise adverse impact on shipping conditions in U.S. trades, and imposes remedial action, as appropriate, pursuant to section 19 of the 1920 Act or FSPA; enforces special regulatory requirements applicable to carriers owned or controlled by foreign governments; processes and reviews agreements, service contracts, and service arrangements pursuant to the 1984 Act for compliance with statutory requirements; and reviews common carriers' privately published tariff systems for accessibility, accuracy, and reasonable terms. The Commission also issues licenses to qualified ocean transportation intermediaries (OTIs) in the U.S., ensures that all OTIs are bonded or maintain other evidence of financial responsibility, and ensures that passenger vessel operators (PVOs) demonstrate adequate financial responsibility in case of nonperformance of voyages or 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 FMC may belong to the same political party. The President designates one Commissioner to serve as Chairman, the Chief Executive and Administrative Officer of the agency. Chairman Lidinsky announced a reorganization of the FMC effective January 31, 2010.

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


FEDERAL MARITIME COMMISSION
ORGANIZATION CHART
as of
SEPTEMBER 30, 2010
COMMISSIONER KHOURI
COMMISSIONER DYE
CHAIRMAN LIDINSKY
COMMISSIONER BRENNAN
COMMISSIONER (VACANT)
Office of the Inspector General
Office of Equal Employment Opportunity
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.

Chapter One MANAGEMENT'S DISCUSSION and ANALYSIS

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 Public Law 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 6,000 regulated persons (passenger vessel operators, vessel-owning common carriers, marine terminal operators, conferences, OTIs, etc.).

Future Challenges

In 2009, the international ocean shipping industry experienced one of its worst years in recent history, and shipping rates plummeted. As a result, shipping lines took up to 575 vessels out of service worldwide, and shipping container production ceased. As the economy recovered in 2010, demand for shipping and containers returned at an unexpected pace. Importers and exporters experienced service disruptions such as cancelled bookings and container shortages, along with unexpected and frequent rate increases, along with increased surcharges. The Commission has taken steps to understand the problems that led to these service disruptions, and will be working with the shipping lines and their customers on ways to avoid or address these problems going forward.

Future challenges for the Commission include: (1) ongoing review of regulatory requirements to reduce regulatory burdens while continuing to protect the shipping public; (2) the need for close scrutiny of the shipping lines' rate discussion agreements and global alliances to ensure they do not restrict capacity or impede commerce; (3) working with shipping lines and their customers to help them resolve disputes and disruptions efficiently; and (4) protecting consumers who ship their household goods from unfair or illegal practices by shipping intermediaries. The Commission may also be required to respond and implement changes to its controlling legislation and statutory authority.

The Commission will continue to use information technology resources to enhance the efficiency and transparency of its operations and provide the public access to as much information as possible. The Commission also will continue to pursue cooperative working arrangements with other federal agencies to leverage its resources.

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 2010 Program Performance Report is contained in *Chapter 2, Program Performance*. In FY 2010, 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.

Chapter One MANAGEMENT'S DISCUSSION and ANALYSIS

Achieving Strategic Goal Results

The FMC has a distinct process for measuring performance. Performance goals are developed to promote each 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 2010 was the second year in which the FMC undertook to quantify and measure performance goals. The Commission's actual performance in FY 2010 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 first experience in establishing 2009 goals enabled us to set more realistic targets for fiscal year 2010 in the newly revised strategic plan.

President's Management Agenda

The President's Management Agenda (PMA) is intended to make Government more citizen-centered, results-oriented, and market-based. The five initiatives are: (1) Strategic Management of Human Capital; (2) Competitive Sourcing; (3) Improved Financial 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 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 FMC continued to focus on workforce and succession planning during FY 2010. 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.

Over the last several surveys of employee satisfaction and engagement conducted by the U.S. Office of Personnel Management, the FMC has received overwhelmingly positive feedback. Based on results of the 2008 Federal Human Capital Survey, FMC was recognized as one of the Federal Government's Best Places to Work and Most Improved Small Agency. However, employees noted some areas where continued management attention would be desired. Based on that feedback, the FMC expanded its offerings of information about Federal benefits and work/life programs, and worked to increase organizational awareness about telework as a valuable tool for effectiveness and a way to enhance work/life balance.

The 2010 Employee Viewpoint Survey (EVS) results also underscored the overall high level of satisfaction among FMC employees. Rankings for agencies on many of the dimensions related to employee satisfaction and engagement (such as Teamwork, Effective Leadership, Family Friendly Culture and Benefits, and Work/Life Balance) found FMC among the top 10 small agencies once again. However, again employees noted some areas where continued management attention would be desirable. Based on that feedback, the FMC expanded its offerings of information about Federal benefits and work/life programs.

- The Commission used its employee financial education plan to increase employee awareness about their benefits.

- The Commission offers three employee newsletters on an ongoing basis that target wellness and benefits information to employees at various career and life stages and it promotes the Feds Get Fit Challenge annually.

Over the last year, FMC also worked to increase organizational awareness about telework as a valuable tool for effectiveness and a way to enhance work/life balance by benchmarking best practices and adapting them to FMC's mission and culture.

Competitive Sourcing - The FMC submitted its FY 2010 Federal Activities Inventory Reform Act (FAIR Act) Inventory to OMB in June 2010. The Inventory identified 78 of the agency's 132 FTEs as commercial activity FTEs. No challenges to its commercial inventories have ever been received.

Financial Performance - For the seventh straight year, the FMC received an unqualified opinion on its financial statements in FY 2010. 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 2010, the FMC completed a large-volume document scanning project, and now the entire body of historical Commission decisions is available on the FMC website, a useful and cost effective resource. During FY 2010, the Commission continued work to modernize and expand its Regulated Persons Index (RPI), a database containing up-to-date records of licensed OTIs, ocean common carriers and other entities, and work continued on an enterprise content management project to integrate FMC databases, address business workflow and document and records management needs.

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

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 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

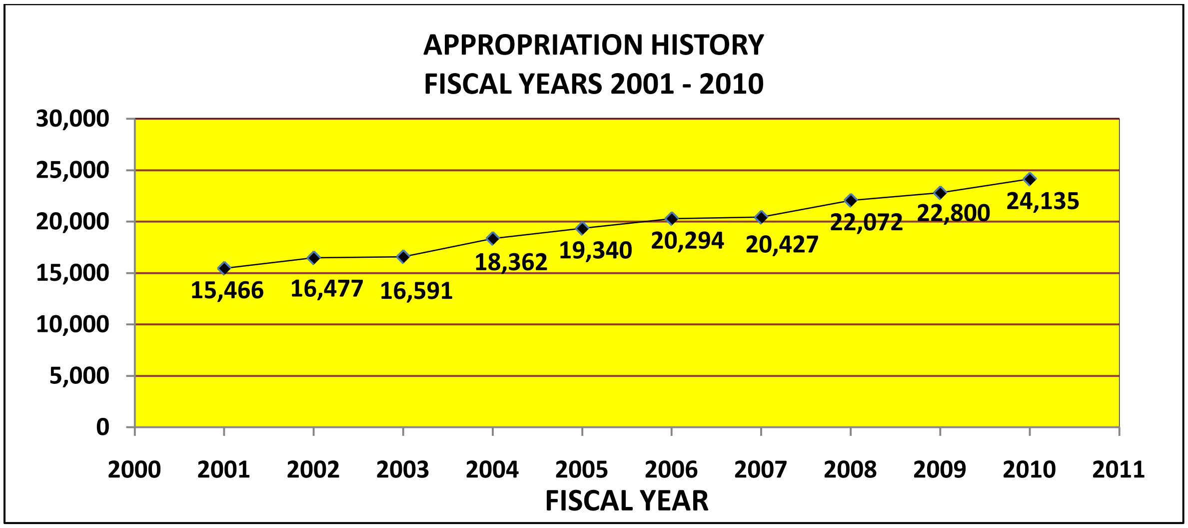
The FMC's financial condition as of September 30, 2010, is sound, and the Commission has sufficient internal controls in place to ensure its budget authority is not exceeded and that funds are utilized efficiently and effectively. The FMC's accounting services provider, the Bureau of the Public Debt (BPD), prepared the agency's financial statements in accordance with accounting standards codified in the Statements of Federal Financial Accounting Standards and OMB Circular A-136.

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 2010 was $24,135,000. This represents a net increase in appropriation level of $1,335,000 over FY 2009. Additionally, the Commission had reimbursable budget authority of $122,029 for work performed by FMC staff for other government entities.

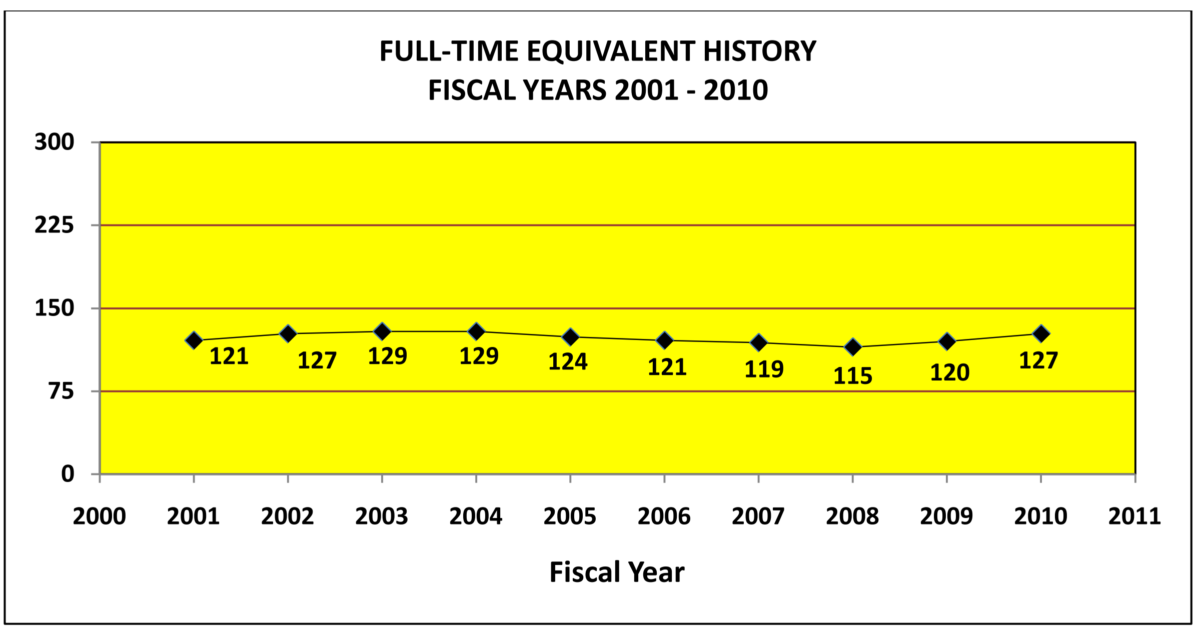
Although the FMC collects remittances for user fees and penalties, the agency is not authorized to offset any of its budget authority by utilizing these funds. The collections are deposited directly into the Treasury General Fund, and captured in the Statement of Custodial Activity which can be found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

Appropriation History



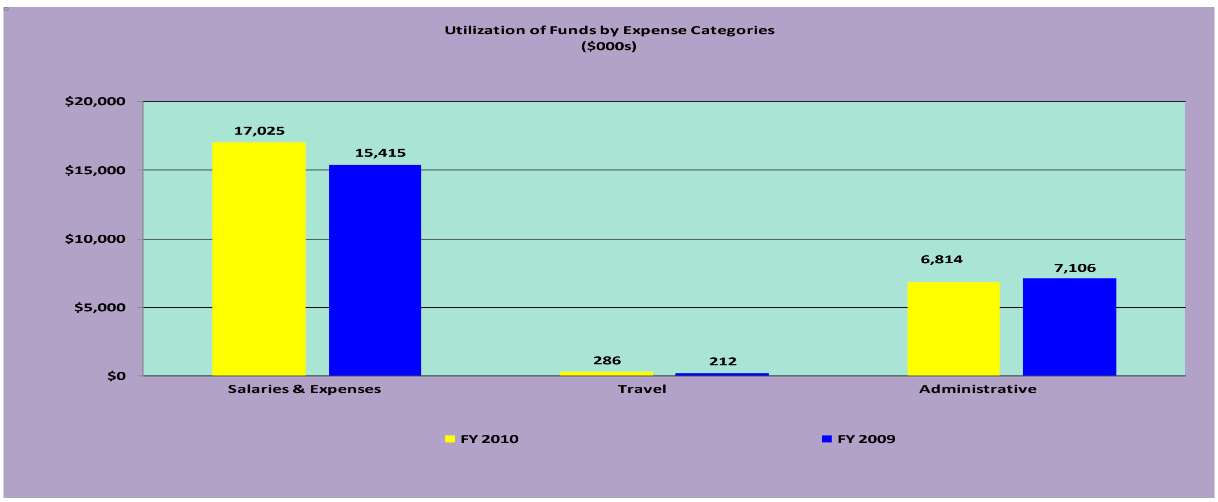
Full-time Equivalent History

The FMC's Full-time Equivalent (FTE) level is largely driven by our annual appropriation level, however, for the past several years, unanticipated vacancies in the Offices of the Commissioners have remained unfilled. The FMC experienced modest growth in its FTE level from 2001 through 2004, followed by an annual decline through 2008. The level increased in 2009 and in 2010, our FTE level returned to its 2002 level. 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 2010 appropriations for the FMC in the amount of $24,135,000 through P.L. 111-117. This represented a $1.335 million increase over the FY 2009 appropriation level of $22,800,000. During FY 2010, obligations against the appropriation totaled $24,124,727, representing 99.96% of the approved funding level. The Commission spent $24.125 million as follows: 70.57% for salaries and benefits, 1.18% for official travel expenses, and 28.25% for administrative expenses (e.g., rent, government and commercial contracts, furniture, printing, and equipment maintenance). The un-obligated balance of $10,273 will remain available in case of legitimate increases to existing obligations.



Audit Results

The FMC again received an unqualified opinion on its FY 2010 financial statements from the auditing firm of Dembo, Jones, Healy, Pennington & Marshall, P.C. under contract through the FMC's OIG. Comparative statements are located in *Chapter Three, Auditor's Reports and Financial Statements.*

Financial Statement Highlights

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

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

Analysis of the Balance Sheet

The FMC's assets in FY 2010 were $5,493,579 as of September 30, 2010. This represents an increase over FY 2009 of $443,183. The FMC's assets reported in the balance sheet are summarized in the accompanying table.

Summary of Assets as of September 30, 2010		
	FY 2010	FY 2009
Fund Balance with Treasury	$4,862,018	$4,777,674
Accounts Receivable	$114	$70,222
Capital Assets	$629,719	$202,500
Other	$1,728	$0
Total Assets	**$5,493,579**	**$5,050,396**

The Fund Balance with Treasury of $4,862,018 represents the FMC's largest asset as of September 30, 2010 and represents 88.50% of the agency's total assets. This is an increase of $84,344 or 1.77% over FY 2009. 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, 2010 was $114 for a receivable billed to a non-federal source. This accounts for less than 1% of the FMC's total assets and is a 99.84% decrease from FY 2009. The reduction is due mainly to one receivable that was resolved through a settlement agreement that resulted in a portion of the debt being written off. Payment for the settlement was received in FY 2010.

Capital Assets, also known as Property, Equipment and Software, accounts for 11.5% of the FMC's total assets as of September 30, 2010. The net value of $629,719 accounts for the depreciation of all assets and represents the current book value of those assets.

The FMC's Liabilities totaled $3,446,619 as of September 30, 2010. The accompanying table depicts an increase of $731,525 total liabilities from FY 2009. Accounts Payable represents the total goods and services received by the FMC as of September 30, 2010. The FMC has not yet received invoices from the numerous vendors as of the close of FY 2010. 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, 2010		
	FY 2010	FY 2009
Accounts Payable	$960,639	$541,102
Payroll Taxes	$204,092	$156,036
Federal Employee Benefits	$13,562	$7,217
Custodial Liabilities	$114	$69,236
Accrued Liabilities	$2,268,212	$1,941,503
Total Liabilities	**$3,446,619**	**$2,715,094**

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.

Net Position Summary as of September 30, 2010		
	FY 2010	FY 2009
Unexpended Appropriations	$2,647,804	$3,214,566
Cumulative Results	($600,844)	($879,264)
Total Net Position	**$2,046,960**	**$2,335,302**

Analysis of the Statement of Changes in Net Position

The Statement of Changes in Net Position 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 2010 is a decrease of $288,342 from FY 2009. Unexpended Appropriations represents the total authority granted by Congress that the FMC has not expended as of September 30, 2010. Cumulative Results of Operations represents the net results of all operations of the FMC.

Analysis of Net Cost

The analysis of Net Cost presents the net cost of FMC's Programs as identified in the Annual Report. The four agency pro-grams are Formal Proceedings, Inspector General, Equal Employment Opportunity, and Operational and Administrative. The Operations program was abolished during an FMC re-organization in January 2010. The individual Operations and Administration programs were merged into a single program at that time. 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.*

Summary of the Statement of Net Cost as of September 30, 2010		
	FY 2010	FY 2009
Operational and Adminstrative	$17,931,656	$0
Office of Administration	$0	$6,237,122
Office of Operations	$0	$10,304,424
Formal Proceedings	$7,109,228	$6,082,905
Office of Inspector General	$675,785	$529,935
Office of Equal Employment Opportunity	$206,652	$151,287
Net Cost of Program Services	**$25,923,321**	**$23,305,673**

Analysis of the Statement of Budgetary Resources

Statement of Budgetary Resources as of September 30, 2010		
	FY 2010	FY 2009
Total Budgetary Resources	**$25,631,554**	**$23,685,439**
Obligations Incurred	$24,327,627	$22,817,981
Unobligated Balance Not Available	$1,293,654	$801,174
Unobligated Balance	$10,273	$66,284
Total Status of Budgetary Resources	**$25,631,554**	**$23,685,439**

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. 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 Three, Auditor's Report and Financial Statements.* For FY 2010, the FMC had total budgetary resources available of $25,631,554. This represents an increase of $1,946,115 or 8.2% over FY 2009 budgetary resources. The FMC incurred total obligations of $24,327,627 in FY 2010.

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 19 recommendations from 2010 and prior years, but management has not yet taken the action to close the recommendations.

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, 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

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 2010, the FMC maintained a percentage of on-time payments of over 95%. The FMC paid seventeen invoices totaling $56,058 late due to certification delays from the COTRs. Interest payments totaling $45 were paid on eight of the invoices. 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.

Biennial Review of User Fees

The Chief Financial Officers Act requires that agencies conduct a biennial review of fees and other charges imposed by agencies, and to make revisions to cover program and administrative costs incurred. During FY 2008, the Commission completed its biennial review of user fees, and the OIG subsequently conducted a review of the methodology used to calculate the updated user fees. During the review, the OIG determined that the agency followed a process which incorrectly set user fees for various mission-related services, resulting in user fees that understated the agency's costs to provide these services. The new fee structure was not implemented during FY 2009.

A revised methodology for calculating user fees was developed in FY 2010. A new User Fee Working Group has been established and revised fees will be calculated based upon final 2010 costs. It is expected that the new user fees structure will be implemented in early 2011.

Performance Measure Summary

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

Inspector General Act

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

Briefly, during FY 2010, the Inspector General completed the following audits and reviews:

FY 2009 Audited Financial Statements
Management Letter to the FY 2009 Audited Financial Statements
FY 2009 Implementation of FISMA
Oversight of Document Scanning Services
Review of Contract Monitoring in the Office of Information Technology
Best Practices for Time and Attendance Implementation
Review of FMC's User Fee Calculations
User Satisfaction Survey of the Office of Information Technology Helpdesk

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 2011.

During FY 2010, no significant deficiencies were identified.

Federal Maritime Commission
Washington, D.C. 20573 – 0001

Office of the Chairman

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, 2010, that its internal controls over the effectiveness and efficiency of operations, reliable financial reporting and compliance with applicable laws and regulations were operating effectively and that no material weaknesses were found in the design or operation of our internal controls.

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

Signed Richard A. Lidinsky, Jr.

Richard A. Lidinsky, Jr.
November 15, 2010

Chapter Two

Program Performance

Annual Performance Report

Introduction

The FMC's performance management system includes both strategic goals and performance measures and targets. The strategic goals represent the FMC's mission and reflect the overall outcomes the agency is working to achieve. This progress report describes progress towards performance targets in 2010 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.
- **Advance Agency Objectives Through High-Performance Leadership and Efficient Stewardship of Resources**
  - Ensure performance of agency programs through performance-oriented management and planning.
  - Allocate technological, financial and human resources efficiently and effectively toward support of agency programs.

The FMC undertook quantitative measurement of eleven performance goals this fiscal year. Seven of these measures reached 2010 targets, and of those, five measures exceeded targets. The agency's most significant improvement from FY 2009, as reflected in this report, was seen in the Ocean Transportation Intermediary licensing process. During FY 2010, the Commission exceeded by 10% its target to complete processing of 55% of license applications in 90 business days. This improvement came as a result of streamlining processes and assisting applicants in submitting more complete applications on a well defined timeline.

Following the report on measures and targets for FY 2010 is a status update on the agency's progress on unmet targets in FY 2009. Since the 2009 report, nearly all measures and targets that fell short of target goals have been addressed and show marked improvement in FY 2010. The agency continues to refine and create more aggressive and relevant performance measures and targets which reflect the Commission's various day-to-day activities and impact on the public.

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 web site to ensure that it is accessible to interested parties. All Commission employees have been advised to review it. Finally, it should be noted that the Commission does not participate in OMB's Program Assessment Rating Tool (PART) program. Accordingly, no PART program evaluations were conducted during FY 2010.

Performance Measure Summary Tables

Targeted Performance Compared to Actual Results Performance Measures 2009 – 2010		
Strategic Goal No. 1: Maintain An Efficient Competitive International Ocean Transportation System (2010)		
Outcome Goals (Performance Measures)		
Performance Measure	**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. **2010 Target:** 18% **2010 Target Unmet:** The following results are based on cargo weight: (U.S. exports – 19.2%); (U.S. imports – 16.3%) The slightly lower than expected target for total U.S. international oceanborne trade probably occurred because the global recession affected consumer-related goods (usually transported by containership) more so than raw materials and semi-finished products (most often carried in other types of ships). This also explains the slightly better result for U.S. exports compared to imports as the former are weighted less towards consumer-related products. It is anticipated the containership sector will regain lost share as the global economy recovers. (Note: The result above is based on fiscal year data through August 2010; September data is not yet available.)	18%	17.4%

Strategic Goal No. 2: Protect the public from unlawful, unfair and deceptive ocean transportation practices and resolve shipping disputes (2010)		
Outcome Goals (Performance Measures)		
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. **2010 Target:** 70%	70%	72.9%
Measure: 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. **2010 Target:** 55%	55%	65%
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. **2010 Target:** 90%	90%	90%
Measure: Percentage of attendees at agency sponsored outreach presentations that rate the program as "Useful" or "Extremely Useful" in their compliance efforts. **2010 Target:** 70%	70%	N/A[1]
Measure: Percentage of key Commission issuances, orders and reports that are available through the Commission's website within 5 working days of receipt. **2010 Target:** 70%	70%	77.1%

[1] FMC staff was invited to a number of venues where, in panel discussions or solo presentations, compliance with FMC regulations was a topic among other topics. These venues included the National Customs Brokers and Forwarders Association of America, WESCCON, the Washington State Customs Brokers and Freight Forwarders Association, the Florida Customs Brokers and Forwarders Association, the West Gulf Maritime Association, the Houston Brokers and Freight Forwarders Association, and various private companies. The feedback received from the hosts of these events was positive across the board. Most of these venues are events and groups to which staff is invited to address on an annual or other frequent basis. Because FMC staff members were invitees as opposed to sponsors, surveying did not take place.

Measure: Number of cases opened and closed each fiscal year using *ombuds* and ADR services assisting consumers to recover goods or funds. **2010 Target:** 550	550	556
Measure: Percentage of formal complaints or Commission initiated orders of investigation will be completed within two years of filing or Commission initiation. **2010 Target:** 50%	50%	56%
Strategic Goal No. 3: Advance Agency Objectives Through High-Performance Leadership and Efficient Stewardship of Resources (2010)		
Outcome Goals (Performance Measures)		
Performance Measure	**FY 2010 Target**	**FY 2010 Actual**
Measure: Attain an "unqualified" audit opinion on financial and performance monitoring systems through FY 2015. **2010 Target:** Unqualified Audit Opinion **2010 Target Met:** For FY 2010, the audit was completed November 10, 2010.	Unqualified Audit Opinion	Yes
Measure: Improve information technology infrastructure to increase to 80 percent forms, applications and payments received electronically by regulated concerns versus receipt of paper driven processes. **2010 Target:** 30% **2010 Target Unmet:** For FY 2010, the FMC was engaged in implementing a new enterprise content management system for document and records management to address objectives outlined in the measure. Amid this infrastructure transition, 89% of forms used for business with the Bureau of Certification and Licensing are received electronically to date.	30%	**N/A**
Measure: Percentage of all recruitment actions for GS positions completed within OPM's 45 day hiring model and within 30 days for SES positions.	60%	N/A

2010 Target: 60% **2010 Target Unmet:** OPM's 45-day hiring model was eliminated and we now use the "End-to-End" (E2E) model that applies to the competitive examination process. As part of the hiring reform initiative, the agency completed a 'mapping' process which reflects total time spent in completing actions required to fill a position. Based on that process, our goal is to fill positions in 102 days or less, with a goal of reducing the time to hire in future fiscals years to no more than 80 days. During the reporting period, three positions were filled. Time-to-hire for the first position was 99 days, 102 days for the second position, and 91 days for the third position. Based on these statistics, the 60% goal was met and exceeded (100% of all positions were filled in line with our mapped time to hire).		

Status of 2009 Unmet Targets		
Performance Measure	**FY 2009 Target**	**FY 2009 Actual**
Strategic Goal 1: **Efficient Regulatory Process (2009)**		
Outcome Goals (Performance Measures)		
Measure: Percentage of complaints or investigations completed within two years of filing or Commission initiation beginning with cases filed or initiated in FY 2007. **Target Unmet in 2009:** A total of 9 such proceedings were initiated in 2007, 5 of those were completed within two years. The pace of complaints and investigations is impacted by the ALJ's and the Commission's caseload, and the timeliness of submissions from outside parties. **Status Update:** This measure was also tracked in FY 2010 and exceeded the target of 50% with an actual result of 56%. See FY 2010 report above.	60%	55%
Measure: Percentage of Active Electronic Docket Logs updated within 72 hours of receipt of key documents issued or filed in Commission proceedings.	85%	55%

Target Unmet in 2009: This process was not tracked prior to FY 2009. Through tracking, inefficiencies on the front end of the current process were discovered. Modifications are underway to expedite the process. **Status Update:** This measure was also tracked in FY2010. The revised target of 70% was exceeded with an actual result of 77.1%. See FY 2010 report above.		
Strategic Goal 2: **Compliance (2009)**		
Outcome Goals (Performance Measures)		
Measure: Percentage of minutes and monitoring reports received within regulatory deadlines or formal extension. **Target Unmet in 2009:** Three different reporting requirements are encompassed in this measure and do not lend themselves to averaging as a collective unit. Of passenger vessel monitoring reports, 91% were filed on time. Follow-up with filers was impeded by staffing shortages in that office. For agreement minutes, 83% were received on time. 72% of quarterly monitoring reports for agreements were received timely. Increasing use of electronic submission rates should increase the rate of timeliness for minutes, as e-filed minutes were received more timely. However for quarterly monitoring reports, filers rely on a commercial data source that often publishes late. **Status Update:** This measure was not directly tracked in 2010 and will be closed out.	95%	72-91%
Measure: Percentage of new and amended OTI applications that are processed with 45 days. **Target Unmet in 2009:** In FY 2009, 401 OTI licenses were issued by the Commission. The target of 45 days was an ambitious target based on program aspirations including anticipating the implementation of an automated application that would have significantly decreased processing time. Also, the target was set without historical benchmark data. In fact, in the agency's Strategic Plan for Fiscal Years 2010-2015, this target was revised from 45 days to 90 days. The 45 day target was also based on several assumptions including a modest increase in the number of applications received, completion of an automated license application form that would build efficiencies for the applicant and the staff analyst both, and minimal staff turn-over. While application growth was indeed modest from FY 2008 to 2009, the number of applications received each year has increased from about 520 in FY 2004 to 759 in FY 2009. Staffing obstacles in FY 2008 and 2009 were significant with turnover at	80%	5%

the office chief level and departures of senior staff. Also significant, since FY 2005, the Bureau has incrementally modified its licensing review procedures, deepening the examination of the qualifications of license applicants. In FY 2009, difficulties encountered in implementing a new automated application process forced us to suspend its development in favor of developing a new agency-wide enterprise content management system. The licensing program is currently under review at the staff level with an aim of streamlining and reducing its back log. **Status Update:** This measure was revised for FY 2010 and revised again for 2011 – 2015. In FY 2010, the target was to make decisions on 55% of completed OTI applications in 90 business days. This target was exceeded by 10%. BCL is now tracking OTI licensing process performance with a FY2011 target of 60% of decisions made within 60 calendar days of a completed application.		
Measure: Number of investigations opened to address alleged harm to the public as a result of Shipping Act violations. **Target Unmet:** 34 investigations were opened by the Commission's Area Representatives to investigate alleged violations. Often when a potential violation is alleged or discovered, the potential respondent is compelled to come in to compliance with the law without the need to open an official investigation. The Bureau of Enforcement's audit program as well as the OTI licensing program has been successful in identifying potential violations and allowing entities to adjust their processes to come in to compliance without the need for investigation. **Status Update**: This measure was not tracked in FY 2010 and will be closed out.	50	34

Strategic Goal 4: **Technological Efficiencies (2009)**		
Outcome Goals (Performance Measures)		
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. **Target Unmet in 2009:** During FY 2009, the decision was made to change the technology underlying our application development. A contract was recently awarded for enterprise content management and three new applications under development to facilitate process improvements are anticipated in FY 2010, with others phased in over coming years. **Status Update:** For FY 2010 a related measure was tracked (**Measure:** Improve information technology infrastructure to increase to 80 percent forms, applications and payments received electronically by regulated concerns versus receipt of paper driven processes) however that target was unmet because of continuing work on implementation of an enterprise content management system.	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). **Target Unmet in 2009:** During FY 2009, the decision was made to change the technology underlying our application development. A contract was recently awarded for enterprise content management and three new applications under development to facilitate process improvements are anticipated in FY 2010, with others phased in over coming years. **Status Update:** For FY 2010 a related measure was tracked (**Measure:** Improve information technology infrastructure to increase to 80 percent forms, applications and payments received electronically by regulated concerns versus receipt of paper driven processes) however that target was unmet because of continuing work on implementation of an enterprise content management system.	12	0

Measure: Number of technology-related programs and systems developed or implemented that achieve full compliance with Federal information security mandates. **Target Unmet in 2009:** Relationship with contractor awarded project severed after work requested was becoming costly and not helpful to the agency's target goal. **Status Update:** For FY 2010 a related measure was tracked (**Measure:** Improve information technology infrastructure to increase to 80 percent forms, applications and payments received electronically by regulated concerns versus receipt of paper driven processes) however that target was unmet because of continuing work on implementation of an enterprise content management system.	12	2
Strategic Goal 5: **Management Capabilities (2009)**		
Outcome Goals (Performance Measures)		
Measure: Number of awareness, recruitment, training, new-employee orientation, workforce development, and quality of life initiatives offered to agency employees. **Target Unmet in 2009:** Fewer offerings than anticipated. **Status Update:** This measure was not tracked in FY2010 and will be closed out.	250	216
Measure: Percent of payments (user fees, penalties, etc.) received electronically via Pay.gov versus older technologies (e.g., checks). **Target Unmet in 2009:** Pay.gov program was not implemented during FY2009. The vendor representative was available to inform about the benefits of Pay.gov but the designers and builders of the project were unavailable due to a large volume of existing contracts with other agencies. FMC has been placed on the project waiting list. **Status Update:** FMC has been placed on the project waiting list, and hopes to obtain Pay.gov during FY 2011.	25%	0

Measure: Received "unqualified opinion" from financial statement auditors with respect to the current fiscal year. **Target Unmet in 2009:** For FY 2009, the audit will not be complete until November 2009. **Status Update:** FY 2009, the audit was complete in November 2009 and received "unqualified audit opinion." (See FY 2010 report above, **Measure:** Attain an "unqualified" audit opinion on financial and performance monitoring systems through FY 2015).	Yes	Not available

Chapter Three

Auditor’s Reports and Financial Statements

Chapter Three AUDITOR'S REPORT and FINANCIAL STATEMENTS

Message from the Chief Financial Officer

I am pleased to present the Federal Maritime Commission's consolidated financial statements for the fiscal year 2010 Performance and Accountability Report. I am proud to report that an independent auditor has rendered an unqualified opinion on the FMC's financial statements, which highlights for the President, the Congress and the American people the continuing commitment of the Federal Maritime Commission to maintain sound financial management of the resources entrusted to us. The FMC now has received an unqualified opinion in each of the seven years in which independent financial audits have been conducted, attesting to the FMC's commitment to high quality financial management.

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

During FY 2010, the FMC continued its focus on internal controls, as mandated by OMB Circular A-123. Our financial management staff is to be commended for consistently finding ways to provide budget information in concise, reliable, and understandable formats. In 2010, we completed corrective actions on a number of audit recommendations. Quarterly financial statements were issued 15 days after the end of each quarter, and our FY 2010 PAR is being published on November 15, 2010.

I wish to acknowledge our staff and financial service provider for their dedication to the FMC's mission and their diligent efforts in maintaining the unqualified opinion on our financial statements. Even as financial oversight and accountability requirements grow more complex and challenging, the FMC is steadfastly committed to improving financial management and producing accurate and reliable financial statements. We will focus in fiscal year 2011 on maintaining an unqualified audit opinion and will continue to use timely, reliable, and comprehensive financial information when making agency decisions. I anticipate that the FMC will continue its high level of quality financial management.

Sincerely,

Ronald D Murphy

Ronald D. Murphy
Chief Financial Officer

November 15, 2010

Chapter Three AUDITOR'S REPORT and FINANCIAL STATEMENTS

PRINCIPAL STATEMENTS

LIMITATIONS OF THE FINANCIAL STATEMENTS

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

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

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

November 10, 2010

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 2010 financial statements. The audit results indicate that FMC has established an internal control structure that facilitates the preparation of reliable financial and performance information. We commend FMC for the noteworthy accomplishment of attaining an unqualified (clean) opinion for the seventh consecutive year.

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

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

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

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

- no reportable noncompliance with laws and regulations tested.

To fulfill our responsibilities under ATDA and related legislation for ensuring the quality of the audit work performed, we monitored DJHPM's audit of FMC's FY 2010 financial statements by:

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

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

Our review disclosed no instances where DJHPM did not comply, in all material respects, with U.S. generally accepted government auditing standards. However, our review cannot be construed as an audit in accordance with U.S. generally accepted government auditing standards. It was not intended to enable us to express, and we do not express, any opinion on FMC's financial statements, conclusions about the effectiveness of internal control, or conclusions on compliance with laws and regulations. DJHPM is solely responsible for the attached auditor's report dated November 10, 2010, and the conclusions expressed in the report.

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

Sincerely,

Adam R. Trzeciak
Inspector General

Attachment

cc: Commissioners
Managing Director

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

Chairman Lidinsky:

We have audited the accompanying balance sheet of the Federal Maritime Commission (FMC) as of September 30, 2010 and 2009, and the related statements of net cost, changes in net position, budgetary resources, and custodial activity for the years then ended. In our audits of the Federal Maritime Commission for the fiscal years September 30, 2010 and 2009, we found

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

The following sections discuss in more detail (1) these conclusions, (2) our conclusions on Management's Discussion and Analysis (MD&A) and other accompanying information, and (3) our audit objectives, scope, and methodology.

Opinion on Financial Statements

In our opinion, the financial statements including the accompanying notes present fairly, in all material respects, in conformity with U.S. generally accepted accounting principles, the Federal Maritime Commission's assets, liabilities, and net position as of September 30, 2010 and 2009; and net costs; changes in net position; budgetary resources; and custodial activity for the years then ended.

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Consideration of Internal Control

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

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

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

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

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

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

Compliance With Laws and Regulations

Our tests of the Federal Maritime Commission's compliance with selected provisions of laws and regulations for fiscal year 2010 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.

Consistency of Other Information

The information in the Management's Discussion and Analysis is not a required part of the financial statements, but is supplementary information required by U.S. generally accepted accounting principles. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of this information. However, we did not audit this information and, accordingly, we express no opinion on it

The information in the Chairman's Message, Performance Section, and Other Accompanying Information is presented for purposes of additional analysis and is not required as part of the financial statements. This information has not been subjected to auditing procedures and, accordingly, we express no opinion on it.

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, and (3) performing limited procedures with respect to certain other information appearing with the Annual Financial Statements.

In order to fulfill these responsibilities, we

- examined, on a test basis, evidence supporting the amounts and disclosures in the financial statements;
- assessed the accounting principles used and significant estimates made by management;
- evaluated the overall presentation of the financial statements;

- obtained an understanding of the FMC and its operations, including its internal control related to financial reporting (including safeguarding assets), and compliance with laws and regulations (including execution of transactions in accordance with budget authority);
- tested relevant internal controls over financial reporting and compliance, and evaluated the design and operating effectiveness of internal control;
- considered the design of the process for evaluating and reporting on internal control and financial management systems under the Federal Managers' Financial Integrity Act; and
- tested compliance with selected provisions of laws and regulations.

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

We did not test compliance with all laws and regulations applicable to the Federal Maritime Commission. We limited our tests of compliance to selected provisions of laws and regulations that have a direct and material effect on the financial statements and those required by OMB audit guidance that we deemed applicable to the Federal Maritime Commission's financial statements for the fiscal year ended September 30, 2010. We caution that noncompliance may occur and not be detected by these tests and that such testing may not be sufficient for other purposes.

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

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

Rockville, Maryland
November 10, 2010

FEDERAL MARITIME COMMISSION
BALANCE SHEET
AS OF SEPTEMBER 30, 2010 AND 2009
(In Dollars)

		2010		2009
Assets:				
Intragovernmental				
Fund Balance With Treasury (Note 2)	$	4,862,018	$	4,777,674
Total Intragovernmental		4,862,018		4,777,674
Accounts Receivable, Net (Note 3)		114		70,222
Property, Equipment, and Software, Net (Note 4)		629,719		202,500
Other (Note 5)		1,728		-
Total Assets	$	5,493,579	$	5,050,396
Liabilities:				
Intragovernmental				
Accounts Payable (Note 6)	$	687,333	$	309,177
Employer Contributions and Payroll Taxes Payable		181,479		138,468
Unfunded FECA Liability (Note 7)		1,741		1,968
Custodial Liability		114		69,236
Total Intragovernmental		870,667		518,849
Accounts Payable (Note 6)		273,306		231,925
Accrued Payroll and Leave		1,051,210		865,970
Employer Contributions and Payroll Taxes Payable		22,613		17,568
Unfunded Leave (Note 7)		1,217,002		1,075,533
Actuarial FECA Liability (Note 7)		11,821		5,249
Total Liabilities	$	3,446,619	$	2,715,094
Net Position:				
Unexpended Appropriations	$	2,647,804	$	3,214,566
Cumulative Results of Operations		(600,844)		(879,264)
Total Net Position	$	2,046,960	$	2,335,302
Total Liabilities and Net Position	$	5,493,579	$	5,050,396

FEDERAL MARITIME COMMISSION
STATEMENT OF NET COST
FOR THE FISCAL YEARS ENDED SEPTEMBER 30, 2010 AND 2009
(In Dollars)

		2010		2009
Program Costs:				
Operational and Administrative (Note 10)				
Gross Costs	$	17,931,656	$	16,541,546
Net Program Costs	$	17,931,656	$	16,541,546
Formal Proceedings (Note 10)				
Gross Costs	$	7,227,972	$	6,082,905
Less: Earned Revenue		(118,744)		-
Net Program Costs	$	7,109,228	$	6,082,905
Office of Inspector General (Note 10)				
Gross Costs	$	679,070	$	529,935
Less: Earned Revenue		(3,285)		-
Net Program Costs	$	675,785	$	529,935
Office of Equal Employment Opportunity (Note 10)				
Gross Costs	$	206,652	$	151,287
Net Program Costs	$	206,652	$	151,287
Net Cost of Operations	$	25,923,321	$	23,305,673

FEDERAL MARITIME COMMISSION
STATEMENT OF CHANGES IN NET POSITION
FOR THE FISCAL YEARS ENDED SEPTEMBER 30, 2010 AND 2009
(In Dollars)

	2010	2009
Cumulative Results of Operations:		
Beginning Balances	$ (879,264)	$ (1,029,189)
Budgetary Financing Sources:		
Appropriations Used	24,626,223	22,258,507
Other Financing Sources (Non-Exchange):		
Imputed Financing Sources (Note 11)	1,575,518	1,197,091
Total Financing Sources	26,201,741	23,455,598
Net Cost of Operations	(25,923,321)	(23,305,673)
Net Change	278,420	149,925
Cumulative Results of Operations	$ (600,844)	$ (879,264)
Unexpended Appropriations:		
Beginning Balances	$ 3,214,566	$ 2,706,788
Budgetary Financing Sources:		
Appropriations Received	24,135,000	22,800,000
Other Adjustments	(75,539)	(33,715)
Appropriations Used	(24,626,223)	(22,258,507)
Total Budgetary Financing Sources	(566,762)	507,778
Total Unexpended Appropriations	$ 2,647,804	$ 3,214,566
Net Position	$ 2,046,960	$ 2,335,302

FEDERAL MARITIME COMMISSION
STATEMENT OF BUDGETARY RESOURCES
FOR THE FISCAL YEARS ENDED SEPTEMBER 30, 2010 AND 2009
(In Dollars)

		2010		2009
Budgetary Resources:				
Unobligated Balance Brought Forward, October 1	$	867,458	$	747,665
Recoveries of Prior Year Unpaid Obligations		582,606		171,489
Budget Authority				
Appropriation		24,135,000		22,800,000
Spending Authority From Offsetting Collections				
Earned				
Collected		122,029		-
Subtotal		24,257,029		22,800,000
Permanently Not Available		(75,539)		(33,715)
Total Budgetary Resources	$	25,631,554	$	23,685,439
Status of Budgetary Resources:				
Obligations Incurred (Note 13)				
Direct	$	24,205,598	$	22,817,981
Reimbursable		122,029		-
Subtotal		24,327,627		22,817,981
Unobligated Balance				
Apportioned		10,273		66,284
Unobligated Balance Not Available		1,293,654		801,174
Total Status of Budgetary Resources	$	25,631,554	$	23,685,439
Change in Obligated Balance:				
Obligated Balance, Net				
Unpaid Obligations, Brought Forward, October 1	$	3,910,216	$	3,314,469
Obligations Incurred Net		24,327,627		22,817,981
Gross Outlays		(24,097,146)		(22,050,745)
Recoveries of Prior Year Unpaid				
Obligations, Actual		(582,606)		(171,489)
Total, Unpaid Obligated Balance, Net, End of Period	$	3,558,091	$	3,910,216
Net Outlays:				
Gross Outlays	$	24,097,146	$	22,050,745
Offsetting Collections		(122,029)		-
Net Outlays	$	23,975,117	$	22,050,745

FEDERAL MARITIME COMMISSION
STATEMENT OF CUSTODIAL ACTIVITY
FOR THE FISCAL YEARS ENDED SEPTEMBER 30, 2010 AND 2009
(In Dollars)

	2010	2009
Revenue Activity:		
Sources of Cash Collections:		
Miscellaneous	$ 1,250,668	$ 1,115,241
Total Cash Collections (Note 15)	1,250,668	1,115,241
Accrual Adjustments	(69,122)	5,643
Total Custodial Revenue	1,181,546	1,120,884
Disposition of Collections:		
Transferred to Others	1,250,668	1,115,241
Increase/(Decrease) in Amounts Yet to be Transferred	(69,122)	5,643
Total Disposition of Collections	1,181,546	1,120,884
Net Custodial Activity	$ -	$ -

FEDERAL MARITIME COMMISSION
NOTES TO THE FINANCIAL STATEMENTS

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. Reporting Entity

The Federal Maritime Commission (FMC) was established as an independent regulatory agency on August 12, 1961. FMC is responsible for the regulation of ocean borne transportation in the foreign commerce of the United States (U.S.). The principal statutes or statutory provisions administered by the Commission are the Shipping Act of 1984, the Foreign Practices Act of 1988, and section 19 of the Merchant Marine Act of 1920, and sections 2 and 3 of Public Law No. 89-777 (46 U.S.C. §§ 44102 and 44103). Most of these statutes were modified by the passage of the Ocean Shipping Reform Act of 1998, which took effect in 1999.

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

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

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

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

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

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

B. Basis of Presentation

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

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

C. Budgets and Budgetary Accounting

Congress usually enacts appropriations to permit FMC to incur obligations for specified purposes. In fiscal years 2010 and 2009, the FMC was accountable for General Fund appropriations. The agency recognizes budgetary resources as assets when cash (funds held by the U.S. Treasury) is made available through the Department of Treasury General Fund warrants.

D. Basis of Accounting

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

E. Revenues & Other Financing Sources

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

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

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

F. Taxes

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

G. Fund Balance with Treasury

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

H. Accounts Receivable

Accounts receivable consists of amounts owed to 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 deducts 18 percent from amounts ultimately collected for its fee. Collections, net of fees, are returned to the FMC for remittance to the general fund of the Treasury.

I. Property, Equipment, and Software

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

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

J. Advances and Prepaid Charges

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

K. Liabilities

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

L. Accounts Payable

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

M. Annual, Sick, and Other Leave

Annual leave is accrued as it is earned, and the accrual is reduced as leave is taken. The balance in the accrued leave account is adjusted to reflect current pay rates. Liabilities associated with other types of vested leave, including compensatory, restored leave, and sick leave in certain circumstances, are accrued at year-end, based on latest pay rates and unused hours of leave. Funding will be obtained from future financing sources to the extent that current or prior year appropriations are not available to fund annual and other types of vested leave earned but not taken. Nonvested leave is expensed when used. Any liability for unused sick leave that is accrued but not taken by a Civil Service Retirement System (CSRS)-covered employee is transferred to the OPM upon the retirement of that individual. Credit is given for sick leave balances in the computation of annuities upon the retirement of Federal Employees Retirement System (FERS)-covered employees effective at 50% beginning FY2010 and 100% in 2014.

N. Accrued and Actuarial Workers' Compensation

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

O. Retirement Plans

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

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

FERS employees and certain CSRS reinstatement employees are eligible to participate in the Social Security program after retirement.

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.

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.

P. Other Post-Employment Benefits

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

Q. Use of Estimates

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

R. Net Position

Net position is the residual difference between assets and liabilities and is comprised of un-expended 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.

S. Imputed Costs/Financing Sources

Federal Government entities often receive goods and services from other Federal Government entities without reimbursing the providing entity for all the related costs. In addition, Federal Government entities also incur costs that are paid in total or in part by other entities. An imputed financing source is recognized by the receiving entity for costs that are paid by other entities. FMC recognized imputed costs and financing sources in fiscal years 2010 and 2009 to the extent directed by OMB.

T. Contingencies

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

U. Expired Accounts and Cancelled Authority

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

At the end of the fifth expired year, the expired account is cancelled.

NOTE 2. FUND BALANCE WITH TREASURY

Fund balance with Treasury account balances as of September 30, 2010 and 2009 were as follows:

	2010	2009
Fund Balances:		
Appropriated Funds	$ 4,862,018	$ 4,777,674
Total	$ 4,862,018	$ 4,777,674
Status of Fund Balance with Treasury:		
Unobligated Balance		
Available	$ 10,273	$ 66,284
Unavailable	1,293,654	801,174
Obligated Balance Not Yet Disbursed	3,558,091	3,910,216
Total	$ 4,862,018	$ 4,777,674

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.

NOTE 3. ACCOUNTS RECEIVABLE

Accounts receivable balances as of September 30, 2010 and 2009 were as follows:

		2010		2009
With the Public				
Accounts Receivable	$	114	$	70,222
Total Accounts Receivable	$	114	$	70,222

FMC has one receivable from a non-federal source remaining at fiscal year end that represents an amount due for administrative research.

NOTE 4. PROPERTY, EQUIPMENT, AND SOFTWARE

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

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

Schedule of Property, Equipment, and Software as of September 30, 2009

Major Class		Acquisition Cost		Accumulated Amortization/ Depreciation		Net Book Value
Leasehold Improvements	$	225,000	$	22,500	$	202,500
Furniture & Equipment		291,938		291,938		-
Total	$	516,938	$	314,438	$	202,500

NOTE 5. OTHER ASSETS

Other assets account balances as of September 30, 2010 and 2009, were as follows:

		2010		2009
With the Public				
Advances and Prepayments	$	1,728	$	-
Total Public Assets	$	1,728	$	-

FMC has two travel-related advances remaining at fiscal year end.

NOTE 6. ACCOUNTS PAYABLE

Liabilities include both intragovernmental accounts payable and other accounts payable. Intragovernmental liabilities are owed to other federal entities for rent, printing costs, and services of other agencies. In FY10, intragovernmental accounts payable also includes liabilities incurred for leasehold improvements made to FMC offices, a video conferencing system, and a telephone system. For the fiscal years ending September 30, 2010 and 2009, intragovernmental accounts payable totals $687,333 and $309,177, respectively. Other accounts payable are owed to non-federal sources or to the general public, and includes liabilities for general supplies, training, studies, analysis, and/or evaluations, miscellaneous services, and operation and maintenance of equipment. For the fiscal years ending September 30, 2010 and 2009, the non-federal accounts payable totals $273,306 and $231,925, respectively.

NOTE 7. LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

The liabilities for FMC as of September 30, 2010 and 2009, 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.

		2010		2009
Intragovernmental – FECA	$	1,741	$	1,968
Unfunded Leave		1,217,002		1,075,533
Actuarial FECA		11,821		5,249
Total Liabilities Not Covered by Budgetary Resources	$	1,230,564	$	1,082,750
Total Liabilities Covered by Budgetary Resources		2,216,055		1,632,344
Total Liabilities	$	3,446,619	$	2,715,094

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

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

NOTE 8. OPERATING LEASES

FMC occupies office space in seven locations, of which only 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
San Pedro, CA	5 years	9/30/2011
Washington DC	10 years	10/31/2012
Jamaica, NY	5 years	7/1/2013
Houston, TX	10 years	9/14/2018
Tacoma, WA	10 years	6/30/2019
Hollywood, FL	10 years	5/31/2020

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
2011	$	2,943,374
2012		2,959,243
2013		336,514
2014		60,130
2015		61,099
Thereafter		261,136
Total Future Payments	$	6,621,496

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 9. CONTINGENCIES

There are legal actions pending against FMC in which claims have been asserted that may be based on action taken by FMC. Management intends to vigorously contest all such claims. Management believes, based on information provided by legal counsel, that losses, if any, for these cases would not have a material impact on the Financial Statements. No loss accrual has been made for these cases outstanding at September 30, 2010.

NOTE 10. INTRAGOVERNMENTAL COSTS AND EXCHANGE REVENUE

Intragovernmental costs and exchange revenue represent goods and services exchange transactions made between two reporting entities within the Federal government, and are in contrast to those with non-federal entities (the public). Intragovernmental costs include payments to federal vendors for personnel benefits, rent, utilities, and other services. Payments made to non-federal entities (the public) are comprised primarily of employee salaries and other services. Such costs are summarized as follows:

	2010	2009
Operational and Administrative		
Intragovernmental Costs	$ 6,782,806	$ 6,379,667
Public Costs	11,148,850	10,161,879
Net Program Costs	17,931,656	16,541,546
Formal Proceedings		
Intragovernmental Costs	2,145,204	1,961,167
Public Costs	5,082,768	4,121,738
Total Program Costs	7,227,972	6,082,905
Intragovernmental Earned Revenue	(118,744)	-
Net Program Costs	7,109,228	6,082,905
Office of Inspector General		
Intragovernmental Costs	185,426	150,600
Public Costs	493,644	379,335
Total Program Costs	679,070	529,935
Intragovernmental Earned Revenue	(3,285)	-
Net Program Costs	675,785	529,935
Office of Equal Employment Opportunity		
Intragovernmental Costs	55,943	43,579
Public Costs	150,709	107,708
Net Program Costs	206,652	151,287
Total Intragovernmental costs	9,169,379	8,535,013
Total Public costs	16,875,971	14,770,660
Total Costs	26,045,350	23,305,673
Total Intragovernmental Earned Revenue	(122,029)	-
Total Net Cost	$ 25,923,321	$ 23,305,673

NOTE 11. IMPUTED FINANCING SOURCES

FMC recognizes as imputed financing the costs of future benefits which include health benefits, life insurance, pension and post-retirement benefit expenses for current employees. The assets and liabilities associated with such benefits are the responsibility of the administering agency, OPM. For the fiscal years ended September 30, 2010 and 2009, respectively, imputed financing was as follows:

	2010	2009
Office of Personnel Management	$ 1,575,518	$ 1,197,091
Total Imputed Financing Sources	$ 1,575,518	$ 1,197,091

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

The President's Budget that will include FY10 actual budgetary execution information has not yet been published. The President's Budget is scheduled for publication in February 2011 and can be found at the OMB Web site: *http://www.whitehouse.gov/omb/*. The 2011 Budget of the United States Government, with the "Actual" column completed for 2009, has been reconciled to the Statement of Budgetary Resources and there were no material differences.

NOTE 13. APPORTIONMENT CATEGORIES OF OBLIGATIONS INCURRED

Obligations incurred and reported in the Statement of Budgetary Resources as of September 30, 2010 and 2009 consisted of the following:

	2010	2009
Direct Obligations, Category A	$ 24,205,598	$ 22,817,981
Reimbursable Obligations, Category A	122,029	-
Total Obligations Incurred	$ 24,327,627	$ 22,817,981

Category A apportionments distribute budgetary resources by fiscal quarters.

NOTE 14. UNDELIVERED ORDERS AT THE END OF THE PERIOD

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 fiscal years ended September 30, 2010 and 2009, respectively, undelivered orders amounted to the following:

	2010	2009
Undelivered Orders	$ 1,343,878	$ 2,347,107
Total Undelivered Orders	$ 1,343,878	$ 2,347,107

NOTE 15. CUSTODIAL ACTIVITY

FMC is an administrative agency collecting for the General Fund. As a collecting entity, FMC measures and reports cash collections and refunds as custodial activity on the Statement of Custodial Activity. Cash collections result primarily from FMC regulatory activities to include the assessment of fines and penalties and the payment of license fees by qualified ocean transportation intermediaries in the U.S. 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:

Fund		2010		2009
Fines, Penalties and Forfeitures	$	1,041,250	$	843,000
General Fund Proprietary Receipts (user fees)		213,492		273,218
Refund of User Fees		(4,074)		(977)
Total Custodial Collections	$	1,250,668	$	1,115,241

NOTE 16. RECONCILIATION OF NET COST OF OPERATIONS TO BUDGET

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

		2010		2009
Resources Used to Finance Activities:				
Budgetary Resources Obligated				
Obligations Incurred	$	24,327,627	$	22,817,981
Spending Authority From Offsetting Collections and Recoveries		(704,635)		(171,489)
Obligations Net of Offsetting Collections and Recoveries		23,622,992		22,646,492
Offsetting Receipts		-		-
Net Obligations		23,622,992		22,646,492
Other Resources				
Imputed Financing From Costs Absorbed By Others		1,575,518		1,197,091
Net Other Resources Used to Finance Activities		1,575,518		1,197,091
Total Resources Used to Finance Activities		25,198,510		23,843,583
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		1,003,229		(387,985)
Resources That Fund Expenses Recognized In Prior Periods		759		-
Resources That Finance the Acquisition of Assets		(479,066)		(225,000)
Total Resources Used to Finance Items Not Part of Net Cost of Operations		524,922		(612,985)
Total Resources Used to Finance the Net Cost of Operations		25,723,432		23,230,598
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		141,469		45,214
Other		6,572		5,249
Total Components of Net Cost of Operations That Will Require or Generate Resources In Future Periods		148,041		50,463
Components Not Requiring or Generating Resources				
Depreciation and Amortization		51,848		24,612
Total Components of Net Cost of Operations That Will Not Require or Generate Resources		51,848		24,612
Total Components of Net Cost of Operations That Will Not Require or Generate Resources In The Current Period		199,889		75,075
Net Cost of Operations	$	25,923,321	$	23,305,673

Chapter FOUR

Other Accompanying Information

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

October 27, 2010

Office of Inspector General

TO: Richard A. Lidinsky, Jr.
Chairman

FROM: Adam R. Trzeciak
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 2010.

This year, the Office of Inspector General (OIG) has identified three management and performance challenges for inclusion in the FMC's FY 2010 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. In most instances, the agency has taken steps to address the challenges.

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, 2010.

Attachment

The Management Challenge: Develop a user fee system that reflects total costs of providing an activity, consistent with Generally Accepted Accounting Principles.

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

In 2006, the Office of Inspector General (OIG) initiated a review of various aspects of the agency's process to establish user fees. During the initial weeks of the audit, the OIG determined that the agency followed a process that incorrectly set its user fees for various services, resulting in user fees that understated the agency's costs to provide these services. The OIG reported the finding to management which then took steps to reexamine its calculations in light of our finding. We suspended further audit steps while the agency amended its fee-setting formulas.

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

The Challenge Ahead: Complying with OMB requirements to recover full costs in line with cost accounting standards would likely increase the fees the agency charges for select services. As higher fees could have the unintended effect of thwarting policy goals (e.g., to have all Ocean Transportation Intermediaries licensed by minimizing license fees) the agency should consider alternative strategies to comply with OMB directives. One solution would be to petition OMB to allow the agency to maintain fees at artificially low levels – an exemption from the full cost rule. The agency should also consider requesting OMB permission to eliminate fees altogether in those instances where collection amounts are small (e.g., less than $1,000 per year).

Management and Performance Challenge: To ensure information integrity, accessibility and confidentiality for data and information residing on the agency's information systems.

Agency Progress in Addressing the Challenge: In the past three years, the FMC has taken concrete steps to protect the agency's systems – the most important being the accreditation of its Network and SERVCON applications - and has made progress in mitigating weaknesses which led to prior years' significant deficiencies concerning IT risk and recovery planning. The agency now has documented policies and procedures for many of its IT processes, and its annual security training program has been revamped to include protection of personally-identifiable information (PII) and other privacy-related issues. Participation in this on-line training module is mandatory, and employees are required to pass a written test at the completion of the training session or risk losing network access privileges. The agency installed scan software, enabling security staff to scan the FMC network for harmful activities and vulnerabilities and initiated planning for security control implementation at its continuity of operations (COOP) site. The agency's firewall is secure; OIG attempts to penetrate firewall defenses from a remote location have been unsuccessful.

Although progress has been noted, there are other areas where improvement is possible. The agency needs to certify and accredit all systems currently in production. Security certification and accreditation (C&A) comprise activities that support a risk management process and are an integral part of an agency's information security program. Security accreditation is the official management decision given by a senior agency official to authorize operation of an information system and to explicitly accept the risk to agency operations, agency assets, or individuals based on the implementation of an agreed-upon set of security controls.

C&A's are generally performed prior to placing systems into production, as they help managers to recognize, accept and/or mitigate risks to information systems. In our FY 2007 review of IT security, the OIG opined that the lack of a certification and accreditation (C&A) process was a significant deficiency in the agency's IT security program. Beginning in FY 2008 and extending through FY 2009, the agency enhanced its security posture, calumniating in certifying and accrediting two of four major systems. However, two major systems in production remain unaccredited. Without certification and accreditation, there is no guarantee that the agency knows the risks to these systems and has accepted the risks or has taken steps to mitigate them.

In addition to C&A requirements, the FMC still lacks (i) a comprehensive configuration management program and technical privacy controls required by OMB, (ii) an adequate contingency planning program, to include policies, procedures, testing and documentation of testing, and (iii) an official system inventory.

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

As the agency continues to move toward electronic databases and applications with a corresponding increase in internet activity, the agency must remain diligent. The investment needed to bring agency systems into compliance with Federal requirements is substantial. For too many years, emphasis was placed on production (i.e., faster servers, more powerful desktops, enhanced software, etc.) rather than on security. Now the agency has fallen behind and must spend liberally. Moving forward, it is essential that security receives the attention (i.e., resources) it needs to protect agency assets, and the assets of the organizations connected to FMC systems, from being compromised or destroyed.

It is important to remember that all Federal agencies have some risks and vulnerabilities. OMB recognizes this and asks agencies to implement a security program that identifies them and lays out a plan to address (reduce, eliminate or accept) them based on what the agency considers to be acceptable levels of risk. It does not expect a clean slate when it comes to information security (i.e., no risks or vulnerabilities). This would be unachievable for an agency of any size. On the other hand, mitigating known risks to an acceptable level is a goal achievable for all, including the FMC.

<u>Management and Performance Challenge:</u> To ensure that the agency has the people with the right skills, in the right place, at the right time to help guide the management of the Commission and contribute to financially sound and reliable systems that serve the public interest.

<u>Agency Progress in Addressing the Challenge</u>: The challenge stated above appears in the FMC's Human Capital Plan (HCP) for fiscal years 2009 through 2013 and is a quote from the agency's recently-appointed Chairman. The HCP describes the major challenges the agency currently faces and the steps it must take to attract, retain and support an effective and motivated workforce.

The FMC's new Chairman has implemented an agency reorganization, set new goals for the agency as a whole and identified particular programs for expansion and added responsibilities. In effecting the reorganization, existing leaders were shuffled into new positions to challenge their skill set. This would be an appropriate time to revisit and, if necessary, revise the agency's Human Capital Plan, including its stated elements, human capital challenges, and the human capital drivers, to reflect the Chairman's vision for the agency. Areas for reevaluation are apparent in the agency - identified workforce, knowledge and communication gaps.

Although the HCP correctly notes that the agency's representation of African-Americans is very strong, there are no African-Americans in the Senior Executive ranks. Further, only one of eight Senior Executives is a minority. While the agency has begun to take steps to reverse this trend, e.g., the last senior executive service candidate development program consisted of three women and one male: two of the four candidates are minorities, the HCP also notes that of 14 employees at the GS-15 level, none are African-American females. During the last year, there has been at least one rehire and several promotions to the GS-15 grade level. None of those promotions included a minority female.

Retirement significantly impacts the expertise needed at the agency to meet its mission objectives. For example, almost 50 percent of FMC employees have reached or will reach retirement age in the next few years. Traditionally, the agency has sought to hire attorneys, transportation specialists and industry analysts with ocean shipping backgrounds or specialties. However, missing in the plan is recognition of the need to hire individuals that have knowledge and/or experience that cross transportation lines, e.g., trucking and rail transportation, as the movement of goods from one point to another rely on numerous transportation modes. Ideally, the agency should seek to hire employees with shipping expertise and an understanding of other transportation sectors who can contribute to policy discussions regarding the agency's regulatory role in a changing transportation industry.

Although the OIG does not receive a large number of internal complaints about waste, fraud or abuse, it occasionally hears concerns from staff about internal communication. A third key area for reassessment is leadership and knowledge management, specifically, the human capital goal of communication. The HCP acknowledges the importance of communication and states that the FMC will increase the level of communication by initiating "standardized and consistent avenues of communication" throughout the Commission. Although the agency's Workforce Plan acknowledges this topic in two different places, concrete details concerning how this goal will be met are lacking. For example, the agency concedes that issues regarding communication between managers and employees surfaced during interviews with managers, and the agency notes: "Ensuring that employees know what is taking place in both the short-term and long-term helps engage their support in making those plans come to fruition. Achievement of FMC goals is dependent on a well-informed organization, which we are striving to attain." However, no further information is provided to clarify the specific steps to be taken to attain this goal.

Similarly, in the "Strategies and Solutions" section, the agency notes: An "open communication culture within an agency, especially from senior leadership, is essential to employees' sense of added value and satisfaction. Employees need to be involved in the decision-making processes and to feel empowered to share their ideas and concerns with supervisors and other management officials. Studies indicate that employees look to their immediate supervisor to get the key information they need about their jobs, changes that may be taking place in the organization, and the way these changes may affect them. Steps can be taken to improve communication flow to ensure that pertinent, necessary information is free flowing to the appropriate levels within the Commission. The FMC will explore and implement strategies to improve communication, as appropriate." Again, this statement lacks detail to as how this goal will be achieved.

The Challenge Ahead: The agency has taken a positive first step in implementing a succession plan by developing a human capital plan. However, the goal should now be to refine the plan to take into account the recent reorganization and select one or two key areas of the plan upon which to focus for goal achievement. The agency also needs to identify specific strategies to measure its progress in these areas.

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. Develop a user fee system that reflects total costs of providing an activity, consistent with Generally Accepted Accounting Principles.

Management is aware that the current user fees are in need of updating. We plan to update fees in a manner that complies with statutory and OMB requirements. A proposed rule will be issued in the near future to implement new fees.

II. To ensure information integrity, accessibility and confidentiality for data and information residing on the agency's information systems.

As the Inspector General notes, the Commission has made progress in complying with Federal Information Security Management Act of 2002 (FISMA) requirements. Management is well aware of increasing cybersecurity threats and concurs with the need to ensure that the security program is in line with OMB mandates. Work has begun to replace two major applications with new enterprise content management technology, which will be deployed in accordance with OMB mandates and HIST guidelines to ensure that FISMA requirements will be met.

III. To ensure that the agency has the people with the right skills, in the right place, at the right time to help guide the management of the Commission and contribute to financially sound and reliable systems that serve the public interest.

Within our resource constraints, the Commission is working diligently to ensure that it has personnel with needed skills in the right positions. Our recent reorganization was the first step in that direction, and was designed to ensure that the Commission optimize assignments of its current leadership team in light of their skills. Existing leaders were not "shuffled," but rather reassigned after careful consideration of their skills and the Commission's needs. Even so, it was recognized at the time that further "tweaking" might be needed as the Commission becomes more experienced with its new structure. The Commission does have a Human Capital Plan that contains significant goals and implementation plans in many areas, including succession planning. In accordance with that plan, the Commission recently selected SES Candidates for training and development. Next, we will turn attention to development of leadership skills among mid-level managers. We also have implemented significant training efforts to develop skills of attorneys in understanding bills of lading and dispute resolution skills of Commission employees throughout the Commission. Much more will be done as we move forward.

In December 2009, OPM audited the Commission's Human Resources Program, including our Human Capital Plan. Among other things, the report addressed communication and minority employment. Details on accomplishing the goals and objectives outlined in the Human Capital Plan are contained in the Commission's Human Capital Solutions Implementation Plan (Appendix B of the Human Capital Plan), which spells out specific solution activities, measures and time frames for their achievement. The Human Capital Plan is currently in the process of being revised to align with the Commission's recently revised Strategic Plan.

Chapter Four OTHER ACCOMPANYING INFORMATION

Improper Payments Information Act

Narrative Summary of Implementation Efforts for FY 2010

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 2010, 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. 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 2010 with percentage forecasts through FY 2013.

Improper Payments Information Act Reduction Outlook FY 2010 - 2013 (millions)						
Program	**FY 10 Outlays**	**FY10 IP %**	**FY10 IP $**	**FY11 %**	**FY12 %**	**FY13 %**
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 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 individual 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 a close 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 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 2010, 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

Table 1.					
Summary of Financial Statement Audit					
Audit opinion	Unqualified				
Restatement	No				
Material Weakness	Beginning Balance	New	Resolved	Consolidated	Ending Balance
None	$0.00	☐	☐	☐	$0.00
		☐	☐	☐	