

Semiannual Report to the Congress

**Covering the Period
October 1, 2007 to March 31, 2008**





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

April 21, 2008

Office of Inspector General

Dear Commissioners:

The attached report is submitted in accordance with Section 5 of the Inspector General Act of 1978, as amended. It summarizes the activities of the Office of Inspector General (OIG) for the period October 1, 2007, to March 31, 2008. The Act requires that you transmit the report to the appropriate committees of the Congress within 30 days of receipt. Your transmittal should also include any comments you consider appropriate and other statistical tables and reports required by law.

During this reporting period, the OIG issued five audits/evaluations of Federal Maritime Commission (FMC) programs or activities and began fieldwork on a review of processes used by the agency to set user fees. The OIG also began planning an audit of budget execution and an evaluation of information security. We did not open any formal investigations into allegations of wrongdoing by FMC staff and/or individuals doing business with the agency. However, we forwarded several complaints to FMC bureaus/offices or maritime enforcement agencies for disposition. The OIG referred no matters to prosecutorial authorities during the period.

In addition to these audit and investigative activities and outcomes, the OIG worked with the agency's webmaster to enhance the utility of the OIG's webpage and to comply with legislative requirements, began work on revising the office's investigative manual, responded to a request from the Chairman, House Committee on Oversight and Reform for information on recommendations made by the OIG dating back to 2001 and met with staff from the Senate Committee on Commerce, Science and Transportation, Subcommittee on Surface Transportation and Merchant Marine, to discuss agency operations and administration.

As in the past, management has been responsive in attempting to implement all OIG recommendations. I appreciate management's support and I look forward to working with you in our ongoing efforts to promote economy and efficiency in agency programs.



Adam R. Trzeciak
Inspector General

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EXECUTIVE SUMMARY

This Semiannual Report to the Congress summarizes the activities and accomplishments of the Federal Maritime Commission (FMC or Commission), Office of Inspector General (OIG), for the period October 1, 2007 through March 31, 2008. During this period we issued five audits / evaluations of FMC programs or activities, initiated a review of various aspects of the FMC's process to establish user fees for agency activities that convey special benefits to recipients beyond those accruing to the general public and identified three "management challenges" for inclusion in the FY 2007 Performance and Accountability Report (PAR). The OIG also began planning for an audit of budget execution and the annual information security evaluation pursuant to the Federal Information Security Management Act.

During this reporting period, the OIG did not open any formal investigations into allegations of wrongdoing by FMC staff and/or individuals doing business with the agency. However, the OIG forwarded (i) one complaint to law enforcement authorities at the U.S. Coast Guard for disposition, (ii) two complaints regarding cruise lines to the agency's Office of Consumer Affairs and Dispute Resolution Services, and (iii) nine complaints to the FMC's Bureau of Enforcement concerning various shipping industry issues. The OIG referred no matters to prosecutorial authorities during the period.

In addition to these audit and investigative activities and outcomes, the OIG worked with the agency's webmaster to enhance the utility of the OIG's webpage, began work on revising the office's investigative manual, responded to a request from the Chairman, House Committee on Oversight and Reform, for information on OIG recommendations and met with staff from the agency's authorization committee in the Senate to discuss agency operations and administration.

Details on these and other activities are provided below.

BACKGROUND

The FMC is an independent agency responsible for the regulation of oceanborne transportation in the foreign commerce of the United States. The principal statutes or statutory provisions administered by the Commission are the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998; the Foreign Shipping Practices Act of 1988; and Section 19 of the Merchant Marine Act of 1920.

The FMC is currently headed by four Commissioners nominated by the President and confirmed by the Senate, each serving five-year terms. In November 2006, the FMC's Chairman resigned. A new Chairman has been nominated by the President and is awaiting Senate confirmation. Until such time, the four Commissioners are jointly serving as the agency's chief executive and administrative officer. For Fiscal Year (FY) 2008, the Commission is authorized 127 full-time equivalent positions with a total appropriation of \$22,322,000.

Although the majority of the Commission's personnel are located in Washington, D.C., the Commission also maintains a presence in Los Angeles, Seattle, New York, New Orleans, Houston and South Florida, through area representatives who serve the major ports and transportation centers within their respective geographic areas. In addition, two at-large area representatives operate out of Washington, D.C.

The FMC's Office of Inspector General (OIG) was established in 1989 as required by the Inspector General Act Amendments of 1988 (5 U.S.C. app.). The OIG is an independent audit and investigative unit headed by an Inspector General (IG) who reports directly to the Chairman of the FMC. To aid the FMC in accomplishing its mission, the OIG is provided two full-time staff and a budget of \$512,000 for Fiscal Year 2008.

The OIG is responsible for conducting audits and investigations relating to the programs and operations of the FMC. Audits are conducted for the purpose of finding and preventing fraud, waste and abuse and promoting economy, efficiency and effectiveness within the agency. OIG investigations seek out facts related to allegations of wrongdoing on the part of FMC employees and individuals, or entities having contracts with, or obtaining benefits from, the agency. The Inspector General Act provides that the OIG shall have access to all agency records and may subpoena records from entities outside of the agency in connection with an audit or investigation.

The IG is required by law to prepare a report summarizing its audits and investigations during the immediately preceding six-month period. The report is sent to the FMC Chairman, the President of the Senate, the Speaker of the House and FMC's appropriating and authorizing committees. This dual reporting requirement facilitates and ensures the independence of the Office.

AUDITS/EVALUATIONS

During this semiannual period, the OIG issued an audit of the FMC's FY 2007 financial statements and a companion report to management on financial-related findings and recommendations resulting from the audit. We also issued a security evaluation of the agency's information technology program pursuant to the Federal Information Security Management Act (FISMA). Also during the reporting period, the OIG performed an evaluation of how well the agency manages the telephone services that it needs to perform its mission and assessed controls in place to monitor Congressional limitations on redecorating the offices of Presidential appointees. Finally, we initiated a review of various aspects of the Federal Maritime Commission's (FMC) process to establish user fees for agency activities that convey special benefits to recipients beyond those accruing to the general public.

In addition to these completed audits and evaluations, the OIG identified three management challenges for inclusion in the FY 2007 PAR, initiated planning activities for (i) a review of budget execution processes within the agency, and (ii) the office's annual IT security assessment.

Issued Audits and Reviews

<u>Audit Report Number</u>	<u>Subject of Audit</u>
A08-01	Review of FMC Implementation of Federal Information Security Management Act for FY 2007
A08-02	Audit of the FMC's FY 2007 Financial Statements
A08-02A	Management Letter to the FY 2007 Audited Financial Statements
A08-03	Audit of the FMC's Telephone Services
A08-04	Review of Expenses to Furnish, Redecorate or Improve the Offices of FMC Commissioners

Summary of Audits Issued During the Current Period

In A08-01, *Review of the Federal Maritime Commission's Implementation of the Federal Information Security Management Act for Fiscal Year 2007*, the review objectives were to assess compliance with FISMA and related information security policies, procedures, standards and guidelines, and to test their effectiveness on a representative subset of the agency's information systems. Specifically, this review (i) evaluated the implementation of the FMC's information security program; (ii) assessed agency progress towards correcting weaknesses addressed in the FY 2007 Plan of Actions & Milestones (POA&M); and (iii) verified and tested information security for the FMC network and wireless tools.

The FMC continues to make some progress in developing its information security program and has addressed or begun to address past security vulnerabilities identified by the OIG. Perhaps most noteworthy is the progress the agency has made in documenting policies and procedures covering many IT security issues. Also noteworthy is the new computer security on-line training program introduced in 2007. It is more comprehensive than the prior-year training program and

requires staff to pass an information security quiz at completion to ensure that security concepts and procedures were understood. The agency acquired and installed scan software, enabling the Office of Information Technology to scan the FMC network for harmful activities and vulnerabilities and initiated planning for security control implementation at its continuity of operations (COOP) site in suburban Maryland.

Although progress has been made, the OIG identified areas where improvements are still needed. Successful FISMA implementation requires that Federal agencies adopt an enterprise-wide security strategy encompassing a risk-based approach where agency mission and business function drive security requirements and associated safeguards. The OIG found, in both the current and prior-year FISMA reviews, that the agency has not yet made the shift to a risk-based approach.

Perhaps most significantly, the FMC's Certification and Accreditation (C&A) documentation did not comply with revised NIST and OMB guidance for the three systems we reviewed. C&A documentation for these systems lacked sufficient information that would provide management with the assurances required to effectively demonstrate sound information security decisions based on risk. The OIG identified this as a significant deficiency in the agency's security posture.

In A07-02, *Audit of the Federal Maritime Commission's Financial Statements for the Fiscal Year Ending September 30, 2007*, the objective was to opine on whether the agency's financial statements follow Generally Accepted Accounting Principles and present fairly the financial position of the agency. The statements audited were the Balance Sheets as of September 30, 2007 and 2006, and the related statements of Net Cost, Statements of Changes in Net Position, Statements of Budgetary Resources, Statements of Financing and Statements of Custodial Activity for the years then ended. This was the fourth consecutive year that the FMC submitted financial statements for audit. As in the three prior years, the agency received an unqualified opinion, the highest opinion given by independent auditors.

The FY 2007 audited statements provide insight into the mission and operations of the Federal Maritime Commission. The FMC had total assets of \$2.9 million and \$2.7 million as of September 30, 2007 and September 30, 2006, respectively. The FMC had a single source of funds, Salaries and Expenses, funded by an annual appropriation that was available for commitments and obligations incurred during the fiscal year in which the authority was granted. The FMC's budget authority for fiscal year 2007 was \$20.7 million. This represents a net increase of \$200,000 over fiscal year 2006 budget authority. Although the FMC collects remittances for "user fees" and "fines and penalties," the agency is not authorized to offset any of its budget authority by utilizing these funds. The collections, totaling just under \$2 million in FY 2007, were deposited directly into the Treasury General Fund.

As part of the audit, the OIG reviewed and tested the Commission's compliance with laws and regulations. The review disclosed no instances of noncompliance that are required to be reported under *Government Auditing Standards* (GAS) or OMB Bulletin 07-04, *Audit Requirements for Federal Financial Statements* (09/04/07). In addition, the OIG examined compliance with the Federal Financial Management Improvement Act (FFMIA) of 1996. Our review disclosed no instances in which FMC's financial management systems did not comply substantially with FFMIA, GAS or OMB.

The OIG review of internal control over financial reporting did not find any matters involving the internal control and its operations that were considered material weakness in the systems and processes we tested. On the other hand, the OIG did identify vulnerabilities in agency financial systems that warranted some corrective actions. These findings, presented in A08-02A, *FY 2007 Management Letter to the Financial Statements*, involved (i) performing insufficient reconciliations of annual and sick leave balances between employee leave records and payroll system Time and Attendance Reporting, (ii) implementing ineffective processes to record accounts payable at year end, and (iii) neglecting to establish a rent obligation for leased property in California.

The Commission's management addressed these vulnerabilities by (i) consolidating the leave error correction function in one office, (ii) establishing procedures to review large contracts at year end to determine whether goods or services have been received and to establish an accrual to record the value of the goods/services received, and (iii) obligating funds for rent expenses at the beginning of the fiscal year for all leased properties and implementing controls to ensure that agency funds are obligated before the next rent cycle begins.

In A08-03, *Audit of the Federal Maritime Commission's Telephone Service*, the audit objective was to assess controls in place to ensure that the agency receives and pays for only those telephone services that it needs to carry out its mission. The OIG found that many features provided on agency phones, that add a premium to the cost of each line, such as voicemail and teleconferencing, were simply not needed on all Commission lines. For example, the agency pays monthly for voice mail and teleconferencing on several of its fax machines and file room telephone lines. We also identified unassigned lines and unused modem lines that continue to be billed to, and paid for by, the agency. Further, the agency pays a premium for data transmission capabilities on its phone lines even though this capability is not needed nor used by staff.

The audit found that the agency could save between \$1,500 - \$2,000 monthly by implementing basic controls and applying minimal best practices. In response, the agency has begun to identify and terminate wasted lines and phone features.

In A08-04, *Review of Expenses to Furnish, Redecorate or Improve the Offices of FMC Commissioners*, the OIG reviewed furniture purchases and renovations pertaining to offices used or controlled by the FMC's Presidentially-appointed Commissioners. The review focused on agency compliance with Section 614 of Public Law 101-136, as amended. The law prohibits departments and agencies from obligating or expending in excess of \$5,000 for furnishing or redecorating offices of Presidential appointees during their appointment period.

The review found that the FMC complied with applicable laws and regulations regarding funds expended on office space occupied or controlled by FMC Commissioners. No commissioner

exceeded the \$5,000 limitation. All Commissioners told the OIG that they were informed of the limitation on purchases by the Office of Financial Management and, thus, were aware of the requirement. Notwithstanding compliance, the FMC needs to do more to track purchases occurring during the period of appointment for the agency's Commissioners to prevent unintended violations.

The OIG determined that a September 2007 purchase of furniture for the Chairman's Office suite, totaling \$36,625, did not violate the \$5,000 limitation. We identified several mitigating circumstances, including our determination that no Presidential appointee played any role in the purchase of furniture for this vacant office suite. Rather, the agency's Office of Administration acted to replace furniture that, in many cases, was over 20 years old and showing signs of wear and age. On the other hand, we believe the Office of Administration should have worked with the Commission, to include notifying it of the planned purchase, before making this potentially sensitive purchase.

Our review of documentation related to this purchase indicated that the agency had violated Federal Acquisition Regulation (FAR) 13.104, *Promoting Competition*, which requires soliciting bids from at least three sources to promote competition to the maximum extent possible. The FMC's Office of Management Services relied on one vendor to assist the agency in the Chairman's Office furniture procurement. Management also violated its own policy requiring all procurement actions exceeding \$5,000 to be processed by the FMC's contracted procurement agent in the Bureau of Public Debt.

As of the closing date of this reporting period, management has implemented the three recommendations in the report by developing a tracking system to document purchases and improvements to Presidential appointee office space and by developing a "simplified acquisition checklist" for procurement staff to use when acquiring goods/services.

Audits and Reviews in Process

The OIG initiated its review of various aspects of the FMC's process to establish user fees for agency activities that convey special benefits to recipients beyond those accruing to the general public. OMB Circular A-25, *User Charges*, requires agencies to set user charges to recover the Government's full cost. Full cost includes all direct and indirect costs to any part of the Federal Government of providing a good or service.

During the initial weeks of the audit, the OIG determined that the agency followed a process that incorrectly set its user fees for various mission-related services, resulting in user fees that understated the agency's costs to provide these services. The OIG reported the finding to management who then took steps to reexamine its calculations in light of our findings. Subsequently, we suspended further audit steps until the agency amends its fee-setting calculations. We plan to revisit this issue during the FY 2008 financial statement audit.

As part of the review of Presidential-appointee limitations on redecorating office space (discussed above), OIG noted inconsistencies in how the Commission was informed and/or asked to approve certain financial decisions. Since these issues were outside the scope of that review, the OIG determined to address them in a separate audit. We are currently establishing the scope of the review and developing an audit program.

In addition, we held discussions with the OIG's IT security contractor to begin planning for the FY 2008 FISMA evaluation at the FMC. While select areas must be reviewed annually, there is considerable flexibility for IG's to focus resources on areas where the agency may be particularly vulnerable. We have begun to identify areas to target in the evaluation and to lay out a plan to review routinely reviewed areas, to include privacy issues, certification and accreditation, testing and training.

INVESTIGATIVE ACTIVITIES

The Inspector General Act of 1978, as amended, provides that the IG may receive and investigate complaints or information concerning possible allegations of fraud, waste and abuse occurring within FMC programs and operations. Matters of possible wrongdoing are referred to the OIG in the form of allegations or complaints from a variety of sources, including FMC employees, other government agencies and the general public.

During this reporting period, the OIG did not open any formal investigations into allegations of wrongdoing by FMC staff and/or individuals doing business with the agency. However, the OIG forwarded (i) nine complaints concerning various shipping industry issues to the Bureau of Enforcement, (ii) two complaints regarding cruise lines to the Office of Consumer Affairs and Dispute Resolution Services, and (iii) one complaint to law enforcement authorities at the U.S. Coast Guard for disposition. We also responded to a request for information from a researcher concerning a prior FMC enforcement action.

The OIG referred no matters to prosecutorial authorities during the period.

OTHER OIG ACTIVITIES

Review of Legislation

As required by the Inspector General Act of 1978, as amended, the Office of Inspector General routinely reviews proposed legislation and regulations. The purpose of these reviews is to assess whether the proposed legislation or regulation (1) impacts the economy and efficiency of FMC programs and operations, and (2) contains adequate internal controls to prevent and detect fraud and abuse. During this period, a number of Commission Orders/policy guidelines were reviewed by this Office.

Executive Council on Integrity and Efficiency Activities

The Executive Council on Integrity and Efficiency (ECIE) was established by Executive Order 12805 on May 11, 1992, to:

- address integrity, economy and effectiveness issues that transcend individual government agencies; and
- enhance the professionalism and effectiveness of IG personnel throughout the government.

To accomplish its mission, the ECIE members participate in interagency and inter-entity audit, inspection and investigation projects to promote economy and efficiency in Federal programs and operations and address more effectively government-wide issues of fraud, waste and abuse. The Council members also develop policies, standards and approaches to aid in the establishment of a well-trained and highly skilled IG workforce.

The Inspector General and Assistant Inspector General continued to participate in ECIE and the Federal Audit Executive Council (FAEC) activities. The FAEC is comprised of senior audit staffs that discuss and coordinate issues affecting the Federal audit community with special emphasis on audit policy and operations of common interest to FAEC members.

Significant Management Decisions

If the IG disagrees with any significant management decision, Section 5(a)(12) of the Inspector General Act requires that such disagreement be reported in the semiannual report. Further, Section 5(a)(11) of the Act requires that any decision by management to change its response to a significant resolved audit finding must also be disclosed in the semiannual report. For this reporting period, there were no significant management decisions made on which the IG disagreed and management did not revise an earlier decision on an OIG audit recommendation.

Access to Information

The IG is to be provided with ready access to all agency records, information or assistance when conducting an investigation or audit. Section 6(b)(2) of the IG Act requires the IG to report to the agency head, without delay, if the IG believes that access to required information, records or assistance has been unreasonably refused, or otherwise has not been provided. A summary of each report submitted to the agency head in compliance with Section 6(b)(2) must be provided in the semiannual report in accordance with Section 5(a)(5) of the Act.

During the reporting period, the OIG did not encounter any difficulties in obtaining assistance or access to agency records. Consequently, no report was issued by the IG to the agency head in accordance with Section 6(b)(2) of the IG Act.

Audit Resolution

As of the end of this reporting period, all OIG audit recommendations for reports issued in prior periods have been resolved. That is, management and the OIG have reached agreement on what actions need to be taken.

Contacting the Office of Inspector General

Employees and the public are encouraged to contact the OIG regarding any incidents of possible waste, fraud or abuse occurring within FMC programs and operations. The OIG telephone number is (202) 523-5863. To report suspected wrongdoing, employees or the public may call the OIG Hotline on (202) 523-5865. A confidential or anonymous message can be left 24 hours a day. Complaints or allegations of fraud, waste or abuse can also be emailed to oig@fmc.gov.

SUMMARY OF INSPECTOR GENERAL REPORTING REQUIREMENTS

IG Act Reference	Reporting Requirement	Page(s)
Section 4(a)(2)	Review of legislation and regulations	10
Section 5(a)(1)	Significant problems, abuses and deficiencies	None
Section 5(a)(3)	Prior significant recommendations on which corrective actions have not been made	12
Section 5(a)(4)	Matters referred to prosecutive authorities	10
Section 5(a)(5)	Summary of instances where information was refused	12
Section 5(a)(6)	List of audit reports by subject matter, showing dollar value of questioned costs and funds put to better use	7
Section 5(a)(7)	Summary of each particularly significant report	4
Section 5(a)(8)	Statistical tables showing number of reports and dollar value of questioned costs	14
Section 5(a)(9)	Statistical tables showing number of reports and dollar value of recommendations that funds be put to better use	15
Section 5(a)(10)	Summary of each audit issued before this reporting period for which no management decision was made by the end of the reporting period	None
Section 5(a)(11)	Significant revised management decisions	11
Section 5(a)(12)	Significant management decisions with which the inspector general disagrees	11

TABLE I
INSPECTOR GENERAL ISSUED REPORTS
WITH QUESTIONED COSTS

		<u>Dollar Value</u>	
	<u>Number</u>	<u>Questioned</u> <u>Cost</u>	<u>Unsupported</u> <u>Costs</u>
A. For which no management decision has been made by the commencement of the reporting period	0	0	0
B. Which were issued during the reporting period?	0	0	0
Subtotal (A + B)	0	0	0
C. For which a management decision was made during the reporting period	0	0	0
(i) dollar value of disallowed costs	0	0	0
(ii) dollar value of costs not disallowed	0	0	0
D. For which no management decision has been made by the end of the reporting period	0	0	0
E. Reports for which no management decision was made within six months of issuance	0	0	0

TABLE II
INSPECTOR GENERAL ISSUED REPORTS
WITH RECOMMENDATIONS
THAT FUNDS BE PUT TO BETTER USE

	<u>Number</u>	<u>Dollar Value</u>
A. For which no management decision has been made by the commencement of the reporting period	0	0
B. Which were issued during the reporting period	1	\$24,000
Subtotal (A +B)	1	\$24,000
C. For which a management decision was made during the reporting period	1	\$24,000
(i) dollar value of recommendations that were agreed to by management	1	\$24,000
(ii) dollar value of recommendations that were not agreed to by management	0	0
D. For which no management decision has been made by the end of the reporting period	0	0
E. Reports for which no management decision was made within six months of issuance	0	0

HOTLINE COMPLAINTS

The success of the OIG mission to prevent fraud, waste and abuse depends on the cooperation of FMC employees and the public.

A COMPLAINT CAN BE REPORTED BY CALLING OUR 24-HR DIRECT LINE

(202) 523-5865

E-MAIL ADDRESS:

oig@fmc.gov

TO PLACE A COMPLAINT IN WRITING PLEASE MAIL TO:

**Federal Maritime Commission
Office of Inspector General
Room 1054
800 North Capitol Street, NW
Washington, DC 20573**

To Be Opened By the IG Only

THE INFORMATION YOU PROVIDE IS CONFIDENTIAL AND YOU CAN BE ANONYMOUS

**HOWEVER, CALLERS ARE ENCOURAGED TO ASSIST THE INSPECTOR GENERAL BY
SUPPLYING INFORMATION AS TO HOW THEY MAY BE CONTACTED FOR ADDITIONAL INFORMATION**