

# Office of Inspector General

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## Semiannual Report to the Congress

Covering the Period  
October 1, 2009 to March 31, 2010



# FEDERAL MARITIME COMMISSION

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**FEDERAL MARITIME COMMISSION**  
Washington, DC 20573

April 29, 2010

*Office of Inspector General*

Dear Chairman Lidinsky:

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, 2009, to March 31, 2010. The Act requires that you transmit the report to the appropriate Congressional committees 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 period the OIG issued five audits / evaluations of FMC programs or activities and two draft reports to management, and began planning two new evaluations. Also during this reporting period, the OIG processed 27 complaints and two Freedom of Information Act (FOIA) requests. Of the 27 complaints received, we forwarded 22 complaints to the appropriate FMC program office for disposition. The five remaining complaints were referred to other OIGs with jurisdiction or assigned to OIG staff. The OIG opened no new investigations and referred no matters to prosecutorial authorities during the period.

In addition to these audit and investigative activities and outcomes, the OIG revised Commission Order 106, *Audit Followup*, to reflect statutory changes in the Inspector General Reform Act of 2008 and the recent agency reorganization. We signed a Memorandum of Understanding with a sister OIG to provide counsel support to that office, developed a new OIG poster to display on agency billboards, revised the OIG's informational brochure provided to new hires and posted to the OIG's webpage and, together with the agency's new managing director, instituted quarterly meetings to enhance communication between our respective offices and to discuss pending audits and issues of common concern. The OIG audit function was "peer reviewed" by OIG staff at the U.S. Capitol Police. The review concluded that my office has an effective quality control system and that policies, procedures and applicable government auditing standards are being followed.

With your personal assistance, the OIG hired Ms. Venetia Bell to be OIG Counsel and Chief Investigator for the office. Ms. Bell has already made a positive impact in the office and in the Inspector General community.

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.

Respectfully submitted,

Adam R. Trzeciak  
Inspector General

Enclosure

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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, 2009, through March 31, 2010. During this period we issued five audits/evaluations of FMC programs or activities, two draft audit reports, and began two additional audits of agency operations.

Also during this reporting period, the OIG received 27 complaints and two Freedom of Information Act requests. Of the 27 complaints received, we forwarded 22 complaints to the appropriate FMC program area for disposition and assigned five complaints to OIG staff or referred them to other federal agency OIGs or programs with jurisdiction over the subject of the complaint. The OIG responded to two Freedom of Information Act (FOIA) requests, one of which included responsive documents with suggested redacted material that was provided to the FMC FOIA officer. The OIG opened no new investigations and referred no matters to prosecutorial authorities during the period.

In addition to these audit and investigative activities and outcomes, the OIG revised Commission Order 106, *Audit Followup*, to reflect statutory changes in the Inspector General Reform Act of 2008 and a recent agency reorganization. We signed a Memorandum of Understanding with a sister OIG to provide counsel support, developed a new OIG poster to display on agency billboards, revised the OIG's informational brochure provided to new hires and posted it to the OIG's webpage and, together with the agency's new managing director, instituted quarterly meetings between our respective offices to enhance communication and to discuss pending audits and issues of common concern.

Finally, the OIG underwent a peer review of its audit quality assurance program. The objectives of the review were to determine whether an effective quality control system has been established within the OIG and if policies, procedures and applicable government auditing standards are being followed. The review resulted in an "unqualified" opinion.

## **BACKGROUND**

The FMC is an independent agency responsible for the regulation of ocean-borne 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 headed by five Commissioners nominated by the President and confirmed by the Senate, each serving five-year terms. The President designates one of the Commissioners to serve as Chairman. The Chairman is the Chief Executive Officer for the Commission. For Fiscal Year (FY) 2010, the Commission was appropriated \$24.1 million to fund 129 full-time equivalent positions.

Although the majority of the Commission's personnel are located in Washington, D.C., it 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, one at-large area representative operates from Washington, D.C.

The FMC/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 FMC Chairman. To aid the FMC in accomplishing its mission, the OIG was provided three full-time staff and a budget of \$762,270 for FY 2010.

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 OIG 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 helps to ensure the independence of the Office.

## **AUDITS/EVALUATIONS**

During this semiannual period, the OIG issued an audit of the FMC's FY 2009 financial statements and a companion report to management on financial-related findings and recommendations resulting from the audit. We also issued an evaluation of information security pursuant to the Federal Information Security Management Act (FISMA), an audit of document scanning services and a review of contract management of one large information technology (IT) contract by the Office of Information Technology. The OIG also issued two draft reports to management for review and comment concerning agency computation of user fees and a "capping report" (i.e., summary report) on agency time and attendance policies and procedures, and began planning reviews of the FMC's Office of Consumer Affairs and Dispute Resolution Services and the IT Help Desk.

**Issued Audits and Reviews**

<b><u>Audit Report Number</u></b>	<b><u>Subject of Audit</u></b>
<b>A10-01</b>	<b>Audit of the FMC's Financial Statements for the Fiscal Years Ended September 30, 2009, and September 30, 2008</b>
<b>A10-01A</b>	<b>Management Letter to the FY 2009 Audited Financial Statements</b>
<b>A10-02</b>	<b>Evaluation of the Federal Information Security Management Act for FY 2009</b>
<b>A10-03</b>	<b>Audit of the Oversight of Document Scanning Services in the Office of the Secretary</b>
<b>OR10-01</b>	<b>Review of Contract Monitoring in the Office of Information Technology</b>

**Summary of Audits Issued During the Current Period**

In A10-01, *Audit of the Federal Maritime Commission's Financial Statements for the Fiscal Years Ended September 30, 2009 and September 30, 2008*, 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, 2009 and 2008, 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 sixth consecutive year that the FMC prepared financial statements for audit. As in the five prior years, the agency received an unqualified opinion, the highest opinion given by independent auditors.

The FY 2009 audited statements provide insight into the mission and operations of the agency. The FMC has a single source of funds, Salaries and Expenses, funded by an annual appropriation that is available for commitments and obligations incurred during the fiscal year in



which the authority was granted. The FMC's total new budget authority for FY 2009 was \$22,800,000. This represents a net increase in budget authority of \$728,000 over FY 2008. Of total authority, 70 percent went to salaries and benefits. 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.

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 Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements* and M-08-24, *Technical Amendments to OMB Bulletin No. 07-04*. In addition, the OIG review of compliance with the Federal Financial Management Improvement Act (FFMIA) of 1996 did not disclose any material instances of noncompliance by FMC's financial management systems with FFMIA, GAS or OMB.

The OIG review of internal control over financial reporting did not find any matters involving the internal control over 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 and procurement practices that warranted some corrective actions. These findings, presented in A10-01A, *FY 2009 Management Letter to the Financial Statements*, involved accounting and finance-related issues. Most notably, the OIG found that agency program officials risk unauthorized commitments and anti-deficiency violations by signing purchase orders after the commencement of services. In all of the unauthorized commitments, the agency received services without a valid obligating document in place, putting the vendor, the Contracting Officer's Technical Representative (COTR) and the agency at risk.

In A10-02, *Evaluation of the Federal Information Security Management Act for FY 2009*, the objectives were to (1) assess compliance with FISMA and related information security

policies, procedures, standards and guidelines; (2) perform an external network scan from an IP (*Internet Protocol*) address outside FMC to identify vulnerabilities that would permit unauthorized access to agency resources and databases (open ports, missing patches, default or missing passwords, etc.); (3) review management actions to implement prior-year OIG recommendations; and (4) evaluate the effectiveness of the work completed by the OIT contractors.

The evaluation found that the FMC has taken concrete steps to protect the agency's systems –most important is the accreditation of its Network and SERVCON applications - and has made progress in mitigating weaknesses which led to the prior year's significant deficiency concerning IT risk and recovery planning. The firewall is secure; attempts to penetrate firewall defenses by the evaluation team from a remote location were unsuccessful.

On the other hand, the FMC 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. Further, the FMC Network Domain Administrator accounts are not monitored. Most importantly, two systems currently in production have not been certified and accredited.

In OR10-01, *Review of Contract Monitoring in the Office of Information Technology*, the OIG focused primarily on contract requirements, oversight and deliverables. Over three fiscal years (2007 through 2009) the agency paid the contractor \$513,000 to build databases and applications that share and process data, provide technical advice and develop technical requirements, and provide system software maintenance, materials and equipment.

When fully functional, the database would reduce manual processes and enhance document processing speed and accuracy. Although the current applications utilize similar technical specifications, we found little or no communication between the applications, and staff expectations for a technology-based regulatory toolset have not been met. The OIG identified

the following major contributing factors as to why this contract has yet to meet staff expectations:

- Non-specific requirements and deliverables in the Statement of Work.
- Applications placed into production before fully developed and FISMA compliant.
- Contractor status reports lacked specificity that would enable the COTR to recognize potential problems.
- Routine technical design changes to the front and back ends of systems, some of which were already in production. Developers unable to work with one approved design document.
- Significant time spent on maintenance rather than development. Systems in production suffered implementation issues that had to be addressed by developers, reducing the time they could devote to completing applications and databases.

### **Draft Audit Reports with Management**

During the reporting period, the OIG issued two reports to management for comment: (1) *Review of User Fee Calculations*. This report analyzed the methodology behind user fees for agency activities that convey special benefits to recipients beyond those accruing to the general public; and (2) *Best Practices for Time and Attendance Implementation*. This report summarizes reviews performed in six FMC bureaus and offices during the prior reporting period, indentifying procedures that appeared to efficiently set controls over time and attendance abuse and erroneous reporting.

### **Planned Audits**

The OIG has initiated planning activities for an evaluation of the Office of Consumer Affairs and Dispute Resolution Services (CADRS) and the agency's IT Help Desk services. The objectives for the CADRS review are to (i) document CADRS' mediation activities, including training, staff development and certifications; (ii) identify users of mediation services and how CADRS promotes its mediation services to consumers and the shipping industry; (iii) evaluate

how CADRS tracks complaints and reports outcomes for its consumer affairs mission; and (iv) assess the relationship between CADRS' dual consumer affairs and alternative dispute resolution missions. The survey of Help Desk services will assess staff satisfaction with Help Desk timeliness and assistance, and evaluate tools used by Help Desk staff to assign, track and follow up with customer complaints.

## **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 received 27 complaints and two Freedom of Information Act (FOIA) requests. We forwarded 22 complaints to the appropriate FMC program area for disposition and five complaints were assigned to OIG staff or referred to other federal OIGs or programs with jurisdiction over the subject matter of the complaint. The OIG responded to the two FOIA requests, one of which included responsive documents with suggested redacted material that was provided to the FMC FOIA officer .

## **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, the OIG reviewed various proposals to provide inspectors general with testimonial subpoena authority and to provide ombuds services to whistleblowers under the Whistleblower Protection Enforcement Act of 2009.

The OIG also reviewed a number of Commission Orders / policy guidelines and suggested revisions where appropriate. Notably the OIG revised an internal Commission Order, concerning audit follow-up.

### **Council of Inspectors General on Integrity and Efficiency Activities**

The Council of Inspectors General on Integrity and Efficiency (CIGIE) was established by law as an independent entity by the Inspector General Reform Act of 2008 (P.L. 110-409) to:

- address integrity, economy and effectiveness issues that transcend individual Government agencies; and
- increase the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and highly skilled workforce in the office of inspectors general.

The CIGIE is comprised of all inspectors general whose offices are established under section 2 or section 8G of the Inspector General Act of 1978, i.e., those that are Presidentially-appointed / Senate confirmed and those that are appointed by agency heads (designated federal entities), respectively.

The OIG remains active on several CIGIE committees. The IG serves on the CIGIE Integrity Committee (IC) and the Legislation Committee (LC). The IC is charged with receiving, reviewing, and referring for investigation, where appropriate, allegations of administrative (non-criminal) misconduct against inspectors general and designated senior staff members of the OIG. The IC's memberships consists of the Federal Bureau of Investigation's representative to the CIGIE, who serves as Chairperson of the IC; the Special Counsel of the Office of Special Counsel, the Director of the Office of Government Ethics; and four federal inspectors general.

The LC is a centralized point-of-contact and liaison for CIGIE to ensure regular and ongoing communication with Congressional committees, committee staff and Government Accountability Office regarding issues of common interest. The LC provides input to, and receives feedback from, the Congress on legislation affecting the IG community as a whole.

The Assistant Inspector General for Audits (AIGA) is active in the Federal Audit Executive Council, comprised of senior audit staff from agency OIGs that discuss and coordinate issues affecting the Federal audit community. This reporting period, the AIGA also served on the Improper Payment / Forensic Accounting and Auditing Workgroup – which provides recommendations to the Director of the Office of Management and Budget (OMB) and the Secretary of the Treasury on actions that agencies should take, or controls they should enhance or implement, to more effectively prevent, detect and correct improper payments.

The OIG Counsel/Chief Investigator participates in the Council of Counsels to the Inspector General (CCIG) activities. The CCIG consists of senior counsel from agency OIGs who discuss various legal issues that affect the OIG community. Counsel also serves on a CIGIE review of hotline best practices used by OIGs. Based, in part, on this participation, the OIG implemented a new hotline tracking system.

Also, during the reporting period, pursuant to the IG Reform Act, OIG entered into a Memorandum of Understanding with the Architect of the Capitol OIG to provide that office with legal services on a reimbursable basis.

### **Peer Review Activities**

Federal Offices of Inspector General are required by the IG Act to have a peer review performed on their organization once every three years. These reviews are to be performed only by federal auditors. A committee of the CIGIE schedules the review to ensure that resources are available to perform them and that OIGs do not conduct reciprocal reviews.

The objectives of a peer review are to determine for the audit function whether an effective quality control system has been established in the office and if policies, procedures and applicable government auditing standards are being followed.

Against this background, the FMC/OIG was reviewed by the inspector general and staff from the U.S. Capitol Police (CP) OIG. In the opinion of the CP/IG, the system of quality

control for the FMC/OIG audit function in effect for the year ended September 30, 2009, was designed to meet the requirements of the quality control standards established by the Comptroller General of the United States for a Federal Government audit organization and was complied with during the year ended to provide the OIG with reasonable assurance of conforming with applicable auditing standards, policies and procedures. The report in its entirety is posted on the FMC/OIG web site.

### **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. As noted below, eight of these recommendations remain open past one year.

**Open Recommendations Over One Year**

<u>Short Title</u>	<u>Report Issue Date</u>	<u>Open Rec.(s)</u>	<u>Elapsed Months (as of 3/31/10)</u>
1. Check Out Process	1/12/09	7, 8	14
2. Privacy & Data Protection	9/22/08	4, 5, 7	17
3. FISMA Evaluation for 2008	9/22/08	2	17
4. FISMA Evaluation for 2006	10/2/06	9	42
5. Accuracy of Enforcement Databases	3/31/06	3	48

**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 directly to the Inspector General at [oig@fmc.gov](mailto:oig@fmc.gov) or to <https://www2.fmc.gov/oigcomplaints/> (if the complainant wishes to remain anonymous).



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**SUMMARY OF INSPECTOR GENERAL REPORTING REQUIREMENTS**

<b>IG Act Reference</b>	<b>Reporting Requirement</b>	<b>Page(s)</b>
Section 4(a)(2)	Review of legislation and regulations	8
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	8
Section 5(a)(5)	Summary of instances where information was refused	11
Section 5(a)(6)	List of audit reports by subject matter	4
Section 5(a)(7)	Summary of each particularly significant report	4-7
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 Cost</u>	<u>Unsupported 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
<b>Subtotal (A + B)</b>	0	0	0
C. For which a management decision was made during the reporting period	0	0	0
(i) <b>dollar value of disallowed costs</b>	0	0	0
(ii) <b>dollar value of costs not disallowed</b>	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	0	0
<b>Subtotal (A +B)</b>	0	0
C. For which a management decision was made during the reporting period	0	0
(i) dollar value of recommendations that were agreed to by management	0	0
(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:**

**<https://www2.fmc.gov/oigcomplaints/>**

**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**