FEDERAL MARITIME COMMISSION

FY 2023 PERFORMANCE AND ACCOUNTABILITY REPORT

November 2023

Contents

Message from Chairman Maffei

Federal Maritime Commission
Office of the Chairman
Washington, D.C. 20573-0001

November 15, 2023

On behalf of the Federal Maritime Commission, I am pleased to provide the Fiscal Year 2023 (FY 2023) Performance and Accountability Report (PAR). The reported performance and financial data are complete, reliable, and provide a comprehensive representation of the Commission's work over the past fiscal year.

The Commission evaluated its management controls and financial management system pursuant to the Federal Managers' Financial Integrity Act of 1982 prior to the preparation of this report. No material weaknesses were identified, and the financial management system used conforms to government financial system requirements. In accordance with OMB Circular A-123, Appendix C, no improper payments were made.

This report contains the results of an independent audit of the Commission's financial statements, internal controls, and management systems indicating they conform to Generally Accepted Accounting Principles, laws, regulations, and other requirements. The independent auditor's report appears on page 35, and my statement of assurance appears on page 20. For the 20th consecutive year, the Commission's financial statements have earned an unmodified ("clean") opinion.

In addition, this report provides highlights of the Commission's activities in FY 2023, guided by its Strategic Plan. The Commission is committed to a competitive and reliable international ocean transportation supply system, facilitating the Nation's commerce, and protecting U.S. shippers. The Commission also continues to implement the Ocean Shipping Reform Act of 2022, Pub. L. No. 117-146 (OSRA 2022). In all its activities, the Commission strives to ensure proper operational oversight, transparency, and accountability to the American public while achieving its mission. You may also find this report online at: https://www.fmc.gov/about-the-fmc/performance-and-accountability-reports/.

Sincerely,

/s/

Daniel B. Maffei
Chairman

MANAGEMENT'S DISCUSSION AND ANALYSIS

Commission Background

First constituted as the U.S. Shipping Board over 100 years ago by the Shipping Act of 1916, the Federal Maritime Commission (FMC or Commission) was authorized in its current form as an Executive Branch agency in 1961. The Commission is an independent agency that ensures the activities of liner shipping groups and foreign governments do not impose unfair costs on American exporters and importers. It has sole jurisdiction in the U.S. over competition, practices, and service in the ocean shipping industry. The Commission works to promote competition and integrity for America's ocean supply chain and protect the public from unlawful ocean shipping practices.

Mission Statement

Ensure a competitive and reliable international ocean transportation supply system that supports the U.S. economy and protects the public from unfair and deceptive practices.

Statutory Authority

The FMC administers and enforces the Shipping Act and related laws. The principal statutes administered by the Commission, codified at 46 U.S.C. §§ 40101-44106 and 46 U.S.C. § 3503 are:

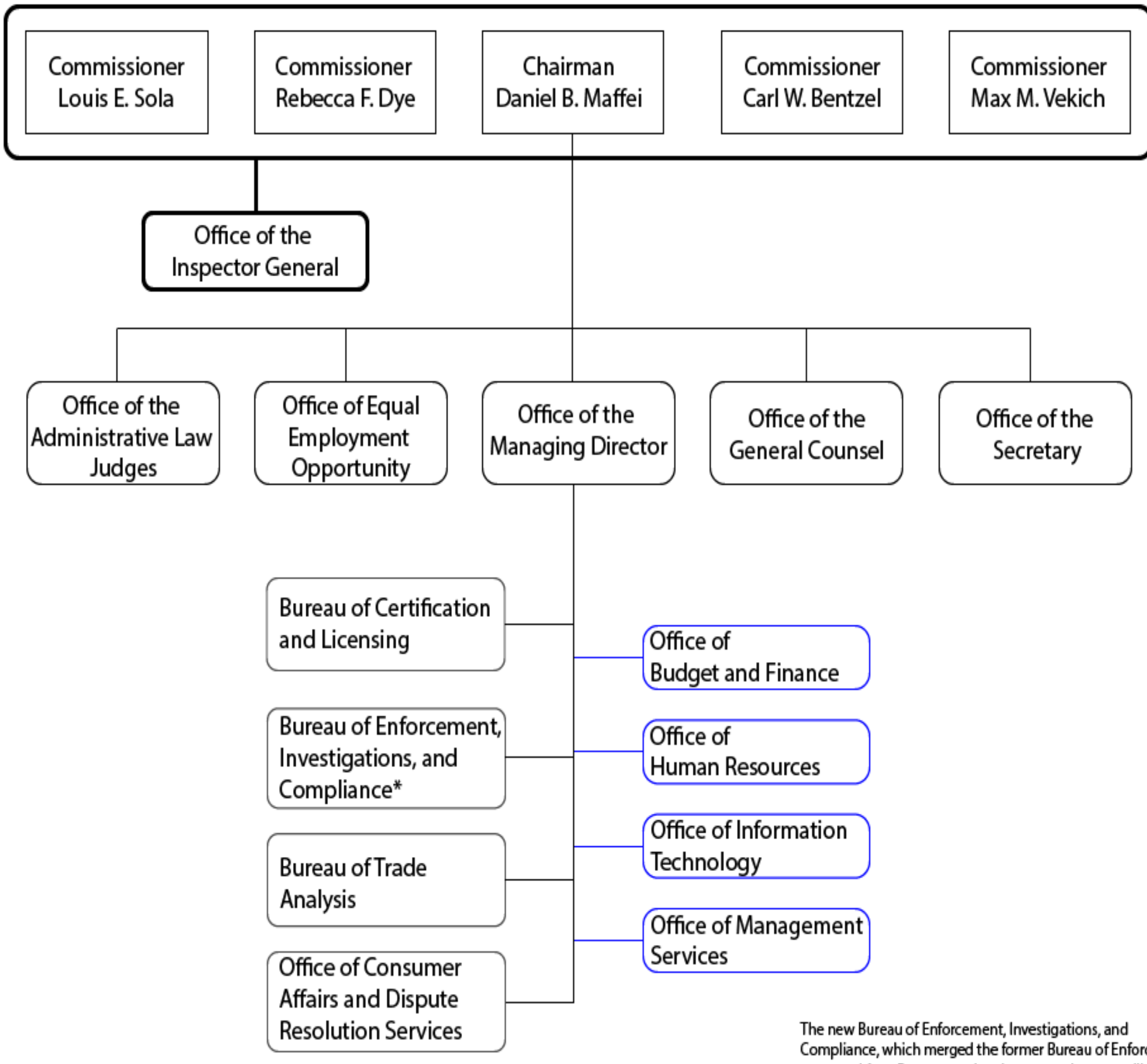
- The Ocean Shipping Reform Act of 2022 (OSRA 2022);
- The Shipping Act of 1984, as amended (the Shipping Act);
- The Foreign Shipping Practices Act of 1988 (FSPA);
- Section 19 of the Merchant Marine Act, 1920 (1920 Act);
- Sections 2 and 3 of Pub. L. No. 89-777, 80 Stat. 1356; and
- Sections 701-714, and 834 of the Frank LoBiondo Coast Guard Authorization Act of 2018 (LoBiondo Act).

Organizational Structure

The Commission is a bipartisan body composed of five Commissioners nominated by the President and confirmed by the Senate, each serving a staggered five-year term. No more than three members of the Commission may be of the same political party. One Commissioner, designated by the President, serves as the Chairman, Chief Executive, and Chief Administrative Officer of the Commission.

Staff is comprised mainly of economists, attorneys, investigators, and other experts in ocean transportation, and is primarily located at the Commission's headquarters in Washington, D.C.

Organization Chart



The new Bureau of Enforcement, Investigations, and Compliance, which merged the former Bureau of Enforcement and Area Representatives into a new bureau, will be reflected in an upcoming rulemaking.

Commission Bureaus and Offices

Bureau of Certification and Licensing (BCL) protects the public from financial harm through its OTI licensing, registration, and surety bonding programs. BCL also protects the public by requiring passenger vessel operators (PVOs) to maintain adequate financial coverage to reimburse cruise cancellations or to cover liability in the event of death or injury at sea.

Bureau of Enforcement, Investigations, and Compliance (BEIC) is the Commission's prosecutorial arm. Bureau attorneys serve as trial counsel in formal proceedings and protect the shipping public by working closely with investigators to examine potential violations of the Shipping Act and Commission regulations. BEIC negotiates settlements and informal compromises of civil penalties and may act as investigative officers in formal fact-finding investigations. Where appropriate, BEIC also works with regulated entities to come into compliance with shipping laws before prosecutorial actions are taken.

Bureau of Trade Analysis (BTA) analyzes and monitors the concerted activities of vessel-operating common carriers (VOCCs or carriers) and marine terminal operators (MTOs) to detect and guard against possible anticompetitive abuse of authority contained in filed agreements which could result in substantial increases in transportation costs or decreases in transportation services. BTA also reviews and analyzes service contracts, monitors rates of foreign, government-owned controlled carriers; and reviews carrier-published tariff systems under the accessibility and accuracy standards of the Shipping Act.

Office of the Administrative Law Judges (OALJ) independently presides over administrative hearings and resolves cases involving alleged violations of the Shipping Act of 1984 initiated by private parties or by the Commission.

Office of Consumer Affairs and Dispute Resolution Services (CADRS) aids shippers, OTIs, cruise operators and passengers, truckers, MTOs, and carriers by providing alternative dispute resolution (ADR) services, ombuds assistance, mediation, and facilitation to resolve disputes involving cargo shipments, household goods shipments, and cruises.

Office of Equal Employment Opportunity (OEEO) advises and assists the Commission in carrying out its responsibilities relative to Titles VI and VII of the Civil Rights Act of 1964 (as amended), other laws, executive orders, and regulatory guidelines implementing affirmative employment; and the processing of EEO complaints.

Office of the Inspector General (OIG) is an independent oversight office created within the FMC by the Inspector General Act of 1978 (as amended) to conduct and supervise audits, reviews, and investigations relating to the FMC's programs; to detect and prevent waste, fraud, and abuse; to promote economy, efficiency, and effectiveness; to keep the Chairman, Commissioners, and Congress fully informed of serious problems and deficiencies and recommend corrective actions; and, as appropriate, to report violations of law to the U.S. Attorney General.

Office of the General Counsel (OGC) provides legal services to the Commission and staff as it fulfills responsibilities, including preparing final decisions, orders, and regulations for Commission approval and issuance; represents the Commission in litigation before the courts; provides technical and policy assistance to other government agencies engaged in international negotiations or discussions on shipping matters; and provides legal opinions to the Commission, its staff, and the general public in appropriate instances. OGC also oversees the Commission's international affairs activities. The General Counsel serves as the Chief Legal Officer.

Office of the Managing Director (OMD) implements the administrative directives of the Chairman, manages and coordinates program offices and bureaus, and oversees the administrative offices, including the Offices of Budget and Finance (OBF), Human Resources (OHR), Information Technology (OIT), and Management Services (OMS). The Managing Director serves as the Chief Operating Officer.

Office of the Secretary (OS) serves as the focal point through which all filings are made in Commission proceedings, notices of proceedings are given, and from which all official actions are issued. OS prepares and maintains agenda matters and actions taken by the Commission; maintains official files and records of formal proceedings; ensures compliance with the Freedom of Information, Government in the Sunshine, and Privacy Acts; responds to information requests from the public; issues publications and authenticates instruments and documents; maintains a public reference/law library and a docket library; and oversees the organization and content of the Commission's website.

Recent Developments

The historically high demand for Commission services has continued beyond the global impact of the COVID-19-related supply chain congestion and the passage of OSRA 2022. Although pandemic-related challenges are waning, the industry remains less predictable and subject to more disruptions due to world events. Fact Finding 29 (FF 29), *International Ocean Transportation Supply Chain Engagement*, led by Commissioner Rebecca F. Dye, contained several recommendations for agency action to address industry challenges. The Commission prioritized exports, enforcement, and consumer assistance to U.S. shippers and cruise passengers and adjusted its operational structure to align resources with these priorities. This shift in focus included the creation of the Vessel-Operating Common Carrier Audit program, providing enhanced resources for the Office of Consumer Affairs and Dispute Resolution Services (CADRS), and the realignment of enforcement and investigations under the Bureau of Enforcement, Investigations, and Compliance (BEIC) established in late FY 2022.

OSRA 2022 provided the Commission with enhanced regulatory authority and mandated several initiatives, including rulemakings, data collection, charge complaints, and web resources to serve the shipping public. The FMC contracted with the National Academies of Science to study best practices for chassis pools and supporting activities of other agencies, including multiple studies underway at the U.S. Government Accountability Office. Further, the Commission has actively supported cross-agency initiatives related to OSRA 2022 and the maritime supply chain.

The Commission has undergone considerable organizational change in a short period of time. With a directed focus, increased funding, and additional regulatory authority, the Commission is a strengthened organization, better prepared to adapt to changes in the industry and the economy and to proactively meet its mission.

FY 2023 Performance Highlights

Ocean Shipping Reform Act of 2022

Implementing OSRA 2022 was a priority in FY 2023. Key work related to rulemakings in FY 2023 included issuing a Notice of Proposed Rulemaking (NPRM) on detention and demurrage invoicing and billing; a Supplemental NPRM proposing a definition for unreasonable refusal to deal or negotiate with respect to vessel space; and a final rule updating Commission regulations providing the Commission the ability to order refunds in addition to or in lieu of civil penalties for violations of the law, Commission regulations, or Commission orders.

Importantly, Section 10 of OSRA 2022 (46 U.S.C. § 41310) provided shippers with an entirely new "charge complaint" process for quickly and efficiently disputing illegal carrier charges and receive a refund or waiver for those charges. By July 14, 2022, the Commission expeditiously created an interim process for charge complaint investigation and adjudication, along with an accompanying webinar to help the public understand the process. The Commission will review the interim procedure and draft a new rulemaking in FY 2024.

In 2023, the FMC investigated 119 charge complaints. Seventy-two complaints were quickly resolved through voluntary refunds or waivers issued by carriers. As of September 30, 2023, over $1.7 million in charges had been waived or refunded through the charge complaint process.

In addition, the Commission actively pursued the data collection and studies required under OSRA 2022. These efforts began with passage of the law and continued throughout FY 2023. The requirement to collect and publish information from VOCCs on import tonnage and volumes, as well as empty container metrics, has progressed through the Paperwork Reduction Act process, and is an ongoing part of the Commission's analytics work.

Priorities Reflecting Ocean Shipping Industry Conditions

The Commission focused on serving the ocean shipping industry in three areas: increased investigations and enforcement, informed compliance, and increased consumer assistance.

Increased Investigations and Enforcement

The FMC protects the U.S. public through its investigatory and enforcement programs by identifying, deterring, and stopping unlawful activities of regulated entities – ocean carriers, marine terminal operators, and ocean transportation intermediaries. A reorganization in FY 2023 realigned and consolidated the Commission's investigative and prosecutorial functions to enable more effective and efficient investigations, compliance reviews, and formal enforcement actions. Enforcement priorities focused on unlawful practices negatively impacting significant portions of the maritime industry or appearing to cause market distortion. As a result of these changes, the enforcement program was successful in legal actions, collecting civil penalties for violations of the law totaling $2,896,810 as of September 30, 2023.

Informed Compliance

The scope of the Commission's statutory and regulatory authority is broad and affects international waterborne commerce valued at trillions of dollars, as well as passenger vessel operations embarking at U.S. ports. As a small agency, it is imperative that the Commission's program offices focus on vigilant oversight of industry activity, which includes compliance, in addition to investigations and enforcement. By working diligently to ensure regulated entities understand their legal requirements, and by focusing compliance resources to address noncompliance in the areas with the highest impact, the Commission proactively protected the public from unfair and deceptive practices.

Increased Consumer Assistance – Helping Exporters and Importers

The shipping public has faced numerous continuing challenges due to the shocks in the supply chain since the start of the COVID-19 pandemic. OSRA 2022 bolstered the FMC's ability to respond to these challenges on numerous fronts to help consumers. Commission offices worked together to handle public inquiries, requests for alternative dispute resolution, or to file formal complaints to better support the shipping public and work with the industry to keep cargo moving.

Agreement Review

The FMC's statutory authority and regulations require that agreements which allow collaboration among ocean common carriers or MTOs must be filed with the Commission. The FMC protects competition in U.S. ocean transportation, ensuring efficiency and reliability in the supply chain for U.S. exporters and importers by analyzing these agreements for potential anticompetitive effects and then continuously monitoring activity for those agreements that are competitively concerning. The limited antitrust immunity granted under an agreement filed with the Commission extends only to activities among agreement parties within the scope of the filed agreement. Conduct inconsistent with the terms of an agreement is illegal and exposes parties to criminal and civil prosecution. There are approximately 375 agreements on file, including VOCC agreements, MTO agreements, and assessment agreements. Of those, approximately 50 were monitored regularly due to competitive concerns. The majority of agreements on file with the Commission are VOCC agreements which allow straightforward space sharing.

Service Contracts

In FY 2023, 345,841 original service contracts and 816,600 contract amendments were filed into the Commission's SERVCON system. More than 8,700 publicly available tariff locations were posted on the FMC's website. Roughly 150 of these are VOCCs, 154 are MTOs, and the balance are non-vessel-operating common carriers (NVOCCs).

Carrier Automated Tariffs

A Notice of Proposed Rulemaking (NPRM) was published in May 2022 seeking public comment on revisions to the Commission's regulations on carrier automated tariffs to determine if changes are needed to existing regulations that help the public identify ocean carriers' rates and rules. The work of Commission staff continued during FY 2023 and the Commission will determine next steps in early FY 2024.

Ocean Transportation Intermediary Licensing

Over 9,100 ocean transportation intermediaries (OTIs) are regulated by the Commission, including approximately 5,100 licensed entities based in the United States. More than 3,900 foreign-based NVOCCs are registered with the Commission. More than 650 new and amended OTI applications were received during the fiscal year, and approximately 1,500 OTI licenses were renewed, with most renewals reviewed and processed within 48 hours of submission.

Ocean Transportation Intermediary Financial Responsibility

The Commission provides oversight for approximately $1 billion in surety bonds, ensuring that OTIs have sufficient financial resources to operate responsibly. In FY 2023, this included processing of over 2,000 bond termination notices, 1,300 OTI bond riders, and 1,400 new or replacement bonds.

Passenger Vessel Operators

In FY 2023, the Commission's Passenger Vessel Operator (PVO) program certified 278 cruise vessels and 50 cruise line operators, with aggregate evidence of financial responsibility coverage of over $880 million for non-performance and $773 million for casualty. As a direct reflection of the Commission's final rule in Docket No. 20-15, which modified the definition of unearned passenger revenue (UPR), 52 percent of PVOs' UPR exceeded pre-COVID amounts. In reference to the non-performance of transportation, no claims were reportedly filed against PVOs' financial instruments.

Legal Proceedings before the FMC

Adjudicatory proceedings at the FMC have increased dramatically in the last few years. In FY 2023, the Commission received 927 litigation-related filings, a substantial increase in these filings from FY 2022.

The Commission's Office of Administrative Law Judges (OALJ) operates independently under the Administrative Procedure Act, 5 U.S.C. Subchapter II, to resolve cases involving alleged violations of the Shipping Act and other laws within the Commission's jurisdiction. In FY 2023, OALJ received a total of 21 formal and 12 informal proceedings, and OALJ closed more cases than it has in any year since 2006. Information on specific proceedings can be searched in the FMC Reading Room on the FMC's website.

Retaliation and Other Obstacles to Private Party Complaints

As recommended in the Fact Finding 29 Final Report, in FY 2022, policy statements were issued regarding the Commission's position on potential retaliation, awarding of attorney fees, and representational complaints filed by associations on behalf of their members. These policy statements were intended to clarify uncertainties that were potentially inhibiting private parties from filing cases before the Commission. With the passage of OSRA 2022, the law now specifically prohibits retaliation against shippers who file complaints at the Commission.

In FY 2023, the VOCC Audit Team probed the compliance levels of the largest carriers with OSRA's prohibitions against retaliation. Specifically, the team looked at how companies are training personnel at all levels to act legally and how those same employees are being made aware of the consequences for violating the law. Instances of alleged retaliation will be swiftly investigated and fully prosecuted.

Alternative Dispute Resolution

With its responsibilities expanded and reinforced by OSRA 2022, the Office of Consumer Affairs and Dispute Resolution Services (CADRS) helps shippers resolve disputes without bringing formal legal actions. When an assistance request is received by CADRS staff, an experienced analyst or attorney contacts and works with parties to help work through issues and get the cargo moving whenever possible. For more complex issues, CADRS offers mediation services to resolve disputes. In FY 2023, CADRS handled 308 ombuds matters received by industry stakeholders and the public. Of that total, 199 involved commercial cargo shipments, 34 involved household goods shipments, and 75 were passenger cruise vessel-related matters.

Organizational Management

The Commission recognizes the importance of effective, performance-oriented management and prudent employment of all allocated resources. The administrative support program required to effectuate the Commission's mission includes information technology services, human resources support, budget and financial planning, and procurement of goods and services.

Information Technology and Cybersecurity

The FMC's investments in its IT infrastructure, cloud tenant, and security posture allowed it to remain operational and to meet cybersecurity requirements under maximum telework flexibilities during the COVID-19 pandemic. The Commission continues to benefit from this experience and has used the lessons learned to continue to develop and improve hybrid work capability.

FMC Systems/Applications

During FY 2023, the Commission continued its assessment of IT modernization initiatives to establish a new baseline for future development. The assessment identified emerging business requirements from internal and external stakeholders due to the changing use of technology. Motivated by requirements to protect against cybersecurity threats and concerns for systems functionality, the Commission conducted a review of each system. This analysis will inform the decision either to continue with customized applications or to adopt other suitable commercial solutions.

Website Enhancements

During FY 2023, the Commission continued the work of updating its website to improve interaction with the public and to comply with OSRA 2022 requirements. A new website redesign project, expected to be completed in FY 2025, will enhance public interaction with the FMC in a more secure environment, as well as provide new tools for the Commission to manage complaints and inquiries. When completed, the new website will better serve the shipping public by enhancing awareness of agency resources, remedies, and regulatory requirements and by making the FMC's web content more interactive, easily searched and accessible. The agency also will ensure that its materials are compliant with Section 508 best practices.

Strengthening Federal Hiring

The Commission successfully executed 41 hiring actions in FY 2023. While the Commission improved recruitment efforts in filling economist and attorney vacancies, it continued to encounter challenges in attracting the requisite talent to fill vacancies for industry analysts. The Commission continued utilizing OPM's automated USA Hire tool, which allows agencies to use skill and competency-based assessments to measure a candidate's ability to perform the job. The Commission is also reviewing areas that may improve recruitment and retention efforts.

The Commission continued its partnership with the U.S. Surface Transportation Board (STB) to collaborate on a shared Equal Employment Opportunity Manager. This arrangement, in place since 2019, is beneficial for both organizations.

To leverage talent, the Commission employed six interns through its Volunteer Service Program in FY 2023, which provided paid education-related work assignments for students. The agency also employed two part-time paid interns and continues to utilize options to bring students onboard.

Program Performance Overview

The Commission provides a performance plan to Congress, pursuant to the Government Performance and Results Act (GPRA). The FMC's new Strategic Plan FY 2022-2026 (updated March 28, 2022) (Strategic Plan) is posted on fmc.gov. The FY 2023 Annual Performance Report is presented in section two of this Report.

Achieving Strategic Goal Results

The Commission's Strategic Plan provides the foundation for planning and budgeting activities. The plan sets goals and objectives for each fiscal year and contains targets and measures linked to objectives via strategies. These objectives, strategies, targets, and measures drive the agency's budgetary process, and are discussed in detail in section two of this Report. During FY 2023, the Commission met or exceeded ten of its eleven performance targets.

Strategic Management of Human Capital

The Commission rapidly increased the pace of hiring to execute its new priorities during the fiscal year, recognizing that its employees are critical to achieving its mission. In FY 2023, additional positions were created in response to the agency's changing priorities and implementation of OSRA 2022. By the end of FY 2023, 41 full-time positions had been filled in the agency. The agency also saw an increase in turnover. During the fiscal year, four employees retired, and fifteen employees left the agency (about 11%). This highlighted the need to continue strategic hiring and succession planning.

The FMC's Office of Human Resources leveraged new job series for technical experts and utilized USA Hire to improve candidate assessment and Direct Hire authorities to quickly onboard staff in key positions. The Commission continued to promote various hiring authorities and flexibilities, including Direct Hire and Schedule A authorities, and expand the use of the

Pathways Program (e.g., interns and Presidential Management Fellows) to attract new and diverse talent.

To promote succession planning, the FMC maintained multiple leadership programs aimed at all levels of staff to better prepare internal candidates for increased responsibility and the leadership roles required under our new regulatory environment and organizational structure. As a result of the succession planning efforts, nearly 10% of the workforce (13 employees) were hired into higher-level or expanded roles within the agency.

To support and develop supervisors, the agency piloted and implemented a coaching and mentorship program and encouraged further leadership development to ensure supervisors had access to a myriad of resources to effectively lead their teams. Hiring managers were trained in performance management and the recruitment process to support them both in hiring and managing their staff. Additionally, training on Crucial Conversations was provided to all employees to enhance and improve communication across the agency.

Competitive Sourcing

The FMC submitted its FY 2022 Federal Activities Inventory Reform Act (FAIR Act) inventory to OMB in June 2023. The inventory identified 79 of the agency's 150 positions as commercial activity positions. No challenges to the Commission's commercial inventories were received.

Expanded E-Government

The FMC worked diligently during the fiscal year to provide the public with exceptional customer service. Commission news, documents, and events were posted in a timely fashion, with sixty-five news items posted. In addition, the Commission posted approximately 140 combined tweets and LinkedIn posts. These website and social media posts provided important information about the Commission's activities to the public.

During FY 2023, the Commission created its *Information Technology Strategic Plan* (IT Strategic Plan) to identify technology solutions and resource allocations for ongoing and future needs. The updated IT Strategic Plan will be finalized in FY 2024 and will leverage digital transformation and initiatives for continuous improvement of public facing and internal systems, striving to stay abreast of technological advances and evolving cybersecurity requirements through investments in commercial solutions wherever possible.

The Commission continued to work with the U.S. Department of Homeland Security (DHS) in provisioning technology infrastructure to comply with the Federal Risk and Authorization Management Program (FedRAMP) and DHS' continuous monitoring requirements for network security. Internal security tools have been deployed to effectively monitor and address network operations, including file integrity, password sufficiency, and probing for open ports and other externally visible points of attack.

Financial Performance Overview

The FMC received an unmodified ("clean") opinion on its FY 2023 financial statements and will continue efforts to improve operations and achieve unmodified audit opinions in the future.

The Commission's financial condition as of September 30, 2023, is sound. Internal controls are in place to ensure that funds are used efficiently and effectively, and that the budget authority is not exceeded. The FMC's accounting services provider, the Department of Treasury's Bureau of the Fiscal Service (BFS), prepared the financial statements as required by the Accountability of Tax Dollars Act of 2002. The statements have been prepared from, and are fully supported by, the books and records of the FMC in accordance with Federal Generally Accepted Accounting Principles (GAAP), standards approved by the Federal Accounting Standards Advisory Board (FASAB), and OMB Circular A-136, *Financial Reporting Requirements.*

The principal financial statements provided in this document are prepared to report the financial position and results of the operations of the FMC, pursuant to the requirements of 31 U.S.C. § 3515(b). Reports used to monitor and control budgetary resources are prepared from the same books and records.

Source of Funds

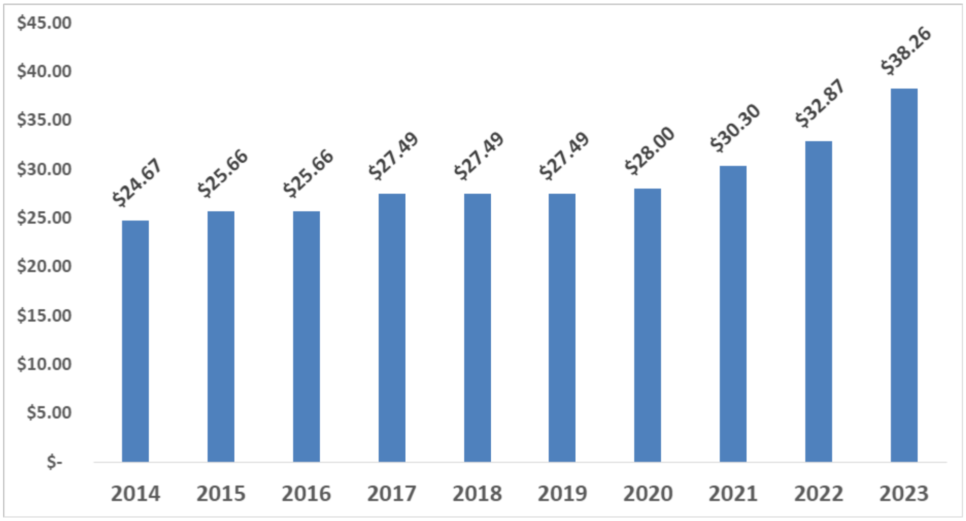
The FMC has a single source of funding for salaries and expenses, provided by an annual appropriation available for commitments and obligations incurred during the fiscal year in which the authority was granted. Congress approved FY 2023 appropriations for the FMC in the amount of $38,260,000, of which $2,000,000 is multi-year funding through P.L. 117-328. This is an increase of $5,391,000 over the FY 2022 appropriation level. Additionally, the Commission received reimbursements of $111,774.50 for work performed by FMC's employees supporting other government agencies and provided $40,500 to reimburse another government agency for resources to support implementation of requirements of OSRA 2022.

The FMC collects remittances for user fees and penalties; however, it is not authorized to offset any of its budget authority by using these funds. Collections are deposited directly into the U.S. Treasury General Fund. This information is captured in the Statement of Custodial Activity found in the *Financial Information* section of this report.

Appropriations History

Appropriations History

Fiscal Years 2014-2023 ($M)

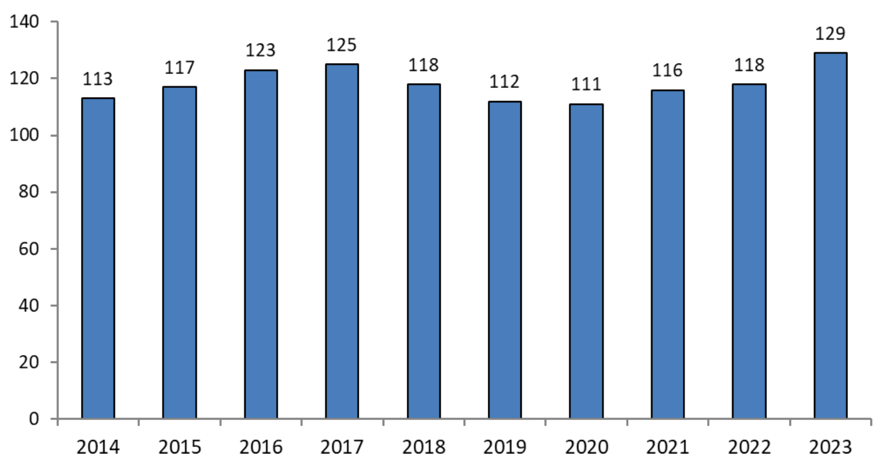


Full-time Equivalent History

The FMC's Full-time Equivalent (FTE) level is largely driven by its annual appropriation level. The FMC currently has its full complement of five statutorily authorized Commissioners on board.

The continued fast pace of retirements and separations in FY 2023 resulted in a lower than anticipated FTE level, at 129 FTEs, with 129 employees on board at the fiscal year's end. The Commission endeavors to fill vacancies and develop the appropriate mix of staffing and other available resources to ensure effective accomplishment of its mission.

Fiscal Years 2014-2023



Uses of Funds

During FY 2023, obligations against the FMC's $38,260,000 appropriation totaled $38,028,000, representing 99.4 percent of the appropriation. Salaries and benefits are the single largest expense category at $25.0 million, or 65.74 percent of the total budget. The second largest category is IT services and development expenses at $6,317,883.13, or 16.5 percent of the total budget. Other administrative expenses comprise the remaining 17.76 percent of the budget. The unexpended balance of $232,000, or 0.6 percent of the total budget, will be retained for allocation to legitimate increases to existing FY 2023 obligations.

Audit Results

The FMC again received an unmodified ("clean") opinion on its FY 2023 financial statements from the auditing firm of Dembo Jones, P.C., under contract through the FMC's Office of the Inspector General. Comparative statements may be found in the *Financial Information* section of this report.

Financial Statement Highlights

The financial statements were prepared to report the financial position and results of operations of the Commission pursuant to the requirements of 31 U.S.C. § 3515(b). The statements were prepared from the books and records of the Commission in accordance with the formats prescribed by OMB.

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 the *Financial Information* section of this report. A brief analysis of the principal statements follows.

Summary of Assets

The FMC's assets were $17,118,032 as of September 30, 2023. This represents an increase of $5,675,124 from FY 2022. The FMC's assets reported on the balance sheet are summarized in the following table.

The Fund Balance with Treasury of $17,037,360 represents the FMC's largest asset and comprises 99.6 percent of the agency's total assets. The Fund Balance with Treasury is comprised only of annual appropriations maintained by the U.S. Department of the Treasury to address current liabilities.

Summary of Assets as of September 30, 2023		
	2023	**2022**
Fund Balance with Treasury	$17,037,360	$11,361,461
Accounts Receivable	$80,672	$81,447
Capital Assets	$0	$0
Other	$0	$0
Total Assets	**$17,118,032**	**$11,442,908**

Accounts Receivable, as of September 30, 2023, totaled $80,672 for outstanding receivables billed to both Federal and non-Federal entities. This accounts for 0.4 percent of the FMC's assets.

Capital Assets, also known as Property, Equipment, and Software, account for 0.0 percent of the FMC's total assets as of September 30, 2023. The net value of $0 accounts for the depreciation of all assets and represents the current book value of those assets.

Summary of Liabilities

The FMC's liabilities totaled $3,899,283 as of September 30, 2023, an increase of $422,461 from FY 2022. The FMC's assets reported on the balance sheet are summarized in the table below.

The FMC's Accounts Payable, as of September 30, 2023, was $143,585. This represents the funds owed for goods and services received from vendors. The accrued liabilities of $1,496,818 represent future costs, such as accrued annual and sick leave balances and workers' compensation that are not covered by current budgetary resources. Accumulated leave costs are recognized as they are taken, and workers' compensation costs are recognized as they are paid out.

Summary of Liabilities as of September 30, 2023		
	2023	**2022**
Accounts Payable	$143,585	$346,715
Payroll Taxes	$442,000	$369,431
Federal Employee Benefits	$1,816,880	$1,716,095
Custodial Liabilities	$0	$0
Accrued Liabilities	$1,496,818	$1,044,581
Total Liabilities	**$3,899,283**	**$3,476,822**

Analysis of Changes in Net Position Summary

The Changes in Net Position Summary is a summary of two factors, Unexpended Appropriations and Cumulative Results of Operations. The total net position for FY 2023 is the result of a $5,252,663 increase from FY 2022.

Changes in Net Position Summary as of September 30, 2023		
	2023	**2022**
Unexpended Appropriations	$14,959,706	$9,608,620
Cumulative Results of Operations	($1,740,957)	($1,642,534)
Total Changes in Net Position	**$13,218,749**	**$7,966,086**

Unexpended Appropriations represent the amount of unobligated and unexpended budget authority for the 5-year period ending on September 30, 2023. Unobligated budget authority is the amount of appropriations or other authority remaining after deducting the cumulative obligations from the amount available for obligation for the same period. The Cumulative Results of Operations (the cumulative excess of financing resources over expenses) is the net result of FMC's operations for all active fiscal years.

Analysis of Net Cost Summary

Net Cost Summary as of September 30, 2023		
	2023	**2022**
Operational and Administrative	$31,130,306	$29,729,508
Office of Inspector General	$575,605	$573,313
Multi-Year	$1,835,561	$0
Total Net Cost	**$33,541,472**	**$30,302,821**

The Net Cost Summary represents the net cost of FMC's Programs as identified in the Annual Report.

The agency's two programs are Operational and Administrative and Office of the Inspector General. The Statement of Net Costs shows the net cost of operations for the agency as a whole and its sub-organizations. Net Costs compared to Budgetary Resources can be found in the *Financial Information* section of this report. This table reflects costs attributable to all active fiscal years (2019-2023).

Analysis of the Statement of Budgetary Resources

Statement of Budgetary Resources as of September 30, 2023		
	2023	**2022**
Incurred	$38,585,901	$32,899,803
Unobligated Balance Unavailable	$3,091,341	$2,390,486
Unobligated Balance Available	$178,336	$484,454
Total Budgetary Resources	**$41,855,578**	**$35,774,743**

The Statement of Budgetary Resources (SBR) shows the source of the agency's budgetary resources, the status of those resources at the end of the reporting period, and the relationship between the two. Total budgetary resources should equal the status of budgetary resources at all times. A more detailed SBR can be found in the *Financial Information* section of this report. During FY 2023, the FMC had a total of $41,855,578 available, representing an increase in budgetary resources of $6,080,835 from FY 2022. The budgetary resources represent financial activity during the accounting period for the five currently active fiscal years (2019-2023).

Systems, Control, and Legal Compliance Analysis

The Commission's internal controls are fundamental to the systems and processes used to manage its operations and achieve its strategic goals. The Chairman's *Statement of Assurance* in the following section notes that there are no material weaknesses or instances of nonconformance to report for FY 2023.

Additionally, in accordance with the requirements of OMB Circular A-123*, Management's Responsibility for Enterprise Risk Management and Internal Control*, the Commission's Enterprise Risk Management Committee meets regularly and identifies, measures, and assesses risk points across the agency. The Committee's risk profile is used in conjunction with existing internal controls to improve the Commission's accountability and effectiveness.

Management Assurances

The Federal Managers' Financial Integrity Act (FMFIA or Act) mandates that agencies establish controls that reasonably ensure that:

- obligations and costs comply with applicable laws,
- assets are safeguarded against waste, loss, unauthorized use, or misappropriation, and
- revenues and expenditures are properly accounted for and recorded.

This Act encompasses program, operational, and administrative areas, as well as accounting and financial management. FMFIA requires that the Chairman provide a statement assuring the adequacy of management controls and conformance of financial systems with Government-wide standards; that the Commission's managers are held accountable for efficient and effective performance of their duties in compliance with applicable laws and regulations; and that maintenance of the integrity of management activities is achieved through the use of controls.

Chairman Maffei has provided his annual assurance statement in this report based on various sources, including knowledge of the daily operation of Commission programs and activities; regular discussions with the Managing Director and the Deputy Managing Director, the Directors of the Offices of Budget and Finance and Management Services; audits of the financial statements; and implementation of the Commission's Strategic Plan. The Chairman receives recommendations from the Senior Executive Service Leadership Team and receives reports regularly from the Inspector General and the Equal Employment Opportunity Director. Deficiencies identified in management control would be addressed at the Commission's highest management levels.

The Office of the Inspector General (OIG) identified no significant deficiencies in FY 2023, and there were no significant management decisions made on which the OIG disagreed. Management and the OIG reached agreement on all audit recommendations. Management resolved or worked to address a number of recommendations during the year.

Debt Collection Improvement Act of 1996

The Debt Collection Improvement Act (DCI) enhanced the ability of the government to service and collect debts, as it centralized the collection of non-tax delinquent debt owed to the government. Federal agencies are required to refer delinquent accounts in excess of 180 days to U.S. Department of the Treasury for collection. Collection of the Commission's delinquent debts is conducted by the Bureau of the Fiscal Service through the Cross-Servicing Program and Treasury Offset Program, where the names and taxpayer identification numbers (TIN) of the delinquent entities are matched against the TINs of recipients of government payments. The balance owed to the government is deducted or offset from the payment to the entity to satisfy the debt. The goal is to minimize the amount of delinquent debt owed to the government. During FY 2023, the FMC effectively managed debt collection in accordance with the DCI and delinquent accounts were timely submitted to the U.S. Treasury.

Prompt Payment Act of 1982

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 2023, the FMC maintained a 98.1 percent on-time payment rate and paid $248 in interest payments.

Performance Measure Summary

The Commission does not have an in-house financial accounting system and, therefore, does not receive a Performance Measure Summary from the U.S. Department of the Treasury. The Commission acquires travel, procurement, accounting, and financial services from the Bureau of the Fiscal Service and verifies and reconciles all financial statements and reports prior to submission.

Inspector General Act and Inspector General Reform Act

Section 5(b) of the Inspector General Act of 1978 requires agencies to report on final actions taken on OIG audit recommendations. Action was taken to close all audit recommendations during the year. No significant deficiencies or material weaknesses were identified.

Inspector General-Issued Audits -- FY 2023		
A23-01: Audit of the FMC's Compliance with the Federal Information Security Modernization Act FY 2022		
Date Issued	Recommendations	Remediated in FY 2023
October 2022	2	1
A23-02: Independent Auditor's Report of the FMC's FY 2022 Financial Statements		
Date Issued	Recommendations	Remediated in FY 2023
November 2022	0	N/A
A23-03: Audit of the FMC's Compliance with the Federal Information Security Modernization Act FY 2021		
Date Issued	Recommendations	Remediated in FY 2023
July 2023	3	0
A23-04: Information Technology Vulnerability Audit, 2023		
Date Issued	Recommendations	Remediated in FY 2023
September 2023	8	0

Treasury Assurance Statement – USA Spending Reconciliation

The FMC has implemented its plan to ensure data completeness and accuracy on www.USASpending.gov by using control totals with financial statement data and comparing samples of financial data to actual award documents. The prime Federal award financial data reported on www.USASpending.gov is correct at the reported percentage of accuracy, and the FMC has adequate internal controls over the underlying spending.

Limitations of the Financial Statements

The principal financial statements are prepared to report the financial position and results of operations of the Commission, pursuant to the requirements of 31 U.S.C. § 3515(b). The statements are prepared from the books and records of the Commission in accordance with Federal GAAP and the formats prescribed by OMB. Reports used to monitor and control budgetary resources are prepared from the same books and records. The financial statements should be read with the understanding that they are for a component of the U.S. Government.

Federal Managers' Financial Integrity Act Statement of Assurance

The Federal Maritime Commission is responsible for managing risks and maintaining effective internal control and financial management systems to meet the objectives of Sections 2 and 4 of the Federal Managers' Financial Integrity Act. This includes conducting assessments to determine the effectiveness of internal control and conformance with financial system requirements. The Commission conducted its annual assessments in accordance with OMB Circular No. A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*.

These assessments considered the effectiveness of internal control over operations, enterprise risk management, financial reporting, and compliance with applicable laws and regulations. The objectives are to ensure the effectiveness and efficiency of operations, the reliability of reporting for internal and external use, and compliance with applicable laws and regulations.

Based on the results of this assessment, I can provide reasonable assurance that the Commission's internal control over operations, risk management, financial reporting, and compliance were operating effectively as of September 30, 2023. No material weaknesses were found in the design or operation of internal control over financial reporting.

The Commission assessed its financial management systems' conformance with financial system requirements, in accordance with the requirements of OMB Circular No. A-123, Appendix D. Based on this assessment, I can provide reasonable assurance that the FMC's financial management systems conform to these requirements and that no material non-conformances or instances of noncompliance were identified.

/s/

Daniel B. Maffei
Chairman
November 15, 2023

ANNUAL PERFORMANCE REPORT

Introduction

The FMC's performance management system includes specific strategic goals, performance measures, and targets. The goals outlined in the Strategic Plan covering fiscal years 2022-2026 represent the FMC's mission and reflect the outcomes and objectives the agency strives to achieve. This report describes progress achieved in FY 2023 towards meeting performance targets in furtherance of the Commission's mission to ensure a competitive and reliable international ocean transportation supply system that supports the U.S. economy and protects the public from unfair and deceptive practices.

The Commission plans to revise its Strategic Plan in FY 2024 to incorporate operational changes resulting from the implementation of OSRA 2022. The current strategic goals and objectives are as follows.

Strategic Goal 1: Maintain a Competitive and Reliable International Ocean Transportation Supply System.

- Ensure no unreasonable increases in transportation costs or decreases in transportation service are attributed to anticompetitive practices under FMC-filed agreements.
- Ensure competition is preserved in the purchase of certain covered services (46 U.S.C. § 40102(5)) through 46 U.S.C. § 40307 authorities.

Strategic Goal 2: Protect the Public from Unlawful, Unfair, and Deceptive Ocean Transportation Practices.

- 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 and timely resolve international shipping disputes through alternative dispute resolution and adjudication.

Stewardship Objective: Advance the FMC's Performance Through Excellence in Organizational Management.

- Strengthen infrastructure and effective resource management.
- Foster a high performing, engaged, and diverse workforce where staff understand how their efforts contribute to the goals of the Commission.

Each measure, target, and actual result is reported in Table 1 and includes a description of the data used to measure performance and an explanation of the procedures in place to validate and ensure integrity of the reported result. Eleven performance measures in support of the strategic goals and seven stewardship objectives were quantitatively measured during the fiscal year. The Commission met or exceeded 10 of its 11 FY 2023 strategic goal targets and met or exceeded all of its stewardship goals. The second target under Strategic Goal 2 was not met. This measure will be adjusted when the Strategic Plan is reviewed in 2024 to align with shifted priorities due to recent industry developments as discussed in the previous section of this report.

Table 2 presents the Commission's five-year performance trend data. The Commission's commitment to continuously improve and streamline processes is evidenced in its year-over-year positive performance results.

Table 3 presents the second year of performance data for the Commission's new stewardship objective. The Commission's commitment to organizational excellence will guide its efforts and ensure that its mission is efficiently and effectively carried out, and that it serves the public.

This Performance and Accountability Report (inclusive of this Annual Performance Report) has been forwarded to the President, OMB Director, appropriate Congressional committees, and others as dictated by OMB Circular A-136, Revised. Additionally, this report has been placed on the FMC's public website to ensure that it is accessible to interested parties. All Commission employees have been advised to review this report.

Table 1: Summary of Performance Measure Results – FY 2023

Objectives, Performance Measures, and Validations	FY 2023 Target	FY 2023 Actual
Strategic Goal No. 1: Maintain a competitive and reliable international ocean transportation supply system.		
Objectives, Performance Measures, and Validations	**FY 2023 Target**	**FY 2023 Actual**
Objective 1.1: Ensure no unreasonable increases in transportation costs or decreases in transportation services are attributed to anticompetitive practices under FMC-filed agreements.		
Measure: Percentage of newly filed vessel sharing agreements and amendments to agreements analyzed and presented to the Commission within 32 days. **Validation**: This outcome goal is measured using data from the eAgreements electronic filing system and tracking the time elapsed between the agreement submission and review.	85%	100%
Measure: Percentage of agreement monitoring reports reviewed within 30 days of receipt to detect actionable information, including market-distorting behavior. **Validation**: This outcome goal is measured using data contained in the eMonitoring system used for the electronic filing of agreement monitoring submissions. Performance is measured by comparing the file receipt date to the date that the filing was reviewed by staff analyst.	80%	97%
Objective 1.2: Ensure competition is preserved in the purchase of certain covered services (46 U.S.C. § 40102(5)) through 46 U.S.C. § 40307 authorities.		
Measure: Percentage of alternative agreement reports indicating joint contracting/ procurement of covered services analyzed and escalated to regular monitoring status within 30 days of receipt to ensure systematic analysis of data for actionable information. **Validation:** This outcome goal is measured using regulated entities' data. Performance is measured by reviewing information received and identifying whether reports indicating covered services are moved from this system to the eMonitoring system within 30 days.	>98%	100%
Strategic Goal No. 2: Protect the public from unlawful, unfair, and deceptive ocean transportation practices.		
Objectives, Performance Measures, and Validations	**FY 2023 Target**	**FY 2023 Actual**
Objective 2.1: Identify and take action to end unlawful, unfair, and deceptive practices.		
Measure: Percentage of enforcement actions taken under the Shipping Act successfully resolved through compliance audits, judgments, settlements, compromise agreements, or issuance of default judgments, that are favorable to the FMC's enforcement program. **Validation:** This outcome goal is measured by examining enforcement case inventory and counting the number of cases resolved.	77.5%	100%
Measure: Percentage of contacted unlicensed OTIs that submit license applications within one year after pre-enforcement contact and education from an area representative. **Validation:** This outcome goal is measured by correlating prior fiscal year area representatives' approved pre-enforcement case inventories with the current fiscal year data and notices on the status of Ocean Transportation Intermediary licenses. This data is collected and maintained by the Bureau of Certification and Licensing on the Regulated Persons Index and the list of FMC Licensed & Bonded OTIs. **Explanation:** This performance measure will be reviewed during the Commission's ongoing FY 2024 strategic planning effort to reflect investigative program changes, including the conversion of Area Representative (AR) positions to Investigators.	15%	N/A

Table 1: Summary of Performance Measure Results – FY 2023 (continued)

Objectives, Performance Measures, and Validations	FY 2023 Target	FY 2023 Actual
Objective 2.2: Prevent public harm through licensing and financial responsibility requirements.		
Measure: Percentage of decisions on completed OTI license applications rendered within 60 calendar days of receipt, facilitating lawful operation of OTIs with appropriate character and experience requirements. **Validation:** This outcome goal is measured by comparing the total number of OTI applications assigned to an analyst (X) and the number of applications completed by an analyst on or before the 60th calendar day following assignment (Y) during a specific time period. The outcome goal is calculated as (Y / X) x 100 = %.	75%	78%
Measure: Percentage of license renewals completed on or prior to the 3-year renewal deadlines to timely verify regulatory compliance. **Validation:** The Completion Status Report, generated in the license renewal system, provides the total number of renewals completed (X) and the number of renewals completed on or before the renewal deadline (Y) during a specific time period. The outcome goal is calculated as (Y / X) x 100 = %.	75%	92%
Measure: Percentage of PVOs examined during the year that have the full financial coverage required by regulation to protect against loss from nonperformance or casualty. **Validation:** This outcome goal is measured by comparing reported financial coverage amounts against required coverage amounts. Operators covered by this program file semi-annual, monthly, and weekly unearned passenger revenue reports. This information is used to compare reported coverage against required coverage amounts.	95%	96%
Objective 2.3: Enhance public awareness of agency resources, remedies, and regulatory requirements through education and outreach.		
Measure: Percentage of Commission issuances, orders, and reports available through the Commission's website within 5 working days of receipt. **Validation:** This outcome goal is measured by reviewing the workflow processes for posting documents to the Commission's website docket activity logs. The date that each docket activity log is updated with new filings or issuances is compared to the date the document is filed with or issued by the Commission in a particular proceeding.	90%	96%
Objective 2.4: Impartially and timely resolve international shipping disputes through alternative dispute resolution and adjudication.		
Measure: Percentage of dispute resolution matters closed within 6 months of request for assistance. **Validation:** This outcome goal is measured using data maintained by the Commission on each dispute resolution matter opened. Cases are opened upon the request of the public for assistance and are subject to the normal fluctuations in businesses and consumers seeking help from the Commission. Cases are closed upon resolution, voluntary termination by the parties, refusal to participate or failure to respond by a party, or when the CADRS mediator determines that particular issues prevent the possibility for successful resolution.	70%	100%
Measure: Percentage of formal complaints or Commission-initiated orders of investigation completed within 2 years of filing or Commission initiation. **Validation:** This outcome goal is measured by using docket activity logs maintained by the Commission and used for docket management, and monthly and annual reporting purposes.	72%	88%

Table 1: Summary of Performance Measure Results – FY 2023 (continued)

Stewardship Objective – Advance the FMC's performance through excellence in organizational management.		
Objectives, Performance Measures, and Validations	**FY 2023 Target**	**FY 2023 Actual**
Stewardship Sub-objective 1: Strengthen infrastructure and effective resource management.		
S.1.1 Manage risks and continue mission essential operations.		
Measure: COOP activities, including annual training, notification exercises, and an annual COOP exercise are conducted throughout the year consistent with the FMC COOP Plan. **Validation:** Complete and document all activities between July 1 and June 30. Sources include annual training materials, sign-in sheets/confirmation emails, and after-action reports.	100%	100%
S.1.2 FMC's financial management systems and practices demonstrate fiscal responsibility and proper accounting.		
Measure: Achieve an unmodified (clean) opinion from the independent auditor on the Commission's fiscal year end financial statements. (Data: Office of the Inspector General Independent Auditor's Report.) **Validation:** This outcome goal is an unmodified (clean) opinion by the Office of the Inspector General based on the findings from the independent auditor's review of the FMC's annual financial statements and internal controls over financial reporting. Each year, the independent auditor reviews approximately 75 processes, documents, procedures, checklists, transaction types, and reports that are all considered in the overall assessment.	100%	100%
S.1.3 Information Technology is optimized and IT systems are protected.		
Measure: Percentage of overall cybersecurity compliance with mandates that are issued. **Validation:** This objective is measured through the report card from the Cybersecurity and Infrastructure Security Agency (CISA).	100%	100%
S.1.4 Maintain the Commission's cloud-based website to allow industry access to FMC resources and applications.		
Measure: FMC website uptime percentage. **Validation:** This objective is measured through the Commission's Azure server uptime report.	99.5%	99.5%
Stewardship Sub-objective 2: Foster a high performing, engaged, and diverse workforce where staff understand how their efforts contribute to the goals of the Commission.		
S.2.1 Management promotes a culture that is open, diverse, inclusive, and engaged.		
Measure: Benchmarking EEI index is above the average for small agencies; no more than 10% drop from the prior year. **Validation:** Annual employee responses from the Federal Employee Viewpoint Survey (FEVS).	>-10%	5%
S.2.2 Management promotes a results-oriented performance culture.		
Measure: Benchmarking FEVS results tied to results-oriented performance culture. **Validation:** Annual employee responses from the FEVS.	>75%	88%
Measure: Percent of staff with the majority of (3 or more expectations per performance element) performance goals rated as meeting the characteristics of a specific, measurable, achievable, realistic, and timely (SMART) goal. Targets are for non-SES/non-supervisory staff. SES and supervisor targets will exceed listed staff targets. **Validation:** Review of performance plans each performance year.	50%	62%

Table 2: Performance Measure Trends, FY 2019-2023

Strategic Goal No. 1: Maintain a competitive and reliable international ocean transportation supply system.					
Performance Measure	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**	**FY 2023**
Measure: Percentage of newly filed vessel sharing agreements and amendments to agreements analyzed and presented to the Commission within 32 days.					
TARGET	N/A	N/A	N/A	85%	85%
ACTUAL	N/A	N/A	N/A	100%	100%
TARGET MET/UNMET	N/A	N/A	N/A	MET	MET
Measure: Percentage of agreement monitoring reports reviewed within 30 days of receipt to detect actionable information, including market-distorting behavior.					
TARGET	66%	67%	68%	80%	80%
ACTUAL	79%	91%	85%	100%	97%
TARGET MET/UNMET	MET	MET	MET	MET	MET
Measure: Percentage of alternative agreement reports indicating joint contracting/procurement of covered services analyzed and escalated to regular monitoring status within 30 days of receipt to ensure systematic analysis of data for actionable information.					
TARGET	N/A	N/A	N/A	>95%	>98%
ACTUAL	N/A	N/A	N/A	100%	100%
TARGET MET/UNMET	N/A	N/A	N/A	MET	MET
Measure: Percentage of FMC-filed agreements reviewed at Commission level which are modified through negotiation to mitigate anticompetitive effects.*					
TARGET	51%	52%	53%	N/A	N/A
ACTUAL	67%	60%	20%	N/A	N/A
TARGET MET/UNMET	MET	MET	UNMET	N/A	N/A
Strategic Goal No. 2: Protect the public from unlawful, unfair and deceptive ocean transportation practices.					
Measure: Percentage of enforcement actions taken under the Shipping Act successfully resolved through compliance audits, judgments, settlements, compromise agreements, or issuance of default judgments, that are favorable to the FMC's enforcement program.					
Performance Measure	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**	**FY 2023**
TARGET	N/A	N/A	N/A	77.5%	77.5%
ACTUAL	N/A	N/A	N/A	77.8%	100%
TARGET MET/UNMET	N/A	N/A	N/A	MET	MET
Measure: Percentage of contacted unlicensed OTIs that submit license applications within one year after pre-enforcement contact and education from an area representative.**					
TARGET	N/A	N/A	N/A	10%	15%
ACTUAL	N/A	N/A	N/A	0%	N/A
TARGET MET/UNMET	N/A	N/A	N/A	UNMET	N/A
Measure: Percentage of decisions on completed OTI license applications rendered within 60 calendar days of receipt, facilitating lawful operation of OTIs with appropriate character and experience requirements.					
TARGET	75%	75%	75%	75%	75%
ACTUAL	96%	88%	98.8%	96%	78%
TARGET MET/UNMET	MET	MET	MET	MET	MET
Measure: Percentage of license renewals completed on or prior to the 3-year renewal deadlines to timely verify regulatory compliance.					
TARGET	N/A	N/A	N/A	75%	75%
ACTUAL	N/A	N/A	N/A	87%	92%
TARGET MET/UNMET	N/A	N/A	N/A	MET	MET
Measure: Percentage of PVOs examined during the year that have the full financial coverage required by regulation to protect against loss from nonperformance or casualty.					
TARGET	95%	95%	95%	95%	95%
ACTUAL	96%	96%	97.9%	96%	96%
TARGET MET/UNMET	MET	MET	MET	MET	MET

Table 2: Performance Measure Trends, FY 2019-2023 continued

Performance Measure	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Measure: Percentage of Commission issuances, orders, and reports available through the Commission's website within 5 working days of receipt.					
TARGET	84%	86%	88%	90%	90%
ACTUAL	99%	100%	99%	91%	96%
TARGET MET/UNMET	MET	MET	MET	MET	MET
Measure: Percentage of dispute resolution matters closed within 6 months of request for assistance.					
TARGET	N/A	N/A	N/A	67%	70%
ACTUAL	N/A	N/A	N/A	100%	100%
TARGET MET/UNMET	N/A	N/A	N/A	MET	MET
Measure: Percentage of formal complaints or Commission-initiated orders of investigation completed within 2 years of filing or Commission initiation.					
TARGET	66%	68%	70%	72%	72%
ACTUAL	43%	100%	75%	86%	88%
TARGET MET/UNMET	UNMET	MET	MET	MET	MET
Measure: Percentage of enforcement actions taken under the Shipping Act successfully resolved through favorable judgment, settlement, issuance of default judgment, or compliance letter or notice.					
TARGET	77.5%	77.5%	77.5%	N/A	N/A
ACTUAL	97%	93%	90.3%	N/A	N/A
TARGET MET/UNMET	MET	MET	MET	N/A	N/A
Measure: Percentage of Ombuds and ADR matters closed within 6 months of request for assistance.					
TARGET	61%	63%	65%	N/A	N/A
ACTUAL	98%	99.59%	100%	N/A	N/A
TARGET MET/UNMET	MET	MET	MET	N/A	N/A

* This measure was replaced by the first 2 new measures listed under Strategic Goal No. 1 in the Commission's FY 2018-2022 Strategic Plan. For additional historical data on this measure, see Commission PARs posted on its website.

**This measure is no longer applicable to the newly reorganized Bureau of Enforcement, Investigations, and Compliance. It will be adjusted to align with revised priorities and organizational changes when the Strategic Plan is reviewed in FY 2024.

Table 3: Stewardship Objective Trends, 2022-2026

Stewardship Objective: Advance the FMC's performance through excellence in organizational management.					
Performance Measure	**FY 2022**	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026**
Measure: COOP activities, including annual training, notification exercises, and an annual COOP exercise are conducted throughout the year consistent with the FMC COOP Plan.					
TARGET	100%	100%	100%	100%	100%
ACTUAL	100%	100%			
TARGET MET/UNMET	MET	MET			
Measure: Achieve an unmodified (clean) opinion from the independent auditor on the Commission's fiscal year's end financial statements. (Data: Office of the Inspector General Independent Auditor's Report.)					
TARGET	100%	100%	100%	100%	100%
ACTUAL	100%	100%			
TARGET MET/UNMET	MET	MET			
Measure: Percentage of overall cybersecurity compliance with mandates that are issued.					
TARGET	100%	100%	100%	100%	100%
ACTUAL	100%	100%			
TARGET MET/UNMET	MET	MET			
Measure: FMC website uptime percentage.					
TARGET	99.5%	99.5%	99.5%	99.5%	99.5%
ACTUAL	99.5%	99.5%			
TARGET MET/UNMET	MET	MET			
Measure: Benchmarking EEI index is above the average for small agencies; no more than 10% drop from the prior year.					
TARGET	>-10%	>-10%	>-10%	>-10%	>-10%
ACTUAL	2%	5%			
TARGET MET/UNMET	MET	MET			
Measure: Benchmarking FEVS results tied to a results-oriented performance culture.					
TARGET	>75%	>75%	>75%	>75%	>75%
ACTUAL	93%	88%			
TARGET MET/UNMET	MET	MET			
Measure: Percent of staff with the majority of (3 or more expectations per performance element) performance goals rated as meeting the characteristics of a specific, measurable, achievable, realistic, and timely (SMART) goal. Targets are for non-SES/non-supervisory staff. SES and supervisor targets will exceed listed staff targets.					
TARGET	25%	50%	98%	99%	99%
ACTUAL	30%	62%			
TARGET MET/UNMET	MET	MET			

FINANCIAL INFORMATION

Message from the Acting Chief Financial Officer

I am pleased to present the Federal Maritime Commission's Financial Information for FY 2023, the 20th consecutive year that an independent auditor has rendered an unmodified opinion on the Commission's financial statements. The auditor's tests for compliance with selected provisions of applicable laws, regulations and contracts identified no deficiencies in internal control over financial reporting considered to be material weaknesses nor disclosed any instances of noncompliance for FY 2023 reportable under U.S. generally accepted government auditing standards. This demonstrates the Commission's long-held continuous record as a diligent steward of taxpayer dollars, maintaining high standards for the financial management of the resources entrusted to it.

The financial statements and related notes were prepared in conformity with accounting principles generally accepted in the U.S., and requirements of OMB Circular A-136, *Financial Reporting Requirements,* revised May 22, 2023, and fairly present the Commission's financial position.

The FMC's financial condition remains sound, and its internal controls are sufficient to ensure that its budget authority is not exceeded, and that funds are used efficiently and effectively. The following key accomplishments demonstrate the effectiveness and efficiency of the FMC's acquisition and financial functions during FY 2023:

- A continuous record of no material weaknesses, significant control deficiencies, or nonconformance with the FMFIA and other applicable laws and regulations;
- Civil enforcement proceedings and user fees collections totaling $3,322,694;
- Continued focus on internal controls and risk management, as mandated by OMB Circular A-123, providing budget information in concise, reliable, and understandable formats;
- Accurate, timely issuance of financial statements as required by the Accountability of Tax Dollars Act of 2002, prepared from, and fully supported by, the books and records of the FMC in accordance with Generally Accepted Accounting Principles, standards approved by the Federal Accounting Standards Advisory Board, and OMB Circular A-136; and
- Successful implementation of the Digital Accountability and Transparency Act of 2014 (DATA Act), which provides detailed information on the FMC's careful stewardship of resources on the USASpending.gov website.

I am proud of the Commission's track record and confident that the excellent level of financial management at the Commission will continue into the future. We strive to enhance operational efficiency while protecting the interest of the American shipping public.

/s/
Cindy Hennigan
Acting Chief Financial Officer
November 15, 2023

Principal Financial Statements

The principal financial statements presented include:

- Balance Sheet – Presents the combined amounts the agency had to use or distribute (assets) versus the amounts the agency owed (liabilities), and the difference between the two (net position);
- Statement of Net Cost – Presents the annual cost of agency operations determined by reducing gross cost by any offsetting revenue;
- Statement of Changes in Net Position – Presents the accounting activities that caused the change in net position during the reporting period;
- Statement of Budgetary Resources – Presents how budgetary resources were made available and the status of those resources at fiscal year-end; and
- Statement of Custodial Activity – Presents collections and their disposition by the agency on behalf of the Treasury General Fund. The FMC acts as custodian and does not have use of these funds.

Limitations of the Financial Statements

As stated in the previous section, the principal financial statements have been prepared to report the financial position and results of operations of the FMC, pursuant to the requirements of 31 U.S.C. § 3515(b). While the statements have been prepared from the books and records of the agency in accordance with GAAP for Federal entities and 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 understanding that they are for a component of the U.S. Government, a sovereign entity. Therefore, 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, P.C., under contract to the FMC’s Office of the Inspector General.

Financial Statements & Independent Auditor Report

FEDERAL MARITIME COMMISSION

Washington, DC 20573

November 15, 2023

Office of Inspector General

Dear Chairman Maffei and Commissioners Dye, Sola, Bentzel, and Vekich:

I am pleased to provide the attached audit report required by the Accountability for Tax Dollars Act of 2002 (ATDA), which presents an unmodified (clean) opinion on the Federal Maritime Commission's (FMC) fiscal year (FY) 2023 and 2022 financial statements. The audit results indicate that the FMC has established an internal control structure that facilitates the preparation of reliable financial and performance information. The Office of Inspector General (OIG) commends the FMC for the noteworthy accomplishment of attaining an unmodified opinion.

The OIG contracted with the independent certified public accounting firm Dembo Jones, P.C. to: perform the audit of the FMC's financial statements for the fiscal years ending September 30, 2023 and 2022; consider internal control over financial reporting; and test the agency's compliance with certain provisions of applicable laws, regulations, and contracts that could have a direct and material effect on the financial statements. The OIG contract required that the audit be performed in accordance with U.S. Generally Accepted Government Auditing Standards and Office of Management and Budget (OMB) audit guidance.

In its audit of the FMC, Dembo Jones 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 or significant deficiencies in internal control over financial reporting; and no reportable noncompliance issues with the laws and regulations tested.

In connection with the OIG's contract, the OIG reviewed Dembo Jones' report and related documentation and inquired of its representatives. Our review, as differentiated from an audit in accordance with U.S. Generally Accepted Government Auditing Standards, was not intended to enable the OIG to express, and we do not express, opinions on FMC's financial statements or internal control; or conclusions on compliance with laws and regulations. Dembo Jones is responsible for the attached auditors' report dated November 15, 2023 and the conclusions expressed in the report. However, our review disclosed no instances where Dembo Jones did not comply, in all material respects, with Generally Accepted Government Auditing Standards.

The OIG would like to thank FMC staff; especially the Office of Budget and Finance, for their assistance in helping Dembo Jones and the OIG meet the audit objectives.

Respectfully submitted,

/s/
Jon Hatfield
Inspector General

Attachment

cc: Office of the Managing Director
Office of the General Counsel
Office of Budget and Finance

Independent Auditor's Report

DEMBO·JONES
CERTIFIED PUBLIC ACCOUNTANTS & ADVISORS

Independent Auditor's Report

To Chairman Daniel B. Maffei
Federal Maritime Commission

In our audits of the fiscal years 2023 and 2022 financial statements of the Federal Maritime Commission (the Commission) we found:

- The Commission's financial statements as of and for the fiscal years ended September 30, 2023, and 2022, are presented fairly, in all material respects, in accordance with U.S. generally accepted accounting principles;
- no material weaknesses in internal control over financial reporting based on the limited procedures we performed;[1] and
- no reportable noncompliance for fiscal year 2023 with provisions of applicable laws, regulations, and contracts we tested.

The following sections discuss in more detail (1) our report on the financial statements, which includes required supplementary information (RSI)[2] and other information included with the financial statements[3]; (2) our report on internal control over financial reporting; (3) our report on compliance with laws, regulations, and contracts; and (4) agency comments.

----

[1]A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. A deficiency in internal control 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 and correct, misstatements on a timely basis.

[2] The RSI consists of "Management's Discussion and Analysis", which is included with the financial statements.

[3] Other information consists of information included with the financial statements, other than the RSI and the auditor's report.

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eport.

Report on the Financial Statements

Opinion

In accordance with U.S. generally accepted government auditing standards, Office of Management and Budget (OMB) Bulletin No. 24-01, *Audit Requirements for Federal Financial Statements,* and additional requirements of OMB, such as Circular No. A-136, *Financial Reporting Requirements,* we have audited the Commission's financial statements. The Commission's financial statements comprise the balance sheets as of September 30, 2023, and 2022; the related statements of net cost, changes in net position, and budgetary resources for the fiscal years then ended; and the related notes to the financial statements. In our opinion, the Commission's financial statements present fairly, in all material respects, the Commission's financial position as of September 30, 2023, and 2022, and its net cost of operations, changes in net position, and budgetary resources for the fiscal years then ended in accordance with U.S. generally accepted accounting principles.

Basis for Opinion

We conducted our audits in accordance with U.S. generally accepted government auditing standards. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the Commission and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Responsibilities of Management for the Financial Statements

The Commission management is responsible for

- the preparation and fair presentation of these financial statements in accordance with U.S. generally accepted accounting principles;
- preparing, measuring, and presenting the RSI in accordance with U.S. generally accepted accounting principles;
- preparing and presenting other information included in the Commission's Performance and Accountability Report (PAR), and ensuring the consistency of that information with the audited financial statements and the RSI; and
- designing, implementing, and maintaining effective internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Commission's ability to continue as a going concern for a reasonable period of time.

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to (1) obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and (2) issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit of the financial statements conducted in accordance with U.S. generally accepted government auditing standards will always detect a material misstatement or a material weakness when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements, including omissions, are considered to be material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with U.S. generally accepted government auditing standards, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to our audit of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control over financial reporting. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Perform other procedures we consider necessary in the circumstances.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Commission's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control–related matters that we identified during the financial statement audit.

Required Supplementary Information

U.S. generally accepted accounting principles issued by the Federal Accounting Standards Advisory Board (FASAB) require that the RSI be presented to supplement the financial statements. Such information is the responsibility of management and, although not a part of the financial statements, is required by FASAB, which considers it to be an essential part of financial reporting for placing the financial statements in appropriate operational, economic, or historical context.

We have applied certain limited procedures to the RSI in accordance with U.S. generally accepted government auditing standards. These procedures consisted of (1) inquiring of management about the methods of preparing the RSI and (2) comparing the RSI for consistency with management's responses to our inquiries, the financial statements, and other knowledge we obtained during the audit of the financial statements, in order to report omissions or material departures from FASAB guidelines, if any, identified by these limited procedures. We did not audit and we do not express an opinion or provide any assurance on the RSI because the limited procedures we applied do not provide sufficient evidence to express an opinion or provide any assurance.

Other Information

The Commission's other information contains a wide range of information, some of which is not directly related to the financial statements. This information is presented for purposes of additional analysis and is not a required part of the financial statements or the RSI. Management is responsible for the other information included in the Commission's PAR. The other information comprises the financial statement audit summary but does not include the financial statements and our auditor's report thereon. Our opinion on the financial statements does not cover the other information, and we do not express an opinion or any form of assurance thereon.

In connection with our audit of the financial statements, our responsibility is to read the other information and consider whether a material inconsistency exists between the other information and the financial statements, or the other information otherwise appears to be materially misstated. If, based on the work performed, we conclude that an uncorrected material misstatement of the other information exists, we are required to describe it in our report.

Report on Internal Control over Financial Reporting

In connection with our audits of the Commission's financial statements, we considered the Commission's internal control over financial reporting, consistent with our auditor's responsibilities discussed below.

Results of Our Consideration of Internal Control over Financial Reporting

Our consideration of internal control was for the limited purpose described below, and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies[1] or to express an opinion on the effectiveness of the Commission's internal control over financial reporting. Given these limitations, during our 2023 audit, we did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses. However, material weaknesses or significant deficiencies may exist that have not been identified.

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

Basis for Results of Our Consideration of Internal Control over Financial Reporting

We performed our procedures related to the Commission's internal control over financial reporting in accordance with U.S. generally accepted government auditing standards and Office of Management and Budget audit guidance. [2]

Responsibilities of Management for Internal Control over Financial Reporting

The Commission management is responsible for designing, implementing, and maintaining effective internal control over financial reporting relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibilities for Internal Control over Financial Reporting

In planning and performing our audit of the Commission's financial statements as of and for the fiscal year ended September 30, 2023, in accordance with U.S. generally accepted government auditing standards, we considered the Commission's internal control relevant to the financial statement audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control over financial reporting. Accordingly, we do not express an opinion on the Commission's internal control over financial reporting. We are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses. We did not consider all internal

[1]A significant deficiency is a deficiency, or a combination of deficiencies, in internal control over financial reporting that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

[2]Office of Management and Budget (OMB) Bulletin No. 24-01, Audit Requirements for Federal Financial Statements, issued on October 19, 2023. According to the guidance, for those controls that have been suitably designed and implemented, the auditor should perform sufficient tests of such controls to conclude on whether the controls are operating effectively (i.e., sufficient tests of controls to support a low level of assessed control risk). OMB audit guidance does not require the auditor to express an opinion on the effectiveness of internal control.

controls relevant to operating objectives, such as those controls relevant to preparing performance information and ensuring efficient operations.

Definition and Inherent Limitations of Internal Control over Financial Reporting

An entity's internal control over financial reporting is a process effected by those charged with governance, management, and other personnel, the objectives of which are to provide reasonable assurance that

- transactions are properly recorded, processed, and summarized to permit the preparation of financial statements in accordance with U.S. generally accepted accounting principles, and assets are safeguarded against loss from unauthorized acquisition, use, or disposition, and
- transactions are executed in accordance with provisions of applicable laws, including those governing the use of budget authority, regulations, and contracts, noncompliance with which could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent, or detect and correct, misstatements due to fraud or error.

Intended Purpose of Report on Internal Control over Financial Reporting

The purpose of this report is solely to describe the scope of our consideration of the Commission's internal control over financial reporting and the results of our procedures, and not to provide an opinion on the effectiveness of the Commission's internal control over financial reporting. This report is an integral part of an audit performed in accordance with U.S. generally accepted government auditing standards in considering internal control over financial reporting. Accordingly, this report on internal control over financial reporting is not suitable for any other purpose.

Report on Compliance with Laws, Regulations, and Contracts

In connection with our audits of the Commission's financial statements, we tested compliance with selected provisions of applicable laws, regulations, and contracts consistent with our auditor's responsibilities discussed below.

Results of Our Tests for Compliance with Laws, Regulations, and Contracts

Our tests for compliance with selected provisions of applicable laws, regulations, and contracts disclosed no instances of noncompliance for fiscal year 2023 that would be reportable under U.S. generally accepted government auditing standards. However, the objective of our tests was not to provide an opinion on compliance with laws, regulations, and contracts applicable to the Commission. Accordingly, we do not express such an opinion.

Basis for Results of Our Tests for Compliance with Laws, Regulations, and Contracts

We performed our tests of compliance in accordance with U.S. generally accepted government auditing standards.

Responsibilities of Management for Compliance with Laws, Regulations, and Contracts

The Commission management is responsible for complying with laws, regulations, and contracts applicable to the Commission.

Auditor's Responsibilities for Tests of Compliance with Laws, Regulations, and Contracts

Our responsibility is to test compliance with selected provisions of applicable laws, regulations, and contracts applicable to the Commission that have a direct effect on the determination of material amounts and disclosures in the Commission's financial statements, and to perform certain other limited procedures. Accordingly, we did not test compliance with all laws, regulations, and contracts applicable to the Commission. We caution that noncompliance may occur and not be detected by these tests.

Intended Purpose of Report on Compliance with Laws, Regulations, and Contracts

The purpose of this report is solely to describe the scope of our testing of compliance with selected provisions of applicable laws, regulations, and contracts, and the results of that testing, and not to provide an opinion on compliance. This report is an integral part of an audit performed in accordance with U.S. generally accepted government auditing standards in considering compliance. Accordingly, this report on compliance with laws, regulations, and contracts is not suitable for any other purpose.

Dembo Jones, P.C.

North Bethesda, Maryland
November 15, 2023

Comments on Audit Report

Federal Maritime Commission
Washington, DC 20573

Office of the
Managing Director

November 15, 2023

Donald K. Marshall, CPA
Dembo Jones, P.C.
6116 Executive Boulevard, Suite 500
North Bethesda, MD 20852

Dear Mr. Marshall:

I have reviewed the financial statements audit report for the Federal Maritime Commission for FY 2023. I concur with the audit report's findings that the financial statements fairly present the Commission's financial position during the fiscal year ending September 30, 2023, and that the financial statements are in conformity with U.S. Generally Accepted Accounting Principles; that the FMC has maintained, in all material respects, effective internal control over financial reporting; and that there were no instances of reportable noncompliance with laws and regulations tested by the auditors.

The Commission appreciates Dembo Jones' work over the past fiscal year.

Sincerely,

/s/
Cindy Hennigan
Acting Chief Financial Officer

Financial Statements

FEDERAL MARITIME COMMISSION

FINANCIAL STATEMENTS

FOR THE YEARS ENDED SEPTEMBER 30, 2023 AND 2022

TABLE OF CONTENTS

FEDERAL MARITIME COMMISSION
BALANCE SHEET
AS OF SEPTEMBER 30, 2023 AND 2022
(In Dollars)

	2023	2022
Assets:		
Intragovernmental Assets:		
Fund Balance with Treasury (Note 2)	$ 17,037,360	$ 11,361,461
Accounts Receivable, Net (Note 3)	9,638	-
Total Intragovernmental Assets	17,046,998	11,361,461
Other than Intragovernmental Assets:		
Accounts Receivable, Net (Notes 3)	71,034	81,447
Total Other than Intragovernmental Assets	71,034	81,447
Total Assets	$ 17,118,032	$ 11,442,908
Liabilities: (Note 4)		
Intragovernmental Liabilities:		
Accounts Payable	$ 24,015	$ 54,832
Other Liabilities (Note 5)	442,000	369,431
Other Liabilities (Without Reciprocals) (Note 5)	109,715	75,739
Liability to the General Fund of the U.S. Government for Custodial and Other Non-Entity Assets (Note 4 and 5)	71,034	75,328
Other Current Liabilities - Benefit Contributions Payable (Note 5)	261,251	218,364
Total Intragovernmental Liabilities	466,015	424,263
Other than Intragovernmental Liabilities:		
Accounts Payable	119,570	291,883
Federal Employee Benefits Payable	1,816,880	1,716,095
Other Liabilities (Notes 5)	1,496,818	1,044,581
Total Other than Intragovernmental Liabilities	3,433,268	3,052,559
Total Liabilities	$ 3,899,283	$ 3,476,822
Net Position:		
Unexpended Appropriations - Funds from Other than Dedicated Collections	$ 14,959,706	$ 9,608,620
Cumulative Results of Operations - Funds from Other than Dedicated Collections	(1,740,957)	(1,642,534)
Total Net Position	13,218,749	7,966,086
Total Liabilities and Net Position	$ 17,118,032	$ 11,442,908

The accompanying notes are an integral part of these financial statements.

FEDERAL MARITIME COMMISSION
STATEMENT OF NET COST
FOR THE YEARS ENDED SEPTEMBER 30, 2023 AND 2022
(In Dollars)

	2023	2022
Gross Program Costs:		
Operational and Administrative:		
Gross Costs	$ 31,285,488	$ 29,912,979
Less: Earned Revenue	(155,182)	(183,471)
Net Program Costs	$ 31,130,306	$ 29,729,508
Office of Inspector General:		
Gross Costs	$ 575,605	$ 573,313
Net Program Costs	$ 575,605	$ 573,313
Multi Year Operational and Administrative:		
Gross Costs	$ 1,835,561	$ -
Net Program Costs	$ 1,835,561	$ -
Net Cost of Operations	$ 33,541,472	$ 30,302,821

FEDERAL MARITIME COMMISSION
STATEMENT OF CHANGES IN NET POSITION
FOR THE YEARS ENDED SEPTEMBER 30, 2023 AND 2022
(In Dollars)

	2023	2022
Unexpended Appropriations:		
Beginning Balance	$ 9,608,620	$ 6,410,608
Appropriations Received	38,260,000	32,869,000
Other Adjustments	(1,118,430)	(484,169)
Appropriations Used	(31,790,484)	(29,186,819)
Net Change in Unexpended Appropriations	5,351,086	3,198,012
Total Unexpended Appropriations	$ 14,959,706	$ 9,608,620
Cumulative Results of Operations:		
Beginning Balance	$ (1,642,534)	$ (1,649,547)
Appropriations Used	31,790,484	29,186,819
Imputed Financing (Note 8)	1,652,565	1,123,005
Other	-	10
Net Cost of Operations	(33,541,472)	(30,302,821)
Net Change in Cumulative Results of Operations	(98,423)	7,013
Total Cumulative Results of Operations	$ (1,740,957)	$ (1,642,534)
Net Position	$ 13,218,749	$ 7,966,086

The accompanying notes are an integral part of these financial statements.

FEDERAL MARITIME COMMISSION
STATEMENT OF BUDGETARY RESOURCES
FOR THE YEARS ENDED SEPTEMBER 30, 2023 AND 2022
(In Dollars)

		2023		2022
Budgetary Resources:				
Unobligated Balance from Prior Year Budget Authority, Net	$	3,440,396	$	2,722,262
Appropriations		38,260,000		32,869,000
Spending Authority from Offsetting Collections		155,182		183,481
Total Budgetary Resources	$	41,855,578	$	35,774,743
Status of Budgetary Resources:				
New Obligations and Upward Adjustments (total)	$	38,585,901	$	32,899,803
Unexpired Unobligated Balance, End of Year		178,336		484,454
Expired Unobligated Balance, End of Year		3,091,341		2,390,486
Unobligated Balance, End of Year (total)		3,269,677		2,874,940
Total Budgetary Resources	$	41,855,578	$	35,774,743
Outlays, Net and Disbursements, Net:				
Outlays, Net (total)	$	31,465,671	$	29,430,876
Distributed Offsetting Receipts		(426,141)		(253,715)
Agency Outlays, Net	$	31,039,530	$	29,177,161

FEDERAL MARITIME COMMISSION
STATEMENT OF CUSTODIAL ACTIVITY
FOR THE YEARS ENDED SEPTEMBER 30, 2023 AND 2022
(In Dollars)

		2023		2022
Total Custodial Revenue:				
Sources of Cash Collections:				
Miscellaneous	$	3,322,694	$	2,335,235
Total Cash Collections (Note 11)		3,322,694		2,335,235
Accrual Adjustments		(4,243)		(2,422)
Total Custodial Revenue		3,318,451		2,332,813
Disposition of Collections:				
Transferred to Others (by Recipient)		3,322,694		2,335,235
(Increase)/Decrease in Amounts Yet to be Transferred		(4,243)		(2,422)
Total Disposition of Collections		3,318,451		2,332,813
Custodial Revenue Less Disposition of Collections	$	-	$	-

The accompanying notes are an integral part of these financial statements.

FEDERAL MARITIME COMMISSION

NOTES TO THE FINANCIAL STATEMENTS

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. Reporting Entity

The Federal Maritime Commission (FMC or Commission) was established as an independent regulatory agency on August 12, 1961. The FMC is 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 (FSPA), section 19 of the Merchant Marine Act of 1920, and sections 2 and 3 of Public Law No. 89-777.

The Commission monitors the activities of ocean common carriers, marine terminal operators (MTOs), agreements among ocean common carriers and/or MTOs, ports and ocean transportation intermediaries (non-vessel-operating common carriers and ocean freight forwarders) operating 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 remedy malpractices and violations 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 FMC 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 death or injury occurring to passengers.

The 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 the chief executive and administrative officer of the 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.

The FMC makes custodial collections and holds custodial receivables that are non-entity assets and are transferred to Treasury at fiscal year-end. The FMC has rights and ownership of all assets reported in these financial statements. FMC does not possess any non-entity assets.

B. Basis of Presentation

The financial statements have been prepared to report the financial position and results of operations of FMC. The Balance Sheet presents the financial position of the Commission. The Statement of Net Cost presents the Commission's operating results; the Statement of Changes in Net Position displays the changes in the Commission's equity accounts. The Statement of Budgetary Resources presents the sources, status, and uses of the Commission's resources and follows the rules for the Budget of the United States Government.

The statements are a requirement of the Chief Financial Officers Act of 1990 and the Government Management

Reform Act of 1994. 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 issued by the Federal Accounting Standards Advisory Board (FASAB), Office of Management and Budget (OMB) Circular A-136, *Financial Reporting Requirements,* as amended, 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 financial statements and associated notes are presented on a comparative basis. Unless specified otherwise, all amounts are presented in dollars.

C. 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.

D. Fund Balance with Treasury

FBWT is an asset of a reporting entity and a liability of the General Fund. It is the aggregate amount of the FMC's funds with Treasury in expenditure, receipt, revolving, and deposit fund accounts. Appropriated funds recorded in expenditure accounts are available to pay current liabilities and finance authorized purchases.

The FMC does not maintain bank accounts of its own, has no disbursing authority, and does not maintain cash held outside of Treasury. When the reporting entity seeks to use FBWT or investments in Government securities to liquidate budgetary obligations, Treasury will finance the disbursements in the same way it finances all other disbursements, which is to borrow from the public if there is a budget deficit (and to use current receipts if there is a budget surplus). Funds are disbursed for the agency on demand.

E. Accounts Receivable

Accounts receivable consists of amounts owed to FMC by other Federal agencies and the general public. Amounts due from Federal agencies are considered fully collectible. An allowance for uncollectible accounts receivable from the public is established when, based upon a review of outstanding accounts and the failure of all collection efforts, management determines that collection is unlikely to occur considering the debtor's ability to pay.

F. Property, Equipment, and Software

Property, equipment, and software represent furniture, fixtures, equipment, and information technology 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, while maintenance and repair costs are expensed as incurred. FMC's capitalization threshold is $25,000 for individual purchases. Property, equipment, and software acquisitions that do not meet the capitalization criteria are expensed upon receipt. 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
Software	5

G. Advances and Prepaid Charges

Advance payments are generally prohibited by law. There are some exceptions, such as 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.

H. Liabilities

Liabilities represent the amount of funds likely to be paid by the FMC as a result of transactions or events that have already occurred.

The FMC reports its liabilities under two categories, Intragovernmental and With the Public. Intragovernmental liabilities represent funds owed to another government agency. Liabilities with the Public represent funds owed to any entity or person that is not a federal agency, including private sector firms and federal employees. Each of these categories may include liabilities that are covered by budgetary resources and liabilities not covered by budgetary resources.

Liabilities covered by budgetary resources are liabilities funded by a current appropriation or other funding source. These consist of accounts payable and accrued payroll and benefits. Accounts payable represent amounts owed to another entity for goods ordered and received and for services rendered except for employees. Accrued payroll and benefits represent payroll costs earned by employees during the fiscal year which are not paid until the next fiscal year.

Liabilities not covered by budgetary resources are liabilities that are not funded by any current appropriation or other funding source. These liabilities consist of accrued annual leave, actuarial Federal Employees' Compensation Act (FECA), and the amounts due to Treasury for collection and accounts receivable of civil penalties and FOIA request fees.

I. 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. Non-vested leave is expensed when used. Any liability for sick leave that is accrued but not taken by a Civil Service Retirement System (CSRS)-covered employee is transferred to the Office of Personnel Management (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.

J. Accrued and Actuarial Workers' Compensation

The FECA administered by the U.S. Department of Labor (DOL) addresses all claims brought by the FMC employees for on-the-job injuries. The DOL bills each agency annually as its claims are paid, but 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.

K. Retirement Plans

FMC employees participate in either the CSRS or the FERS. The employees who participate in CSRS are beneficiaries of FMC matching contribution, equal to 7% 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. Both CSRS and FERS employees may participate in the federal Thrift Savings Plan (TSP). FERS employees receive an automatic agency contribution equal to 1% of pay and FMC matches any employee contribution up to an additional 4% percent of pay. For FERS participants, FMC also contributes the employer's matching share of Social Security.

FERS employees and certain CSRS reinstatement employees are eligible to participate in the Social Security program after retirement. In these instances, FMC remits the employer's share of the required contribution.

The 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 statement's 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, as the administrator.

L. 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 the FMC with certain cost factors that estimate the true cost of providing the post-retirement benefit to current employees. The 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 the FMC through the recognition of an imputed financing source.

M. 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, liabilities, revenues, and expenses. Actual results could differ from those estimates.

N. 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. The 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.

O. Classified Activities
Accounting standards require all reporting entities to disclose that accounting standards allow certain presentations and disclosures to be modified, if needed, to prevent the disclosure of classified information.

NOTE 2. FUND BALANCE WITH TREASURY

Fund Balance with Treasury account balances as of September 30, 2023 and 2022, were as follows:

	2023	2022
Status of Fund Balance with Treasury:		
Unobligated Balance		
Available	$ 178,336	$ 484,453
Unavailable	3,091,341	2,390,486
Obligated Balance Not Yet Disbursed	13,767,683	8,486,522
Total	$ 17,037,360	$ 11,361,461

No discrepancies exist between the Fund Balance reflected on the Balance Sheet and the balances in the Treasury accounts.

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 fund balance on hand (see also Note 9).

NOTE 3. ACCOUNTS RECEIVABLE, NET

Accounts receivable balances as of September 30, 2023 and 2022, were as follows:

		2023		2022
Intragovernmental				
Accounts Receivable	$	9,638	$	-
Total Intragovernmental Accounts Receivable	$	9,638	$	-
Other than Intergovernmental				
Miscellaneous Accounts Receivable	$	71,034	$	80,198
Interest Receivable		-		315
Penalty and Fines Receivable		-		934
Total Other than Intragovernmental Accounts Receivable	$	71,034	$	81,447
Total Accounts Receivable	$	80,672	$	81,447

The accounts receivable is primarily made up of services provided to the public. Historical experience has indicated that the majority of the receivables are collectible. There are no material uncollectible accounts as of September 30, 2023 and 2022.

NOTE 4. LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

The liabilities for FMC as of September 30, 2023 and 2022, 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.

		2023		2022
Intragovernmental – FECA	$	296	$	-
Unfunded Leave		1,766,058		1,675,369
Actuarial FECA		1,318		-
Total Liabilities Not Covered by Budgetary Resources	$	1,767,672	$	1,675,369
Total Liabilities Covered by Budgetary Resources		2,060,577		1,726,125
Total Liabilities Not Requiring Budgetary Resources		71,034		75,328
Total Liabilities	$	3,899,283	$	3,476,822

FECA and the Unemployment Insurance liabilities represent the unfunded liability for actual workers compensation claims and unemployment benefits paid on the FMC behalf and payable to the DOL. The 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 5. OTHER LIABILITIES

Other liabilities account balances as of September 30, 2023 were as follows:

	Current	Total
Intragovernmental		
Employer Contributions and Payroll Taxes Payable (without reciprocals)	$ 109,715	$ 109,715
Custodial Liability (to the General Fund)	71,034	71,034
Employer Contributions and Payroll Taxes Payable	260,955	260,955
Unfunded FECA Liability	296	296
Total Intragovernmental Other Liabilities	$ 442,000	$ 442,000
Other than Intragovernmental		
Accrued Funded Payroll and Leave	$ 1,496,818	$ 1,496,818
Total Other than Intragovernmental Other Liabilities	$ 1,496,818	$ 1,496,818
Total Other Liabilities	$ 1,938,818	$ 1,938,818

Other liabilities account balances as of September 30, 2022 were as follows:

	Current	Total
Intragovernmental		
Employer Contributions and Payroll Taxes Payable (without reciprocals)	$ 75,739	$ 75,739
Custodial Liability (to the General Fund)	75,278	75,278
Liability for Non-Entity Assets Not Reported on the Statement of Custodial Activity (other than the General Fund)	50	50
Employer Contributions and Payroll Taxes Payable	218,364	218,364
Total Intragovernmental Other Liabilities	$ 369,431	$ 369,431
Other than Intragovernmental		
Accrued Funded Payroll and Leave	$ 1,044,581	$ 1,044,581
Total Other than Intragovernmental Other Liabilities	$ 1,044,581	$ 1,044,581
Total Other Liabilities	$ 1,414,012	$ 1,414,012

NOTE 6. OPERATING LEASES

FMC occupies office space in four locations, of which all four of the lease agreements are required to be accounted for as operating leases. Three of the locations are being relinquished early from their original lease expirations dates due to an increase in exclusive remote work. The total operating lease expense for the periods ended September 30, 2023 and 2022, respectively were $439,622 and $3,200,121, respectively. The lease locations and terms are listed below:

Location	Term	Lease Expiration Date
Iselin, NJ	10 years	7/26/2023
Houston, TX	15 years	10/26/2023
Tacoma, WA	10 years	10/31/2024
Washington, DC	15 years	10/31/2037

The operating lease amount does not include estimated payments for leases with annual renewal options. The schedule of future payments for the term of the leases is as follows:

Fiscal Year		Totals
2024	$	1,914,704
2025		3,239,328
2026		3,274,602
2027		3,395,357
2028		3,444,641
Thereafter		33,542,886
Total Future Minimum Payments	$	48,811,518

NOTE 7. COMMITMENTS AND CONTINGENCIES

FMC records commitments and contingent liabilities for legal cases in which payment has been deemed probable, and for which the amount of potential liability has been estimated, including certain judgments that have been issued against the agency. The FMC has no knowledge of any lawsuits/investigations in which payment is deemed probable.

NOTE 8. INTER-ENTITY COSTS

FMC recognizes certain inter-entity costs for goods and services that are received from other federal entities at no cost or at a cost less than the full cost. Certain costs of the providing entity that are not fully reimbursed are recognized as imputed cost and are offset by imputed revenue. Such imputed costs and revenues relate to employee benefits and claims to be settled by the Treasury Judgement Fund. FMC recognizes as inter-entity costs the amount of accrued 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 periods ended September 30, 2023 and 2022, respectively, inter-entity costs were as follows:

		2023		2022
Office of Personnel Management	$	1,652,565	$	1,123,005
Total Imputed Financing Sources	$	1,652,565	$	1,123,005

NOTE 9. UNDELIVERED ORDERS AT THE END OF THE PERIOD

As of September 30, 2023, budgetary resources obligated for undelivered orders were as follows:

	Federal	Non-Federal	Total
Unpaid Undelivered Orders	$ 5,934,800	$ 5,781,944	$ 11,716,744
Total Undelivered Orders	$ 5,934,800	$ 5,781,944	$ 11,716,744

As of September 30, 2022, budgetary resources obligated for undelivered orders were as follows:

	Federal	Non-Federal	Total
Unpaid Undelivered Orders	$ 1,503,986	$ 5,256,410	$ 6,760,396
Total Undelivered Orders	$ 1,503,986	$ 5,256,410	$ 6,760,396

NOTE 10. EXPLANATION OF DIFFERENCES BETWEEN THE SBR AND THE BUDGET OF THE U.S. GOVERNMENT

The President's Budget that will include fiscal year 2023 actual budgetary execution information has not yet been published. The President's Budget is scheduled for publication in February 2024 and can be found at the OMB Web site: [http://www.whitehouse.gov/omb/.](http://www.whitehouse.gov/omb/) The 2024 Budget of the United States Government, with the "Actual" column completed for 2022, has been reconciled to the Statement of Budgetary Resources and there were no material differences.

In Millions

	Budgetary Resources	New Obligations & Upward Adjustments (Total)	Net Outlays
Combined Statement of Budgetary Resources	$ 36	$ 33	$ 29
Unobligated Balance Not Available	(2)		
Difference - Due to Rounding	(1)		
Budget of the U.S. Government	$ 33	$ 33	$ 29

NOTE 11. CUSTODIAL ACTIVITY

FMC is an administrative agency, collecting for another entity or the General Fund of the U.S. Treasury. As a collecting entity, FMC measures and reports cash collections and refunds. These collections are reported as custodial revenue on the Statement of Custodial Activity. The type of cash collected is for fines, penalties, and administrative fees. A small portion is for interest on the past due fines. Another component of the custodial revenue is general proprietary receipts (User Fees) for the application of licenses issued to qualified Ocean Transportation Intermediaries (OTI's) in the U.S., FMC reviews petitions, status changes and special permission fees. FMC believes that all fines, penalties, administrative fees, and user fees will be collected in full. There are no material uncollectible accounts as of September 30, 2023 and 2022.

Custodial collections are reported on the Statement of Custodial Activity. The miscellaneous receipts are broken out in the general receipt funds as follows:

	2023	2022
Fines, Penalties, and Forfeitures	$ 2,896,852	$ 2,082,000
General Fund Proprietary Receipts (User fees)	425,994	253,715
Refunds of Proprietary Receipts (User fees)	(250)	(480)
Interest	98	-
Total Custodial Collections	$ 3,322,694	$ 2,335,235

NOTE 12. RECONCILIATION OF NET COST TO NET OUTLAYS

The reconciliation of net outlays, presented on a budgetary basis, and the net cost, presented on an accrual basis, provides an explanation of the relationship between budgetary and financial accounting information.

Reconciliation of Net Cost Outlays as of September 30, 2023:

	Intragovernmental	Other than Intragovernmental	Total
Net Operating Cost (SNC)	$ 9,404,323	$ 24,137,149	$ 33,541,472
Components of Net Cost Not Part of the Budgetary Outlays			
Increase/(Decrease) in Assets:			
Accounts Receivable, Net	9,638	(6,169)	3,469
(Increase)/Decrease in Liabilities:			
Accounts Payable	30,817	172,313	203,130
Federal Employee [and Veteran] Benefits Payable	-	(100,785)	(100,785)
Other Liabilities	(76,863)	(452,237)	(529,100)
Financing Sources:			
Imputed Cost	(1,652,565)	-	(1,652,565)
Total Components of Net Operating Cost Not Part of the Budgetary Outlays	$ (1,688,973)	$ (386,878)	$ (2,075,851)
Components of the Budget Outlays That Are Not Part of Net Operating Cost			
Misc Items			
Distributed Offsetting Receipts (SBR 4200)	$ (426,141)	$ -	$ (426,141)
Custodial/Non-Exchange Revenue	3,318,450	(3,318,450)	-
Non-Entity Activity	50	-	50
Total Other Reconciling Items	$ 2,892,359	$ (3,318,450)	$ (426,091)
Total Net Outlays (Calculated Total)	$ 10,607,709	$ 20,431,821	$ 31,039,530
Budgetary Agency Outlays, Net (SBR 4210)			
Budgetary Agency Outlays, Net			$ 31,039,530

Reconciliation of Net Cost Outlays as of September 30, 2022:

	Intragovernmental	Other than Intragovernmental	Total
	$ 10,704,946	$ 19,597,875	$ 30,302,821
Components of Net Cost Not Part of the Budgetary Outlays			
Increase/(Decrease) in Assets:			
Accounts Receivable, Net	-	(1,600)	(1,600)
(Increase)/Decrease in Liabilities:			
Accounts Payable	1,202	377,243	378,445
Federal Employee [and Veteran] Benefits Payable	-	3,200	3,200
Other Liabilities	(35,973)	(93,012)	(128,985)
Financing Sources:			
Imputed Cost	(1,123,005)	-	(1,123,005)
Total Components of Net Operating Cost Not Part of the Budgetary Outlays	$ (1,157,776)	$ 285,831	$ (871,945)
Components of the Budget Outlays That Are Not Part of Net Operating Cost			
Misc Items			
Distributed Offsetting Receipts (SBR 4200)	$ (253,715)	$ -	$ (253,715)
Custodial/Non-Exchange Revenue	2,332,813	(2,332,813)	-
Total Other Reconciling Items	$ 2,079,098	$ (2,332,813)	$ (253,715)
Total Net Outlays (Calculated Total)	$ 11,626,268	$ 17,550,893	$ 29,177,161
Budgetary Agency Outlays, Net (SBR 4210)			
Budgetary Agency Outlays, Net			$ 29,177,161

OTHER REQUIRED INFORMATION

Inspector General's Statement on Management and Performance Challenges

FEDERAL MARITIME COMMISSION
Washington, DC 20573

October 16, 2023

Office of Inspector General

TO: Chairman Maffei
Commissioner Dye
Commissioner Sola
Commissioner Bentzel
Commissioner Vekich

FROM: Inspector General

SUBJECT: Inspector General's Statement on the Federal Maritime Commission's Management and Performance Challenges

The Reports Consolidation Act of 2000 (Public Law 106-531) 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 to be included in the Federal Maritime Commission's (FMC) Performance and Accountability Report (PAR) for fiscal year (FY) 2023.

This year, the Office of Inspector General (OIG) has identified two management and performance challenges, ***information technology (IT) security and organizational changes***. This assessment is based on information derived from a combination of sources, including OIG evaluation work; Commission reports; Federal government reports; and a general knowledge of the Commission's programs.

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 FMC PAR that is due by November 15, 2023.

/s/
Jon Hatfield

Attachment

Cc: Office of the Managing Director
Office of the General Counsel
Office of Information Technology
Office of Human Resources

Office of Inspector General (OIG)
Fiscal Year 2023 Management Challenges

The Management Challenge - *Information Technology (IT) Security*

Government-wide, the Government Accountability Office (GAO) has designated information security as a high-risk area since 1997. In 2003, GAO expanded this area to include computerized systems supporting the nation's critical infrastructure and, in 2015, GAO further expanded this area to include protecting the privacy of personally identifiable information. A 2021 GAO report[3] recognized that IT systems supporting Federal agencies and our nation's critical infrastructures are inherently at risk. These systems are highly complex and dynamic, technologically diverse, and often geographically dispersed. This complexity increases the difficulty in identifying, managing, and protecting the numerous operating systems, applications, and devices comprising the systems and networks. Compounding the risk, systems and networks used by Federal agencies and our nation's critical infrastructure are also often interconnected with other internal and external systems and networks, including the internet.

The 2021 GAO report recognizes with this greater connectivity, threat actors are increasingly willing and capable of conducting a cyberattack on the Federal government's critical infrastructure that could be disruptive and destructive. Common cyber adversaries include criminal groups, hackers, insiders, nations, and terrorists. More specifically, hackers break into networks sometimes for the challenge, and insiders are individuals (e.g., employees, contractors, or vendors) with authorized access to an information system or enterprise who have the potential to cause harm, wittingly or unwittingly, through destruction, disclosure, modification of date, or through denial of service.

Further, GAO reported that to facilitate their efforts, cyber adversaries use a variety of tactics and techniques, often beginning by performing reconnaissance (e.g., scanning for vulnerabilities in target hosts or applications) and establishing resources that can be used to support their operations (e.g., develop malicious software). Attackers will seek to gain initial access to a target network using methods such as targeted spear phishing emails or exploiting weaknesses on public-facing webservers. After gaining an initial foothold, attackers will often use a variety of tactics and techniques to achieve their objectives, such as trying to run malicious code, attempting to steal account names and passwords, and gain higher-level permissions, and moving throughout a network to find and gain access to their target.

Agency Progress in Addressing the Challenge

The Federal Information Security Modernization Act (FISMA) requires an agency's inspector general (IG), or an independent external auditor, to conduct an annual independent evaluation to determine the effectiveness of the agency's information security program and

[3] GAO, HIGH-RISK SERIES: Federal Government Needs to Urgently Pursue Critical Actions to Address Major Cybersecurity Challenges, GAO-21-288 (Washington, D.C.: March 2021).

practices. Each year, these independent assessments are based on metrics (IG FISMA Metrics) developed by the Council of the Inspectors General on Integrity and Efficiency (CIGIE) in coordination with the Office of Management and Budget (OMB), the Department of Homeland Security (DHS), the Federal Chief Information Officers (CIO) Council, and other stakeholders.

In the OIG's *Audit of the FMC's Compliance with the Federal Information Security Modernization Act (FISMA) FY 2023*, the OIG found the FMC resolved one of the prior year's FISMA audit recommendations and made progress towards implementing the other audit recommendation. In addition, the FY 2023 audit included three new audit recommendations for weaknesses that existed during FY 2023. Specifically, the FMC experienced a security incident on January 11, 2023, however this incident was not reported to the United States Computer Emergency Readiness Team (US-CERT) until March 29, 2023. As a result, the OIG recommended all security incidents should be reported to the US-CERT within one hour of an incident being discovered. In addition, the OIG audit found the FMC does not currently have an approved Log Retention Policy specifying records of the events occurring within the FMC systems and networks and the duration those logs will be retained. OIG recommended the FMC develop, document, and approve a Log Retention Policy. Lastly, the OIG recommended the agency revise the agency's risk assessment policy. FMC management agreed with all three of the OIG's recommendations.

In addition to the FY 2023 FISMA audit, the OIG also conducted an information technology vulnerability audit (ITVA) in FY 2023. The objectives of this audit were to evaluate the FMC external and internal network segments, systems, and applications to assess the FMC's IT vulnerability assessment program and identify critical security IT weaknesses. The scope of the ITVA included multiple FMC network targets within the external and internal network environments.

The ITVA audit testing team simulated an outside attacker, gathered publicly available information about the target environment, and attempted to gain unauthorized access to FMC systems within the scope of testing. The simulated external attack scenario did not lead to unauthorized access within the testing timeframe. The audit did identify multiple vulnerabilities in FMC IT systems and applications. Eight recommendations were provided to FMC management to address four findings. The findings involved: insufficient software management; default authentication credentials are utilized; insufficient configuration management; and flaws in custom-developed application functionality. FMC management agreed with all four audit findings.

The OIG has increased oversight of IT security due to the ongoing management challenge and security incidents at the FMC. Over the last several years and continuing in FY 2023, the OIG has found the FMC to be focused on maintaining an effective IT security program. However, outdated technology at the FMC increases cybersecurity risks. Therefore, there is an even greater importance on effective IT strategic planning to ensure that investments are cost-beneficial and meet mission needs and that the most appropriate development or acquisition approach is chosen. The FMC's most recent IT strategic plan is dated December 2018 for FYs 2018 through 2022. The Office of Information Technology is working on a new IT strategic plan to be finalized by the agency.

The Management Challenge – *Organizational Changes*

Over the last several years, the relatively small FMC agency has experienced significant organizational changes that continue to be a challenge. These changes include the high turnover in senior and staff positions, and the coronavirus pandemic (Covid-19), during a time the agency is responsible for the implementation of the Ocean Shipping Reform Act of 2022 (OSRA). Although the public health emergency related to the Covid-19 pandemic officially ended in May 2023, the impact and changes to the FMC workplace have been substantial at a time when the agency is responsible for implementation of significant legislation.

On June 16, 2022, President Joseph R. Biden Jr. signed into law the Ocean Shipping Reform Act of 2022 (OSRA), enacted as Public Law 116-146. The FMC is charged with ensuring a competitive and reliable international ocean transportation supply system that supports the U.S. economy and protects the public from unfair and deceptive practices. The OSRA intends to level the playing field for American exporters and importers by providing the FMC the tools it needs for effective oversight of international ocean carriers. These oversight and enforcement tools will help the FMC eliminate unfair charges, prevent unreasonable denial of American exports, and crack down on other unfair practices harming American businesses and consumers. In a prior year, the Inspector General (IG) identified the implementation of OSRA as one of the management and performance challenges facing the FMC because of the importance and magnitude of the legislation's requirements. The number of new requirements, timeframes, and resources required are substantial, and are in addition to the agency's existing mission requirements.

The most important requirement for successful implementation and execution of OSRA is to ensure the agency has the necessary staff resources. A prior year's IG report identified high turnover in senior positions as one of the management challenges facing the agency and this continues to be a challenge. In the last five years, as of October 2023, except for two, all FMC offices/bureaus experienced turnover in the most senior position. The high turnover in senior positions is particularly challenging for a small organization like the FMC because bureaus and offices lack multiple management layers to draw upon when senior leadership turnover occurs. The turnover of many talented and very experienced senior leaders has resulted in the loss of institutional knowledge and expertise that required many years to develop. In addition to the high turnover, another significant organizational change that has occurred recently is the agency's transition to a hybrid work environment. The number of eligible staff teleworking three or more days in a 2-week period was approximately ten (10) percent in FY 2019, and increased to approximately 64 percent in FY 2022. The hybrid environment, a mix of in-office, telework, and remote work, is challenging at a time when the agency is experiencing a substantial change in staffing and mission.

Agency Progress in Addressing the Challenge

The agency was authorized to have 164 employees for FY 2023. However, at the end of FY 2023, the agency had 129 staff on board, a shortcoming of 35 employees authorized. While the Office of Human Resources (OHR) was successful onboarding 28 new hires during FY 2023, 19 employees separated from the agency during the same time. Although OHR reported no difficulty in FY 2023 for the recruitment of specific job series or positions (i.e., economists, attorneys, etc.), OHR did cite some challenges with hiring, to include some instances with the quality of candidates requiring reannouncements, low number of applicants, and selected applicants declining the position. An important development is the decision for the OHR to hire an additional staffing specialist to assist on the recruitment and onboarding staffing goals of the agency.

The agency has reported that substantial progress had been made in implementing many of the requirements established by OSRA. The Commission's actions taken to comply with requirements established by the enacted legislation are updated and catalogued on the FMC's website. Commissioners were briefed on September 21, 2023, by agency management and staff that substantive progress is being made in completing three of the rulemakings mandated by OSRA. In addition, the agency is working to establish a webpage on the Commission's website where the public can easily submit comments, complaints, concerns, reports of non-compliance, requests for investigations, and requests for alternative dispute resolution services.

Comments on Inspector General's Statement

The Commission appreciates the Inspector General's assessment of the serious management and performance challenges facing the Commission and the Federal government in general. The OIG's findings and recommendations in both the annual FISMA audit and the Information Technology Vulnerability Audit performed in FY 2023 will assist the Commission in strengthening its IT security controls, maintaining an effective IT security program, and protecting its valuable resources. The Commission continued its efforts during FY 2023 to add appropriate resources and staff to meet its mission and the challenges of implementing the Ocean Shipping Reform Act of 2022.

Financial Statement Audit Summary

Table 1 is a summary of the results of the independent audit of the FMC's financial statements by the agency's auditors in connection with the FY 2023 audit.

Table 1. Summary of Financial Statement Audit					
Audit Opinion	Unmodified				
Restatement	No				
Material Weaknesses	Beginning balance	New	Resolved	Consolidated	Ending Balance
None	n/a	n/a	n/a	n/a	n/a
Total Material Weaknesses	None	None	n/a	n/a	None

Management Assurances Summary

Table 2 is a summary of management assurances related to the effectiveness of internal control over the FMC's financial reporting and operations and its conformance with financial management system requirements under Sections 2 and 4, respectively, of the Federal Financial Management Improvement Act (FFMIA). This table also summarizes compliance with the FFMIA, which is not applicable to the Commission.

Table 2. Summary of Management Assurances						
Effectiveness of Internal Control over Financial Reporting (FMFIA § 2)						
Statement of Assurance	Unmodified					
Material Weaknesses	**Beginning Balance**	**New**	**Resolved**	**Consolidated**	**Reassessed**	**Ending Balance**
Total Material Weaknesses	None	n/a	n/a	n/a	n/a	None
Effectiveness of Internal Control over Operations (FMFIA § 2)						
Statement of Assurance	Unmodified					
Material Weaknesses	**Beginning Balance**	**New**	**Resolved**	**Consolidated**	**Reassessed**	**Ending Balance**
[name of weakness]	None	n/a	n/a	n/a	n/a	None
Total Material Weaknesses	None	n/a	n/a	n/a	n/a	None
Compliance with Federal Financial Management System Requirements (FMFIA § 4)						
Statement of Assurance	Unmodified					
Material Weaknesses	**Beginning Balance**	**New**	**Resolved**	**Consolidated**	**Reassessed**	**Ending Balance**
[name of noncompliance]	None	n/a	n/a	n/a	n/a	None
Total noncompliance	None	n/a	n/a	n/a	n/a	None

Compliance with Section 803(a) of the Federal Financial Management Improvement Act (FFMIA)		
	Agency	**Auditor**
1. Federal Financial Management System Requirements	FFMIA does not apply to the FMC	n/a
2. Applicable Federal Accounting Standards	FFMIA does not apply to the FMC	n/a
3. USSGL at Transaction Level	FFMIA does not apply to the FMC	n/a

Improper Payments Information Act

The FMC reports its compliance with the Payment Integrity Information Act of 2019 through OMB's annual data call on payment integrity. The FMC's information is provided at www.paymentaccuracy.gov.

Fraud Reduction Report

The FMC has a low appetite for fraud. The FMC complies with the *Fraud Risk and Data Analytics Act of 2015* and follows the Standards for Internal Control in the Government through its enterprise risk management program and financial accounting practices. The FMC's Risk Committee, tasked with managing risk enterprise-wide, considers fraud risks on a regular basis.

Financial stewardship is an important part of the FMC's risk management strategy. Internal controls and financial and accounting data are subject to multiple levels of monthly or annual review performed internally by the FMC and externally by the BFS. The most recent OIG risk assessment of the purchase card program, completed in 2022, considered several factors, including: effectiveness of internal controls; training requirements; policies and procedures; any prior problems with the program; and previous audits and reviews. The OIG concluded the risk of illegal, improper, or erroneous use in the FMC's purchase card program is "low," and as a result, the OIG anticipates performing another risk assessment of the purchase card program in 2024.

The Commission has financial and administrative controls in place, including an internal controls policy that provides management and internal control processes for identifying and addressing major performance and management challenges and areas at greatest risk of fraud, waste, abuse, and mismanagement. In 2019, the FMC's OIG, with the assistance of independent financial auditors, completed a review of the Commission's administrative control of funds. The *Management Letter on Administrative Control of Funds,* A-20-02a*,* determined that the Commission has an internal control system in place for its funds control and recommended additional opportunities to further strengthen the agency's controls. The Commission's administrative control of funds policy is currently being updated in preparation for submission to the Office of Management and Budget for review.

The Commission's acquisitions policy protects the integrity of the contracting process and includes ethical requirements and standards of conduct in accordance with the *Procurement Integrity Act* and Federal Acquisition Regulations.

The FMC does not oversee or have responsibility for any credit, grant, or loan programs. No new programs were initiated in FY 2023, and no current programs are at high risk for fraud, abuse, or exposure to waste.

Civil Monetary Penalty Adjustment for Inflation

The *Federal Civil Penalties Inflation Adjustment Act of 1990*, Pub. L. 104-410, as amended by the *Debt Collection Improvement Act of 1996*, Pub. L. 104-134, and the *Federal Civil Penalties*

Inflation Adjustment Act Improvements Act of 2015, Pub. L. 114-74, requires agencies to make regular and consistent inflationary adjustments of civil monetary penalties to maintain their deterrent effect.

The following table shows the civil penalties that the FMC may impose, authority for imposing the penalty, dates of inflation adjustments, and current penalty levels. The Federal Register notice (88 FR 1517) may be viewed at: [Federal Register: Inflation Adjustment of Civil Monetary Penalties]

Penalty	Statutory Authority	Date of Previous Adjustment	Date of Current Adjustment	Maximum Penalty
Adverse impact on U.S. carriers by foreign shipping practices	46 U.S.C. 42304	January 15, 2022	January 15, 2023	$2,479,282
Knowing and Willful violation / Shipping Act of 1984, or Commission regulation or order	46 U.S.C. 41107(a)	January 15, 2022	January 15, 2023	$70,752
Violation of Shipping Act of 1984, Commission regulation or order, not knowing and willful	46 U.S.C. 41107(b)	January 15, 2022	January 15, 2023	$14,149
Operating in foreign commerce after tariff suspension	46 U.S.C. 41108(b)	January 15, 2022	January 15, 2023	$141,506
Failure to provide required reports, etc. / Merchant Marine Act of 1920	46 U.S.C. 42104	January 15, 2022	January 15, 2023	$11,161
Adverse shipping conditions / Merchant Marine Act of 1920	46 U.S.C. 42106	January 15, 2022	January 15, 2023	$2,232,281
Operating after tariff or service contract suspension / Merchant Marine Act of 1920	46 U.S.C. 42108	January 15, 2022	January 15, 2023	$111,614
Failure to establish financial responsibility for non-performance of transportation*	46 U.S.C. 44102	January 15, 2022	January 15, 2023	$28,194 $941
Failure to establish financial responsibility for death or injury*	46 U.S.C. 44103	January 15, 2022	January 15, 2023	$28,194 $941
Program Fraud Civil Remedies Act / makes false claim	31 U.S.C. 3802(a)(1)	January 15, 2022	January 15, 2023	$13,508
Program Fraud Civil Remedies Act / giving false statement	31 U.S.C. 3802(a)(2)	January 15, 2022	January 15, 2023	$13,508

*These amounts are based on the penalties established in § 44104 for violations of §§ 44102 and 44103: $5,000, plus $200 for each passage sold. These penalties were established in 1966 and, applying the statutory inflation adjustment formula, amount to $28,194, plus $941 for each passage sold, in current dollars.

Biennial Review of User Fees

Agencies are required by the *Chief Financial Officers Act of 1990* to conduct biennial reviews of fees and other charges that they impose and to revise these fees and charges to cover program and administrative costs incurred, as necessary. The Commission last updated its user fees in a direct final rule effective January 15, 2023. User fee rates will next be examined in calendar year 2024.