

# FEDERAL MARITIME COMMISSION



## PERFORMANCE AND ACCOUNTABILITY REPORT

FISCAL YEAR

2006

## *VISION*

*Fairness and Efficiency in U.S. Maritime Commerce*

## *MISSION*

*The FMC's Mission is to :*

- *Develop and administer policies and regulations that foster a fair, efficient and secure maritime transportation system;*
- *Protect U.S. maritime commerce from unfair foreign trade practices and market-distorting activities;*
- *Facilitate compliance with U.S. shipping statutes through outreach and oversight;*
- *Assist in resolving disputes.*

**This Fiscal Year 2006 Performance and Accountability Report**

**is published by the**

**Federal Maritime Commission.**

**An electronic version of this report can be found at**

**<http://www.fmc.gov>.**

**Please refer any questions concerning this report to the**

**Federal Maritime Commission at**

**(202) 523-5800.**

**Published in Washington, DC**

**November 15, 2006**

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

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

**<http://www.whitehouse.gov/omb/financial/fmfia1982.html>**

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

**<http://www.gao.gov/special.pubs/af12194.pdf>**

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

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

**The Federal Financial Management Improvement Act of 1996 requires the assessment of financial systems to ensure they adhere to government -wide financial requirements. The Act can be found at the following URL:**

**[http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=104\\_cong\\_public\\_laws&docid=f:publ208.104.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=104_cong_public_laws&docid=f:publ208.104.pdf)**

**The Inspectors General Act of 1978 (amended) requires that the inspector general make available information on management actions taken in response to IG audits. The Act can be found at the following URL:**

**[http://www.access.gpo.gov/uscode/title5a/5a\\_2\\_.html](http://www.access.gpo.gov/uscode/title5a/5a_2_.html)**

**The Government Performance and Results Act of 1993 requires an annual report that measures the performance results of the agency against the established agency goals. The Act can be found at the following URL:**

**<http://www.whitehouse.gov/omb/mgmt-gpra/gplaw2m.html>**

**The Government Management Reform Act of 1994 requires the submission of audited financial statements. The Act can be found at the following URL:**

**<http://govinfo.library.unt.edu/npr/library/misc/s2170.html>**

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# FEDERAL MARITIME COMMISSION



## MANAGEMENT'S DISCUSSION and ANALYSIS



*Fiscal Year 2006*

# MANAGEMENT'S DISCUSSION & ANALYSIS

## A MESSAGE FROM THE CHAIRMAN

It is my pleasure to present the Federal Maritime Commission's Performance and Accountability Report for FY 2006. This Performance and Accountability Report represents the dedication and achievement of the agency's 122 employees. Because of their efforts, the FMC continues to be held in high regard by the industry it oversees. We are committed to developing programs and processes that will enable us to meet the changing demands of an always-evolving industry. In doing so, we strive to increase performance efficiencies and the effectiveness of our workforce to both be responsive to changing business practices and to better serve the American public and our stakeholders.



As a transportation/trade regulatory agency, our Vision is to ensure fairness and efficiency in U.S. maritime commerce. Our mandate is to help remove impediments to fair competition – undue controls, influences or non-market barriers imposed by any nation, carrier, cargo owner or intermediary – which can adversely affect U.S. oceanborne trade. Our regulatory system allows for the necessary oversight with minimal disruption to the efficient flow of U.S. imports and exports, ensuring that fair competition exists in the ocean transportation industry while allowing the industry to conduct business as efficiently as possible.

I am pleased to report that the FMC continues to position its resources with greater precision and effectiveness in order to continue to achieve its mandate within budget resources. FMC thus has achieved nearly all of its performance goals. In FY 2006, the FMC broadened its efforts to implement the President's Management Agenda initiative to expand electronic government by improving the management of information through the more effective use of available technologies, by streamlining the delivery of services and information to regulated entities, other government agencies and the public, and by further automating agency systems and enhancing the use of agency databases to allow staff to discharge program responsibilities more effectively.

As the chief administrative officer of the agency, one of my responsibilities is to ensure that our resources are efficiently managed and effectively used. The FMC has evaluated its management controls and financial management system, as required by the Federal Managers' Financial Integrity Act, and I can certify, with reasonable assurance, that the Commission is in compliance with the provision of that Act. The FMC is proud of its FY 2006 accomplishments and looks forward to providing high-quality service to the American public in future years.

Sincerely,

A handwritten signature in blue ink that reads "Steven R. Blust". The signature is written in a cursive, slightly stylized font.

Steven R. Blust  
Chairman, Federal Maritime Commission



# MANAGEMENT'S DISCUSSION and ANALYSIS



## Introduction

This Performance and Accountability Report represents the completion of the Federal Maritime Commission's program and financing management process for Fiscal Year 2006, which began with mission and program planning, continued with the formulation and justification of FMC's budget submission to the President and Congress, through budget execution, and ended with a report of our program performance and the use of resources. This report was prepared pursuant to the requirements of the Chief Financial Officers Act, as amended by the Reports Consolidation Act, and OMB Circular No-A136 (Revised), and covers the Commission's activities from October 1, 2005, through September 30, 2006.

Our Performance and Accountability Report, provides an overview of the FMC. It consists of nine sections: *Introduction* describes the agency, its mission and structure; *Regulatory Responsibility* describes its regulatory mandate; *Future Challenges* includes information about the changes in the maritime industry; *Program Performance Overview* reports on the FMC's success in achieving its strategic goals; *President's Management Agenda* describes activities related to the relevant initiatives; *Financial Performance Overview* discusses the FMC's financial position and audit results; *Financial Statement Highlights* gives an overview of the major financial statements; *Improper Payments Information Act* provides a breakdown of any improper payments made by the agency and efforts to collect improper disbursements; and *Systems, Controls, and Legal Compliance* discloses the FMC's compliance with certain legal and regulatory requirements.

## About the FMC

The FMC is an independent transportation/trade regulatory agency which administers the Shipping Act of 1984 ("1984 Act" or "Shipping Act") as amended by the Ocean Shipping Reform Act of 1998 ("OSRA"); section 19 of the Merchant Marine Act, 1920 ("1920 Act"); the Foreign Shipping Practices Act of 1988 ("FSPA"); and Public Law ("P.L.") 89-777 (passenger vessel certification). The Commission: monitors the activities of ocean common carriers, marine terminal operators, conferences, ports and ocean transportation intermediaries (non - vessel - operating common carriers and ocean freight forwarders) who operate in the U. S. foreign commerce to ensure they maintain just and reasonable practices; maintains a trade monitoring and enforcement program designed to assist regulated entities in achieving compliance and to detect and appropriately remedy malpractices and violations of the prohibited acts set forth in section 10 of the 1984 Act; monitors the laws and practices of foreign governments which could have a discriminatory or otherwise adverse impact on shipping conditions in U. S. trades, and imposes remedial action as appropriate pursuant to section 19 of the 1920 Act or FSPA; enforces special regulatory requirements applicable to carriers owned or controlled by foreign governments; processes and reviews agreements, service arrangements and service contracts pursuant to the 1984 Act for compliance with statutory requirements; and reviews common carriers' privately published tariff systems for accessibility and accuracy as required by OSRA. The Commission also issues licenses to qualified ocean transportation intermediaries in the U. S., ensures that all OTIs are bonded or maintain other evidence of financial responsibility, and ensures that passenger vessel operators demonstrate adequate financial responsibility in case of nonperformance or injury to passengers.

## Organization

The FMC is composed of five Commissioners appointed for five-year terms by the President with the advice and consent of the Senate. No more than three members of the FMC may belong to the same political party. The President designates one of the Commissioners to serve as Chairman. The Chairman is the chief executive and administrative officer of the agency. The FMC's organizational units consist of: Offices of the Commissioners; Office of the General Counsel ("OGC"); Office of the Secretary ("OS"), including the Library and Office of Consumer Affairs and Dispute Resolution Services ("CADRS"); Office of Administrative Law Judges ("ALJ"); Office of Equal Employment Opportunity ("EEO"); Office of the Inspector General ("OIG"); Office of Operations ("OPS"), including the Bureaus of Certification and Licensing ("BCL"), Enforcement ("BOE"), and Trade Analysis ("BTA"); and Office of Administration ("OA"), including the Offices of Financial Management ("OFM"), Human Resources ("OHR"), Information Technology ("OIT"), and Management Services ("OMS"). The majority of FMC personnel are located in Washington, DC., with Area Representatives in New York, New Orleans, Los Angeles, Seattle, and South Florida.

In FY 2006, the FMC's appropriation totaled \$20,294,010 which funded 122 full-time-equivalent staff.



## Regulatory Responsibility

The FMC's regulatory responsibilities include:

- **Protecting shippers and carriers engaged in the foreign commerce of the U.S. from restrictive or unfair foreign laws, regulations, or business practices that harm U.S. shipping interests or ocean trade.**
- **Reviewing operational and pricing agreements among ocean common carriers and marine terminal operators (“MTOs”), to ensure that they do not have excessively anticompetitive effects.**
- **Reviewing and maintaining a system containing the service contracts between ocean common carriers and shippers, and service arrangements between non-vessel-operating common carriers (“NVOCCs”) and shippers, and using this system to guard against anticompetitive practices and other unfair prohibited acts.**
- **Ensuring that common carriers' rates and charges are accessible to the shipping public in private, electronically accessible systems.**
- **Regulating rates, charges, and rules of government-owned or -controlled carriers to ensure that they are just and reasonable and are not unfairly undercutting private competitors.**
- **Issuing passenger vessel certificates evidencing financial responsibility of vessel owners or charters to pay judgments for personal injury or death or to repay fares for the nonperformance of a voyage or cruise.**
- **Licensing OTIs to protect the public from unqualified, insolvent, or dishonest companies.**
- **Ensuring that OTIs maintain sufficient financial responsibility to protect the shipping public from financial loss.**
- **Investigating discriminatory rates, charges, classifications, and practices of common carriers, MTOs, and OTIs operating in the foreign commerce of the U.S.**

The FMC is authorized by the FSPA, section 19 of the 1920 Act, and section 13(b)(6) of the 1984 Act, to take action to ensure that the foreign commerce of the U.S. is not burdened by non-market barriers to ocean shipping. The FMC may take countervailing action to correct unfavorable shipping conditions in U.S. foreign commerce and may impose penalties. The FMC may address actions by carriers or foreign governments that adversely affect shipping in the U.S. foreign oceanborne trades including the intermodal operations of carriers or the operations of OTIs, or that impair access of U.S.-flag vessels to ocean trade between foreign ports.

The 1984 Act is applicable to the operations of common carriers and other persons engaged in U.S. foreign commerce. It exempts agreements that have become effective under the 1984 Act from the U.S. antitrust laws, as contained in the Sherman and Clayton Acts. The FMC reviews and evaluates agreements to ensure that they do not exploit the grant of antitrust immunity, and to ensure that agreements do not otherwise violate the 1984 Act or result in an unreasonable increase in transportation cost or unreasonable reduction in service.

# MANAGEMENT'S DISCUSSION and ANALYSIS



## Regulatory Responsibility (continued)

In addition to monitoring relationships among carriers, the FMC is also responsible for ensuring that individual carriers, as well as those permitted by agreement to act in concert, fairly treat shippers and other members of the shipping public, in accordance with the 1984 Act's prohibition against undue discrimination. The 1984 Act also requires all carriers to make their rates, charges and practices available in automated tariff systems that must be available electronically to the public. NVOCCs may assess the rates and charges published in their tariffs or may offer service arrangements with shipping customers. Ocean common carriers are permitted to enter into service contracts with their shipper customers. Such contracts are filed electronically with the FMC in our Internet-based system, and are provided confidential treatment by the FMC as required by the Act. The FMC does not have the authority to approve or disapprove general rate increases ("GRIs") or individual commodity rate levels in the U.S. foreign commerce, except with regard to certain foreign government-owned or -controlled carriers.

P. L. 89-777 requires the operators of passenger vessels with 50 or more berths who embark passengers at U.S. ports to establish financial coverage to indemnify passengers in cases of death, injury, or nonperformance of transportation. The FMC certifies such operators upon the submission of satisfactory evidence of financial responsibility. The FMC ensures that all OTIs operating in the foreign commerce of the U.S. have established sufficient financial responsibility to protect shippers from financial loss. Additionally, the FMC licenses all U.S. OTIs.

The FMC carries out its regulatory responsibilities by conducting informal and formal investigations. It holds hearings, considers evidence and renders decisions, and issues appropriate orders and implementing regulations. The FMC also adjudicates and mediates disputes involving the regulated community, the general shipping public, and other affected individuals or interest groups.

The FMC also carries out a management and support function for information technology, financial management, human resources, and administrative support.

The FMC oversees approximately 5,400 regulated persons (passenger vessel operators, conferences, OTIs, NVOCCs, etc.).

The FMC has a new, improved, easy-to-navigate website which contains more information concerning the agency's activities and responsibilities. Please visit us at [www.fmc.gov](http://www.fmc.gov).

## Future Challenges

International trade remains dependent upon an efficient ocean transportation system. The ocean shipping industry continues to face significant challenges related to port and maritime security, port congestion, industry consolidation and dynamic economic conditions. As the industry restructures to adapt to these changes, it is imperative for the FMC to ensure that its oversight produces a competitive trading environment in U.S. ocean commerce that is in harmony with, and responsive to, international shipping practices, and encourages fair and open commerce.

In response to industry changes, the Commission continues to review its regulatory initiatives to ensure that agency resources are utilized in a manner best suited to accomplish statutory obligations with a minimum of government intervention and regulatory cost. Similarly, we have implemented new internal business processes that are more responsive to the needs of the industry and other government agencies.

Cooperative working arrangements with front-line security agencies remain in place. Effective use of emerging information technologies continues to facilitate our efforts.



## Program Performance Overview

The FMC, like other Federal agencies, provides an annual performance plan to Congress, pursuant to the Government Performance and Results Act (“GPRA”). The FMC has organized its performance goals to achieve its strategic goals. The FMC’s FY 2003-FY 2008 Strategic Plan is available on the FMC’s website. The complete FY 2006 Program Performance Report is contained in *Chapter 2, Program Performance*. Briefly, in FY 2006, the Commission focused on refining the agency’s business practices, specifically on revising and updating internal procedures in line with the amendment of Commission regulations. This includes facilitating the use and dissemination of filed material in order to improve analysis of required filings and responsiveness to inquiries, and implementation of procedural changes to enhance the effectiveness of agency operations. We broadened our efforts to implement the President’s Management Agenda initiative to expand electronic government by improving the management of information through the more effective use of available technologies. We also streamlined the delivery of services and information to regulated entities, other government agencies and the public, and further automated agency systems and enhanced the use of agency databases to allow staff to discharge program responsibilities more effectively. Further, we simplified and refined the agency’s performance appraisal system and developed a strategic succession plan for agency senior executives and non-SES upper level managers. Overall, we are pleased with the success we achieved in addressing our stated goals and objectives.

## Achieving Strategic Goal Results

The FMC has a distinct process for measuring performance. Performance goals are developed to promote one of the FMC’s strategic goals, and the processes or activities required to achieve the goals are identified. The agency then specifies the outcomes it believes will result from accomplishing each stated goal, and agrees on performance indicators as the quantifiers of performance. Finally, performance measures are established for evaluation of achievement of performance goals. Taken together, performance goals under each strategic goal are designed to enhance and further those goals each fiscal year, bringing the agency closer to its ideal of full achievement of its strategic goals.

## President’s Management Agenda

The President’s Management Agenda is intended to make Government more citizen-centered, results-oriented, and market-based. The five initiatives are: 1) Strategic Management of Human Capital; 2) Competitive Sourcing; 3) Improved Financial Management, 4) Expanded E-Government, and 5) Budget and Performance Integration. The FMC has achieved some successes in its agenda to address these initiatives. *Chapter 2, Program Performance*, discusses our activities in these important areas in more detail.

A brief overview of the agency’s successes includes the following.

**Strategic Management of Human Capital** – The FMC focused heavily on succession planning during FY 2006. We reviewed our performance appraisal system, implemented an SES Candidate Development Program and an Emerging Leaders Program, and initiated a pilot Individual Development Plan Program.

**Budget and Performance Integration** – The Strategic Plan and Annual Performance Plan continue to represent the fundamental framework for the agency’s planning and budgeting activities. Funding and FTE levels are integrated into the agency’s performance planning document by strategic goal, to identify clearly the budgetary and staff resources that are committed to each goal.

# MANAGEMENT'S DISCUSSION and ANALYSIS



## President's Management Agenda (continued)

Competitive Sourcing - The FMC submitted its FY 2006 Federal Activities Inventory Reform Act Inventory to OMB in June 2006. The Inventory identified 79 of the agency's 126 FTEs as commercial activity FTEs. No challenges to its commercial inventories have ever been received.

Expanded Electronic Government - During the fiscal year, the FMC made a number of filings in significant docketed proceedings available on the agency's website, as well as a significant number of historical agency decisions. Further, the FMC's SERVCON system was upgraded. The FMC upgraded service and support for the agency's online Agreements Library, and also upgraded a number of internal databases to streamline and simplify agency operations during FY 2006.

Improved Financial Performance - The FMC received an unqualified opinion on its financial statements in FY 2006, for the third straight year. The FMC will continue to strive to achieve unqualified audit opinions.

## Financial Performance Overview

As of September 30, 2006, the financial condition of the FMC was sound with respect to having sufficient funds to meet program needs and adequate control of funds in place to ensure obligations did not exceed budget authority. The FMC's accounting services provider, the Bureau of the Public Debt ("BPD"), prepared the agency's financial statements in accordance with accounting standards codified in the Statements of Federal Financial Accounting Standards and the Office of Management and Budget Circular A-136, *Financial Reporting Requirements (Revised 7/24/2006)*.

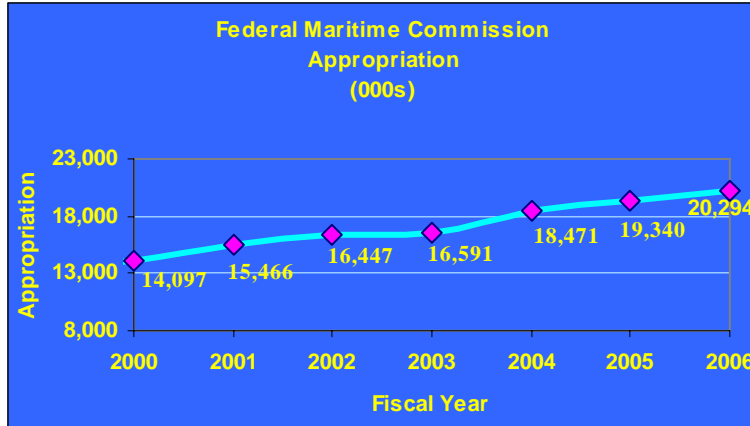


# MANAGEMENT'S DISCUSSION and ANALYSIS



## Sources of Funds

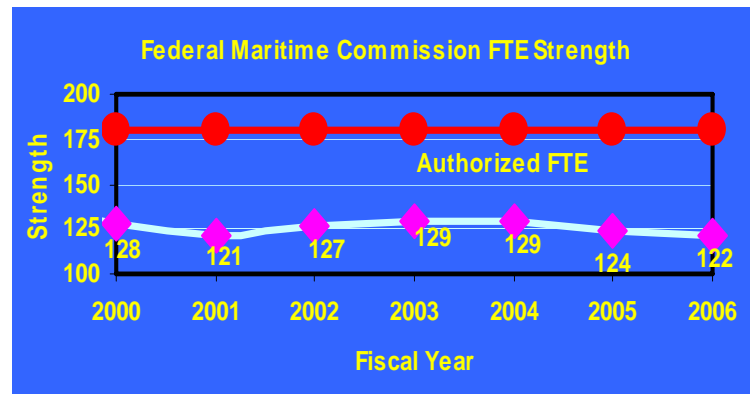
The FMC has a single source of funds, Salaries and Expenses, funded by an annual appropriation that is available for commitments and obligations incurred during the fiscal year in which the authority was granted. The FMC's total new budget authority for fiscal year 2006 was just over 20 million. This represents a net increase in budget authority over fiscal year 2005 of \$950,000 dollars. Although the FMC collects remittances for "user fees" and "fines and penalties," the agency is not authorized to offset any of its budget authority by utilizing these funds. The



collections are deposited directly into the Treasury General Fund, and captured in the Statement of Custodial Activity which can be found in *Chapter 3, Auditors' Reports and Financial Statements*.

## Personnel Strength History

The FMC's actual FTE level has fluctuated slightly since 2000. After an initial decline in 2001, the FMC experienced modest growth in its FTE level through 2004, followed by a recent decline. The agency has endeavored to develop the appropriate mix of staffing and other available means to ensure the effective accomplishment of our mission.



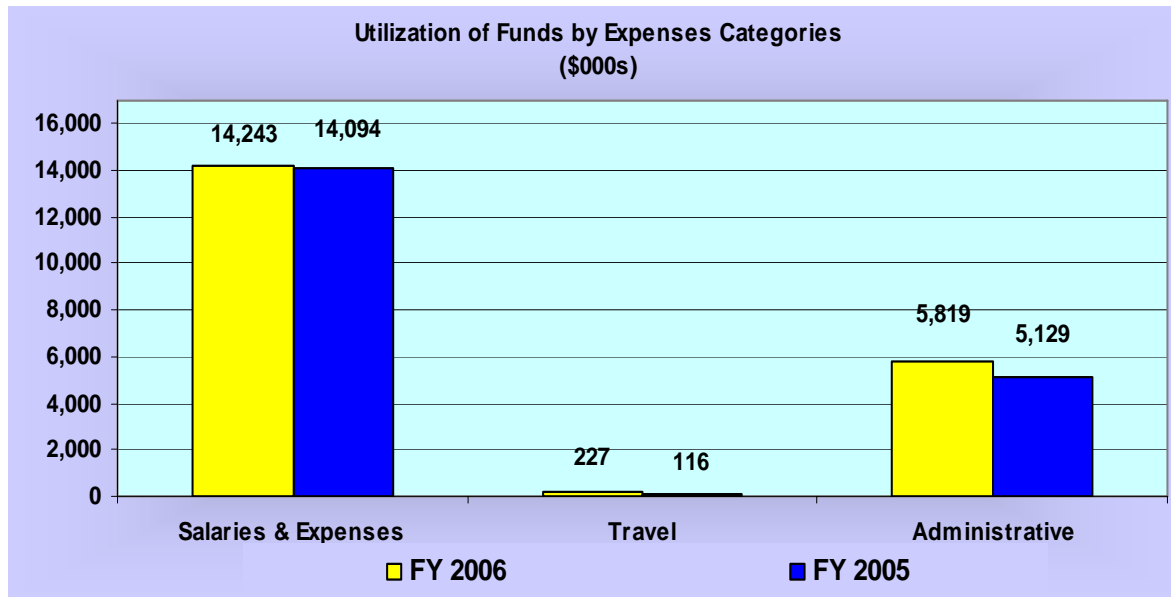
In recent years, the Commission has been authorized a total of 180 full-time-equivalent positions. Due to appropriation levels, the Commission has been required to maintain full-time personnel levels much lower than authorized.

# MANAGEMENT'S DISCUSSION and ANALYSIS



## Uses of Funds by Expense Category

In FY 2006, the FMC incurred new obligations of \$20.3 million, which was a \$905 thousand dollars increase over fiscal year 2004. Approximately 70% of the total appropriation was used for salaries and benefits. Of the remaining budget authority, 1% was used for Commission travel expenses and the remaining 29% was used for administrative expenses also known as operating expenses (e.g., rent, furniture, printing, maintenance). The unobligated authority balance of \$4,636 will remain active for four years to service FMC-established requirements.



## Audit Results

The FMC received an unqualified opinion on its FY 2005 financial statements from the auditing firm of Clifton Gunderson LLP under contract through the FMC's Inspector General. For FY 2006, the FMC was again awarded an unqualified opinion on its financial statements. Comparative statements can be located in *Chapter 3, Auditors' Reports and Financial Statements*.

## Financial Statement Highlights

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

The FMC's financial statements summarize the financial position and financial activity of the agency. The financial statements, footnotes and the remainder of the required supplementary information appear in their entirety in *Chapter 3, Auditors' Report and Financial Statements*. A brief analysis of the principal statements follows.

# MANAGEMENT'S DISCUSSION and ANALYSIS



## Analysis of the Balance Sheet

The FMC's assets in fiscal year 2006 were \$2,710,231 as of September 30, 2006. This represents an increase over fiscal year 2005 of \$440,625. The FMC's assets reported in the balance sheet are summarized in the accompanying table.

Summary of Assets as of September 30, 2006		
	FY 2006	FY 2005
Fund Balance with Treasury	\$2,676,163	\$2,217,146
Accounts Receivable	\$2,961	\$2,021
Capital Assets	\$30,353	\$50,439
Other	\$754	\$0
<b>Total Assets</b>	<b>2,710,231</b>	<b>2,269,606</b>

The Fund Balance with Treasury represents the FMC's largest asset of \$2,676,163 as of September 30, 2006. This is an increase of 20.7% over fiscal year 2005 and represents 98.7% of the agency's total assets. The Fund

Balance with Treasury is comprised only of annual appropriations maintained by the Department of the Treasury to address current liabilities.

Accounts Receivable as of September 30, 2006, was at \$2,961. This is a 46.5% increase over fiscal year 2005, and accounts for .001% of the FMC's total assets.

Capital Assets, also known as Property, Plant and Equipment, accounts for 1.2% of the FMC's total assets as of September 30, 2006. The "Net" value of \$30,353 accounts for the depreciation of all assets and represents the current book value of those assets.

The FMC's Liabilities totaled \$2,287,089 as of September 30, 2006. The accompanying table depicts an increase of \$329,540 total liabilities over fiscal year 2005. Accounts Payable represents the total goods and services received by the FMC as of September 30, 2006. The FMC is not in receipt of a billing from the various vendors as of the close of fiscal year 2006. Federal Employee Benefits represents accrued salaries and liabilities that are not funded by budgetary resources. These liabilities represent future workers' compensation, and accrued annual leave that remains on the books. The Federal budget process does not recognize future benefits for today's employees, however, these liabilities will be recognized in future budget cycles as they are paid.

Summary of Liabilities as of September 30, 2006		
	FY 2006	FY 2005
Accounts Payable	\$275,054	\$197,294
Payroll Taxes Payable	\$114,014	\$93,366
Federal Employee Benefits	\$1,070,638	\$979,235
Accrued Liabilities	\$827,383	\$687,654
<b>Total Liabilities</b>	<b>\$2,287,089</b>	<b>\$1,957,549</b>

Net Position is the difference between total assets and total liabilities. The total net position for fiscal year 2006 is an increase of \$111,085 from fiscal year 2005. Unexpended Appropriations represents the total authority granted by Congress that the FMC has not expended as of September 30, 2006. Cumulative Results of Operations represents the net results of all operations of the FMC.

Net Position Summary as of September 30, 2006		
	FY 2006	FY 2005
Unexpended Appropriations	\$1,453,216	\$1,231,683
Cumulative Results of Operations	(\$1,030,074)	(\$919,626)
<b>Total Net Position</b>	<b>\$423,142</b>	<b>\$312,057</b>

The decrease in Cumulative Results is due mainly to the net decrease in Capital Assets as of September 30, 2006.



# MANAGEMENT'S DISCUSSION and ANALYSIS



## Analysis of Net Cost

The analysis of Net Costs presents the net cost of FMC's five Commission Programs as identified in the FMC's Annual Report. The five agency programs are Formal Proceedings, Inspector General, Equal Employment Opportunity, Operations and Administration. The Statement of Net Costs shows the net cost of operations for the agency as a whole and its sub-organizations and/or programs. Net Costs compared to Budgetary Resources can be found in *Chapter 3, Auditors' Report and Financial Statements*.

Summary of the Statement of Net Cost as of September 30, 2006		
	FY 2006	FY 2005
Office of Administration	\$8,449,512	\$6,763,548
Office of Operations	\$7,132,804	\$7,352,269
Formal Proceedings	\$4,958,503	\$5,771,665
Office of Inspector General	\$469,885	\$433,223
Office of Equal Employment Opportunity	\$135,722	\$90,712
<b>Net Cost of Program Services</b>	<b>\$21,146,426</b>	<b>\$20,411,417</b>

## Analysis of the Statement of Changes in Net Position

The Statement of Changes in Net Position, found on page nine, reports the change in the agency's net position during the reporting period. The statement is a summary of two factors, Unexpended Appropriations and Cumulative Results in Operations. The increase of \$111,085 from fiscal year 2005 to fiscal year 2006 is due principally to the net change in Cumulative Results of Operations due to further depreciation of Capital Assets and an increase in unexpended appropriations.

## Analysis of the Statement of Budgetary Resources

The Statement of Budgetary Resources ("SBR") shows the source of the agency's budgetary resources and the status of those resources at the end of the reporting period. The statement also shows the relationship between budgetary resources and the status of the resources. The total budgetary resources must be equal to the status of budgetary resources at all times. A more detailed SBR can be found in *Chapter 3, Auditors' Report and Financial Statements*. For fiscal year 2006, the FMC had total budgetary resources available of \$20,473,727. This represents a 4.3% increase over fiscal year 2005 budgetary resources available of \$19,622,729. For fiscal year 2006, the SBR shows the FMC had incurred obligations of \$20,346,990, representing 99.4% of funding available, and had an unobligated balance of \$126,737.

Summary of the Statement of Budgetary Resources as of September 30, 2006		
	FY 2006	FY 2005
<b>Total Budgetary Resources</b>	<b>\$20,473,727</b>	<b>\$19,622,729</b>
Obligations Incurred	\$20,346,990	\$19,441,873
Unobligated Balance	\$126,737	\$180,856
<b>Status of Budgetary Resources</b>	<b>\$20,473,727</b>	<b>\$19,622,729</b>

## Analysis of the Statement of Financing

The Statement of Financing is intended to provide a connection between accrual-based information (financial accounting) contained within the Statement of Net Cost and the obligation-based information (budgetary accounting) contained within the SBR. The Statement of Financing provides a reconciliation between the budgetary and proprietary accounting information within the financial system and ensures that they are in balance. Non-budgetary resources, costs not requiring resources, and financing sources yet to be provided are deducted from the budgetary obligations. This balance is then reconciled against the Net Cost of Operations.



## Improper Payments Information Act

### Narrative Summary of Implementation Efforts for FY 2006 And Agency Plans for FY 2006—FY 2009

- I. The Federal Maritime Commission has not identified any program that in and of itself constitutes a high-risk for improper payments. Therefore, the FMC considers all of its payments to fall within the realm of high-risk. As such, the FMC has instituted a separation of duties concerning payments that has been very successful in curtailing any improper payments. The National Finance Center (“NFC”) became the agency’s payroll provider in 2002 and is responsible for monitoring and reporting on any payroll-related payments. Any overpayments made to an FMC employee by the NFC on behalf of the FMC are offset by NFC. In FY 2006, the FMC had no overpayments. The FMC did not identify any improper collections through Intergovernmental Payments and Collections (“IPAC”) collections.
- II. The FMC did not use a statistical sample to conduct its improper payment rate. The sample contains one hundred percent of all disbursements made by the FMC. This was the case for all programs.
- III. In order to reduce the rate of improper payments, the FMC will continue to monitor all payments to maintain a zero dollar improper payment figure. To this end, the FMC will ensure that there are sufficient segregation of duties pertaining to payments concomitantly with closer scrutiny of all IPAC collections made against the Commission. The FMC will continue to monitor all disbursements made on its behalf to ensure payments are valid and proper.
- IV. The table below represents the improper payments made by the FMC in FY 2006 with percentage forecasts through FY 2009.

<b>Improper Payment Reduction Outlook FY 2005 - FY2009 (Millions)</b>						
<b>Program</b>	<b>FY06 Outlays</b>	<b>FY06 IP %</b>	<b>FY 06 IP \$</b>	<b>FY 07 %</b>	<b>FY08 %</b>	<b>FY 09 %</b>
<b>Formal Proceedings</b>	0.00	0.0000	0.0000	0.00	0.00	0.00
<b>Inspector General</b>	0.00	0.0000	0.0000	0.00	0.00	0.00
<b>Equal Employment Opportunity</b>	0.00	0.0000	0.0000	0.00	0.00	0.00
<b>Operations</b>	0.00	0.0000	0.0000	0.00	0.00	0.00
<b>Administration</b>	0.00	0.0000	0.0000	0.00	0.00	0.00
<b>Totals</b>	<b>0.00</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>



# MANAGEMENT'S DISCUSSION and ANALYSIS

## Improper Payments Information Act (continued)

- V. The FMC has in place a segregation of duties to ensure that all invoices processed for payment are legitimate expenses of the agency. When an invoice is received it is first verified as a valid invoice belonging to the agency. The invoice is then processed by the OMS to identify the proper purchase order the payment is to be expensed against. The OFM then processes the invoice against the purchase order to ensure that there are sufficient funds available on the purchase order to make the payment. If there are insufficient funds remaining on the purchase order, a request is made to modify the purchase order to increase funding. Once the payment authorization has been processed, it is verified by a second member of the OFM. From there the payment request is forwarded to the BPD for processing. When the payment is loaded into the Oracle database, a final funds availability check is made by the financial system against the fund controls set for the FMC. Currently the fund controls are set to the summary appropriation level. Beginning 10/01/06, the original invoices are received by BPD and forwarded to OFM via electronic media. This effects another level of scrutiny for every invoice and subsequent payment disbursed by BPD on behalf of the FMC.

The receipt of an invalid IPAC collection must be processed as a payment for the reason that the funds have already been moved from the Treasury General Fund as a disbursement against the FMC's Agency Location Code ("ALC"). The internal controls in place remain unchanged, with a closer scrutiny paid to all invoices and subsequent payments.

- VI. The Chairman, as the Chief Administrative Officer of the FMC, is ultimately responsible for the efficient and effective utilization of the authority granted the agency by Congress. The Chairman has delegated financial responsibility to the Director, OFM. The Director of OFM has the responsibility to ensure that all disbursements made by BPD on behalf of the FMC are legitimate expenses of the agency and that there are sufficient funds available. The OFM is responsible for reducing and recovering improper payments, and keeps senior agency officials apprised of all relevant activities.
- VII. a. The FMC does not have an in-house information system to help reduce improper payments. The agency utilizes the infrastructure and financial system maintained in Parkersburg, WV by BPD.
- b. In fiscal year 2006, the FMC requested funding to maintain the contract between the FMC and BPD for financial support and platform access to the Oracle database through Oracle's Discoverer portal.
- VIII. There are no statutory or regulatory barriers that limit the agency's ability to take corrective actions to address any improper payments.
- IX. The current IPAC system does not allow an agency to refuse a collection against its ALC through the General Fund it deems improper. The end result is a requirement to make the payments during the accounting period in which the collection was made and reverse the collection at a later date. The ability to challenge the collection would reduce the number of improper collections made against the agency, therefore reducing the number of improper payments.



## **Systems, Controls, and Legal Compliance**

This section provides information on FMC's compliance with the:

Federal Managers' Financial Integrity Act  
Federal Financial Management Improvement Act  
Prompt Payment Act  
Debt Collection Improvement Act  
Biennial Review of User Fees  
Performance Measure Summary  
Inspector General Act

### **Federal Managers' Financial Integrity Act**

The Federal Managers' Financial Integrity Act ("FMFIA") requires that agencies establish controls that reasonably ensure that obligations and cost comply with applicable law; assets are safeguarded against waste, loss, unauthorized use, or misappropriation; and revenues and expenditures are properly recorded and accounted for. It requires the agency head to provide an assurance statement of the adequacy of management controls and conformance of financial systems with Government standards.

In his Message earlier in this document, the Chairman provided his annual assurance statement. This statement was based on various sources and included management knowledge gained from the daily operation of agency programs and reviews, discussions with senior managers who together comprise the agency's Senior Policy Group, audits of financial statements, annual performance plans, and Inspector General reports, among other sources. The Senior Policy Group is comprised of all SES-level senior executives, including the Director of Operations, the General Counsel, and the agency's Chief Financial Officer, among others. Additionally, the Chairman meets regularly with, and receives regular reports from, the FMC's Inspector General.

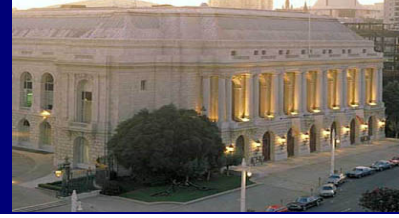
Management control deficiencies, when identified, are addressed at the highest management levels within the agency. For instance, corrective actions for significant deficiencies identified in the agency's information technology area are overseen directly by the agency's Chief Information Officer.

### **FY 2006 Integrity Act Results**

The Chairman of the FMC determined that, as of September 30, 2006, the management controls of the FMC provide reasonable assurance that the objectives of the FMFIA are being met, and that the FMC, as a whole, is in compliance with section 2 of the FMFIA. The FMC's financial management systems also are in substantial compliance with the objectives of the FMFIA, and the Commission is in compliance with section 4 of the FMFIA.

During the fiscal year, the FMC mitigated two significant deficiencies (formerly called "material weaknesses" by OMB) which were first identified in a previous fiscal year. These significant deficiencies were in the information technology program.

# MANAGEMENT'S DISCUSSION and ANALYSIS



## **FY 2006 FMFIA Results (continued)**

The first of the two significant deficiencies was the quality of certification and accreditation (“C&A”) documents and security self-assessments. To mitigate the deficiency, the FMC hired an IT Security Officer who conducted a review of the agency’s systems and developed updated C&A documents for them. Disaster recovery testing was accomplished, and infrastructure and security upgrades were implemented on the FMC Network.

The second of the two significant deficiencies was the lack of assurance that a contractor-operated system (SERVCON) was configured and operated under Federal security guidelines. The FMC terminated the contract to operate the system off-site, transferred management of SERVCON to FMC in-house staff, and rewrote the system’s security and password features. Disaster recovery testing was then accomplished.

The FMC is pleased to report that these significant deficiencies were mitigated.

During FY 2006, as a result of the Inspector General’s review of the agency’s implementation of FISMA, a finding was made which the FMC is reporting as a significant deficiency: C&A documents developed for the FMC network and applications do not provide enough information to evaluate the threats, vulnerabilities, safeguards and risks associated with operating the systems in a production environment. The FMC plans to address this deficiency through an application of appropriate NIST standards and requirements while also taking into account the size of the agency and the systems involved when developing additional materials for the C&A documents. We anticipate that this significant deficiency will be mitigated during FY 2007.

The existence of a significant deficiency does not preclude a statement of overall compliance, as the deficiency is not sufficient to prevent reasonable assurance of overall compliance.

## **Federal Financial Management Improvement Act**

The Federal Financial Management Improvement Act (“FFMIA”) requires agencies to implement and maintain systems that comply substantially with: Federal financial management system requirements; applicable Federal accounting standards; and the standard general ledger at the transaction level. The Act requires the agency head to determine whether the agency’s financial management systems comply with the FFMIA and to develop remediation plans for systems that do not comply.

## **FY 2006 Federal Financial Management Improvement Act Results**

The Chairman of the FMC determined that, as of September 30, 2006, FMC’s financial management systems were in substantial compliance with the FFMIA. In making his determination, the Chairman considered the results of audits conducted by outside auditors in successive fiscal years, in addition to Inspector General reports, among other resources.

## **Prompt Payment Act**

The Prompt Payment Act requires agencies to make timely payments to vendors for supplies and services, to pay interest penalties when payments are made after the due date, and to take cash discounts when they are economically justified. In FY 2006, the FMC maintained a percentage of on-time payments at 92.8%. The interest payments of \$44.11 were primarily a result of new invoice processing procedures that were implemented mid-year. The FMC will continue to strive towards 100% on-time payments in future years. The FMC has maintained a 100% on-time electronic/credit-card payment to its vendors.





### **Debt Collection Improvement Act**

The Debt Collection Improvement Act enhances the ability of the Government to service and collect debts. The Act centralized the collection of non-tax delinquent debt owed to the government. The collection of delinquent debts is conducted by the Financial Management Service through the Treasury Offset Program where the names and taxpayer identification numbers (“TIN”) are matched against the TINs of recipients of government payments. The balance owed the government is deducted or offset from the payment to the entity to satisfy the debt. All Office of Personnel Management (“OPM”) retirement, vendor, IRS refunds, Social Security Benefits, and some federal salary payments are being offset. Federal agencies are required to refer delinquent accounts in excess of 180 days to Treasury for collection. The goal of the FMC is to minimize the amount of delinquent debt owed to the agency.

### **Biennial Review of User Fees**

The Chief Financial Officers Act requires agencies to conduct a biennial review of fees and other charges imposed by agencies, and to make revisions to cover program and administrative costs incurred. During FY 2005, the FMC published its revised fees subsequent to its biennial review. The fees are posted on the FMC’s website. In FY 2007 the FMC will again conduct its biennial review.

### **Performance Measure Summary**

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

### **Inspector General Act**

The FMC has a very good record in resolving and implementing open audit recommendations presented in its Inspector General reports. Section 5(b) of the Inspector General Act requires agencies to report on final actions taken on Inspector General audit recommendations. Information can be found in *Appendix C*.

Briefly, during fiscal year 2006, the Inspector General completed the following audits/inspections:

- Audit of FY 2005 Financial Statements
- Audit of FY 2005 FISMA Compliance
- IG Assessment of Management Challenges Facing the FMC
- Audit of Data Accuracy in BOE’s Tracking System
- Audit of Payroll Processing Transactions
- Audit of FY 2006 FISMA/Privacy Compliance

The Inspector General’s reviews disclosed no instances of questioned costs nor were any recommendations made that funds be put to better use. The FMC has addressed a number of recommendations from these reviews, and it is anticipated that the ones which remain outstanding will be completed in FY 2007.

During FY 2006, the agency mitigated two significant deficiencies which had been identified in a previous fiscal year. The Inspector General, in his FY 2006 FISMA Review, identified one significant deficiency related to the agency information security program; it is anticipated that corrective action on that deficiency will be completed in FY 2007.

# CHAPTER TWO



## PROGRAM PERFORMANCE



Fiscal Year 2006

# PROGRAM PERFORMANCE



## Introduction

This chapter presents information on the performance of the FMC during FY 2006. The FMC's performance measurement system is discussed, along with the alignment of resources to strategic goals, and a summary of performance relative to specific performance goals. Following the discussion of performance goals, this chapter discusses the FMC's efforts to address the President's Management Agenda.

## FMC's Performance Management System

The FMC's performance management system includes both strategic goals and performance goals and measures. The strategic goals, taken together, represent the FMC's mission and reflect the overall outcomes to be achieved. The performance goals focus on outcomes which are contributors to achieving the agency's strategic goals. The performance measures associated with each performance goal provide benchmarks for measuring how effectively the FMC is achieving its goals.

## Aligning Resources to Goals

To achieve the FMC's strategic goals, both steady state activities and fiscal year-specific performance goals have been developed. The FMC plans and budgets for its program activities during each fiscal year to ensure appropriate resources (funds and FTEs) are available to achieve its performance goals and accomplish its steady state activities.

## Future Improvements in Performance Management

As a small agency, OMB agreed that the FMC should use an appropriately scaled mechanism for the GPRA process and development with a framework which would be productive, yet less resource-intensive. Nonetheless, the FMC strives to ensure its performance plans present relevant information clearly and concisely, and to be as detailed as possible while avoiding minutiae.

In FY 2005, the FMC's performance plan for the first time allocated all agency resources, and linked the agency's performance goals, directly to its strategic goals instead of its budget program activities. This demonstrates the FMC's substantial progress in integrating performance management and budget processes, as it fosters efforts to link planning, budgeting and performance more effectively. We continued this process in FY 2006. Future performance reports will continue to integrate performance management and budget by aligning agency resources with strategic goals.

## Program Activities

### Overview

In *Chapter 1* there is a description of the FMC's organization and its regulatory responsibilities. In order to carry out its mandates, the FMC operates under five program areas: Formal Proceedings, Equal Employment Opportunity, Inspector General, Operations, and Administration.



# PROGRAM PERFORMANCE



## Formal Proceedings Program

### Office of the Commissioners

Five Commissioners are appointed by the President with the advice and consent of the Senate. The president designates one of the Commissioners to serve as Chairman. The Chairman has exclusive authority over agency personnel matters, organization and supervision, distribution of business, and use of funds for administrative purposes.

The Chairman and the other four Commissioners are responsible for deciding cases in which parties must have the opportunity to be heard. During FY 2006, the Commission issued 11 orders and/or notices in docketed proceedings.

### Office of the Secretary

The Office of the Secretary serves as the focal point for all matters submitted to and emanating from the Commission. Accordingly, the Office is responsible for preparing and submitting regular and notation agenda matters for consideration by the Commission, and preparing and maintaining the minutes of actions taken on these agenda and notation matters; receiving and processing formal and informal complaints involving violations of the shipping statutes and other applicable laws; receiving and processing special docket applications and applications to correct clerical or administrative errors in service contracts; issuing orders and notices of actions of the Commission; maintaining official files and records of all proceedings; receiving all communications, petitions, notices, pleadings, briefs, or other legal instruments in regulatory and quasi-judicial proceedings and subpoenas served on the Commission or members thereof; administering the Freedom of Information, Government in the Sunshine, and Privacy Acts; responding to information requests from the maritime industry, the public, and FMC staff; issuing publications and authenticating instruments and documents of the Commission; compiling and publishing Commission decisions; maintaining and promulgating official copies of the FMC's regulations; and maintaining the FMC's Public Reference/Law Library, Docket Activity Library and Internet website. The Secretary's Office also participates in the implementation of legislative changes to the shipping statutes. Further, the Secretary's office oversees the administration of the Office of Consumer Affairs and Dispute Resolution Services.

#### *Looking Back: 2006*

- In FY 2006, the Office of the Secretary issued 11 orders and/or notices in formal docketed proceedings, processed 58 agenda items, 90 pages of minutes, 260 Federal Register Notices, and 13 FOIA requests. The Office also continued to update the Commission's new website and provide more historical data electronically.

#### *Looking Ahead: 2007*

- In FY 2007, the Office of the Secretary will work to redesign the agency's intranet, to make information more readily available internally.

# PROGRAM PERFORMANCE



## Office of Consumer Affairs and Dispute Resolution Services

The Office of Consumer Affairs and Dispute Resolution Services implements the FMC's Alternative Dispute Resolution ("ADR") program, and provides *ombuds* services and responds to inquiries and complaints. Under this program, parties to a dispute are encouraged to avail themselves of services provided by the FMC to resolve disputes through mediation or *ombuds* services. The Director of the Office is the FMC's Dispute Resolution Specialist. The Director and other trained Office staff serve as third-party neutrals in proceedings that are in litigation. CADRS personnel provide mediation services for a broad range of disputes, from informal, pre-litigation disputes to those involving significant matters in litigation. *Ombuds* services are provided to resolve a variety of immediate concerns involved with cargo shipments and cruise matters. Should a matter not be resolved through *ombuds* services, or through more formal mediation services, a claimant may choose to initiate an informal docket proceeding, alleging a 1984 Act violation. This is a form of arbitration, with both sides agreeing to be bound by the decision of the settlement officer. Claimants who prefer formal docket procedures may opt to file a formal complaint and fully litigate the dispute before the FMC's Administrative Law Judges. Mediation services may also be provided in such formal proceedings. Also, CADRS staff review and decide special docket applications, which are requests to waive or refund freight charges.

### *Looking Back: 2006*

- In FY 2006, 3,500 complaints and information requests were processed. Of those, 650 complaints required *ombuds* dispute resolution services. Office staff also served as neutrals in six dispute resolution proceedings involving a variety of significant issues.
- In FY 2006, with assistance provided by the Office, a formal investigation of several problem movers was instituted by the Commission. In addition, injunctions were obtained against several companies and individuals to prohibit their continued operation. As a result, several entities ceased operations, thereby substantially reducing the numbers of complaints against those entities.

### *Looking Ahead: 2007*

- In FY 2007, the Office intends to expand awareness of the ADR program through education and training, and other outreach efforts. The Office also will continue to make consumer protection information available and will expand its outreach through various websites and media sources.

## Office of the General Counsel

The General Counsel provides legal counsel to the Commission. This includes reviewing staff recommendations for Commission action for legal sufficiency, drafting proposed rules to implement Commission policies, and recommending and preparing final decisions, orders, and regulations for Commission adoption. In addition, the Office of the General Counsel provides written and oral legal opinions to the Commission, its staff, and the general public in appropriate cases. As described in more detail below, the General Counsel also represents the Commission before the courts, Congress, and other government agencies and administers the Commission's international affairs program.

### *Looking Back: 2006*

- In FY 2006, General Counsel produced 15 speeches, articles or presentations, 30 instances of interagency and international group participation, and responded to 275 requests for information.

### International Affairs Program

- In FY 2006, General Counsel produced 35 reports, policy papers, briefings, or controlled carrier recommendations.

# PROGRAM PERFORMANCE



- In FY 2006, the Commission continued to monitor potentially restrictive shipping practices of the Government of Japan.

## 2006 Legislative Activity

### Looking Back: 2006

- During FY 2006, 120 bills, proposals and Congressional inquiries were referred to the Office for comment. The Office prepared and coordinated testimony for one Congressional hearing. The Office also worked closely with Congressional staffs on proposed legislation that affected the Commission.

### Looking Ahead: 2007

- In FY 2007, the Office will increase relationships with other agencies with responsibilities related to the maritime transportation system.

## 2006 Litigation

- The General Counsel represents the Commission in litigation before courts and other administrative agencies. The following is representative of matters litigated by the Office.
- ***American Institute of Shipper's Associations v. Federal Maritime Commission, D.C. Circuit, Case No. 05-1036; International Shippers' Association v. Federal Maritime Commission, D.C. Circuit, Case No. 05-1037.*** This proceeding is an appeal of the FMC's final rule, and its order denying rehearing, in Docket No. 04-12, Non-Vessel-Operating Common Carrier Service Arrangements. In order to ensure that competition would not be harmed, that rule forbade NVOCCs and shippers' associations with NVOCC members from acting as shippers in NSAs. The petitioners sought to convince the Court of Appeals either that the Commission's rule is discriminatory against shippers' associations with NVOCC members, or that the rule is entirely beyond the scope of the agency's authority. The Court, on its own motion, consolidated Case Nos. 05-1036 and 05-1037. On May 11, 2005, the following entities were granted leave to intervene in support of the FMC's rule: BAX Global Inc., FEDEX Trade Networks Transport & Brokerage, Inc., National Industrial Transportation League, Transportation Intermediaries Association, and United Parcel Service, Inc. The court also granted permission to the Fashion Accessories Shippers Association ("FASA") to participate as an *amicus curiae*. Following amendments made by the Commission to the NSA rule, petitioners moved for voluntary dismissal of the petitions. *Amicus curiae*, FASA, moved to convert its status to intervenor, in order to continue the case. On January 12, 2006, the court issued a *per curiam* Order granting petitioners' motions for voluntary dismissal of these consolidated proceedings. The Court also denied FASA's motion to intervene.

## Office Of Administrative Law Judges

Administrative Law Judges regulate the course of proceedings, conduct hearings, approve settlements, and render decisions in adjudicatory proceedings held after receipt of a complaint, or when instituted by the Commission. ALJs have authority to administer oaths and affirmations; issue subpoenas; rule upon motions and offers of proof; receive evidence; authorize depositions; regulate the course of hearings; hold pre-hearing conferences for the settlement or simplification of the issues involved; refer matters to mediation when appropriate; dispose of procedural requests; act as settlement judges in particular cases; and take any other action authorized by agency rule or the Administrative Procedure Act.

### Looking Back: 2006

- In FY 2006, 2 formal proceedings were settled formally by the ALJs, and 5 formal proceedings were dismissed by the ALJs. Additionally, 7 initial decisions in formal proceedings were issued but not settled by the ALJs.

# PROGRAM PERFORMANCE



## *Looking Ahead: 2007*

- In FY 2007, the Office will conduct hearings and render decisions on adjudicatory proceedings and on such rulemaking proceedings as may be referred to the Office.

## **Inspector General Program**

The Office of the Inspector General operates pursuant to the Inspector General Act of 1978, as amended in 1988. The 1988 amendments created additional statutory offices of inspector general at various designated Federal entities, including the FMC. The Office is an independent and objective unit which conducts audits, reviews operations and programs, investigates possible fraud, waste and abuse of Commission resources, and promotes economy, efficiency and effectiveness in programs and operations administered by the Commission.

## *Looking Back: 2006*

- In FY 2006, the Office issued an audit of the agency's FY 2005 financial statements and a companion report to management containing financial-related findings and recommendations resulting from the audit. The OIG also issued reports to management on agency compliance with the Federal Information Security Management Act of 2002, management challenges facing FMC in FY 2005, data accuracy in the Bureau of Enforcement's tracking systems and the effectiveness of controls over select aspects of payroll processing. Finally, the OIG issue two semiannual reports to Congress identifying the office's audit and investigative activity for the fiscal year.

## *Looking Ahead: 2007*

- The Office will continue its high priority program of conducting program evaluations in order to improve agency programs and operations, and will conduct required reviews of the agency's financial statements and information security program.
- In FY 2007, the Office will undergo a peer review to ensure that the Office has an effective quality control program in place.
- The Office will continue to keep the agency head, OMB and Congress fully informed of OIG activities.

## **Equal Employment Opportunity Program**

The Office of Equal Employment Opportunity (EEO) assists the FMC in carrying out its responsibilities relative to Titles VI and VII of the Civil Rights Act of 1964 and other laws, executive orders, and regulatory guidelines affecting affirmative employment and non-discrimination in the federal government. The Office of EEO administers and ensures the Commission's compliance with the laws, regulations and policies that prohibit discrimination in the Federal workplace based on race, color, national origin, religion, gender, age, disability, or reprisal. The Office of EEO is responsible for processing EEO pre-complaints and formal complaints, for encouraging resolution, and for establishing and maintaining a continuing affirmative employment program designed to promote equal opportunity in every aspect of the Commission's personnel policies and practices.

## *Looking Back: 2006*

- In FY 2006, the Office continued providing support and assistance to managers and supervisors in maintaining and effectively managing a diverse workforce. Senior officials were briefed on a quarterly basis on different aspects of the EEO and Diversity Management areas.
- The Office updated most EEO-related policy statements and Commission orders.

# PROGRAM PERFORMANCE



## Equal Employment Opportunity Program (continued)

- The Office continued educating and raising awareness about diversity in the workplace by facilitating special emphasis and commemorative programs throughout the year.

### *Looking Ahead: 2007*

- The Office will continue all existing EEO programs and will assess the need for additional activities and programs that promote equal opportunity in the Commission and increase understanding of EEO concepts and principles.

## Operations Program

### Office of Operations

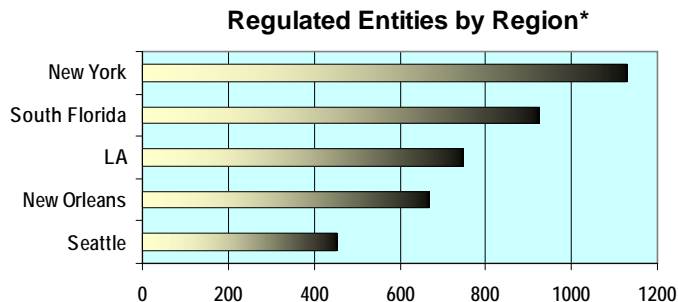
The Director of Operations is the senior staff official responsible to the Chairman for the management and coordination of FMC programs under the Bureau of Enforcement, the Bureau of Trade Analysis, and the Bureau of Certification and Licensing. Program accomplishments are detailed in individual bureau sections.

In addition, the Office of Operations oversees the Area Representatives.

### Area Representatives

The Commission maintains a presence in Los Angeles, South Florida, New Orleans, New York and Seattle through Area Representatives based in each of those areas. These representatives serve major port cities and transportation centers within their respective areas. In addition to monitoring and investigative functions, Area Representatives represent the FMC within their jurisdictions, provide liaison between the FMC and the maritime industry and the shipping public, collect and analyze intelligence of regulatory significance, and assess industry conditions. Liaison activities involve cooperation and coordination with other government agencies and departments, providing regulatory information and relaying FMC policy to the shipping industry and the public, and handling informal complaints within each representative’s area of responsibility. Area Representatives also work on Commission outreach through seminars, booths at various conferences and trade shows, presentations, and local community contacts.

The Office of Operations supported the operational bureaus through oversight and guidance towards the accomplishment of many programmatic achievements during FY 2006.



\* Seattle, New Orleans, Los Angeles, and New York are covered by 1 Area Representative each; South Florida is covered by two Area Representatives. In addition to the Area Representatives under the Office of Operations, Bureau of Enforcement staff covers the mid-Atlantic consisting of 1,222 U.S. and foreign regulated entities.



# PROGRAM PERFORMANCE



### *Looking Back: 2006*

- In FY 2006, the Office worked with the bureaus and other agency units to review Commission rules and regulations regarding business practices in the OTI sector, and worked with BCL to report to the Commission regarding OTI industry changes, including proposing initiatives in that area.
- The Office led the bureaus and other agency units in reviewing and coordinating compliance and enforcement policy, including taking action against unscrupulous household goods movers.
- In FY 2006, the Office worked with staff to make technological advances, including work on the automated form FMC-18.
- In FY 2006, the Office was heavily involved in developing an agency outreach strategy.

### *Looking Ahead: 2007*

- In FY 2007, the Office will continue to concentrate on increasing agency outreach and raising public awareness of agency regulations and services.
- The Office will focus on reviewing agency policies and regulations to ensure alignment between the FMC and the industry and on automating certain processes, and will continue to refine integration of the three agency bureaus.

## Bureau of Enforcement

The Bureau of Enforcement is the primary prosecutorial arm of the Commission. Attorneys of the Bureau of Enforcement participate as trial counsel in formal adjudicatory proceedings. The Bureau also participates in formal complaint proceedings where intervention is appropriate. Bureau attorneys serve as legal advisors to the Director of Operations and other bureaus, and also may be designated Investigative Officers in non-adjudicatory fact finding proceedings. The Bureau monitors all other formal proceedings in order to identify major regulatory issues and to advise the Director of Operations and the other bureaus. The Bureau also participates in the development of Commission rules and regulations. Under the direction of the General Counsel, attorneys from the Bureau also may participate in matters of court litigation to which the Commission is a party.

### *Looking Back: 2006*

- At the beginning of FY 2006, 27 enforcement cases were pending final resolution by the Bureau, the Bureau was party to 7 formal proceedings, and there were 71 matters pending which the Bureau was monitoring or for which it was providing legal advice. During the fiscal year, 20 new enforcement actions were commenced; 15 were compromised and settled, administratively closed, or referred for formal proceedings; and 32 enforcement cases were pending resolution at fiscal year's end. Also, the Bureau participated in 4 new formal proceedings, 4 proceedings were completed, and 4 formal proceedings were pending at the end of the fiscal year. Additionally, 51 matters involving monitoring or legal advice were received during the fiscal year, 49 such matters were completed, and 73 were pending in the Bureau on September 30, 2006.
- During FY 2006, the Bureau worked to obtain statutory compliance in all major trades and with all segments of the transportation industry, i.e., carriers, carrier agreements, MTOs, PVOs, and OTIs.

# PROGRAM PERFORMANCE



- The Bureau also initiated enforcement action to address market-distorting activities such as various forms of secret rebates and absorptions, misdescriptions of commodities and misdeclarations or measurements, illegal equipment substitution, unlawful use of service contracts, as well as carriage of cargo by and for untariffed and unbonded non-vessel-operating common carriers, and joint carrier activities outside the authority of filed agreements. Major initiatives to address activities of unlicensed, unbonded OTIs were conducted with special emphasis on household goods transportation providers.

### *Looking Ahead: 2007*

- In FY 2007, the Bureau will continue to pursue statutory compliance by entities regulated by the Commission, and the elimination of market-distorting, fraudulent and anticompetitive practices.
- The Bureau will work with non-vessel-operating common carriers and vessel-operating common carriers to limit participation of unlawful entities in ocean transportation.

### Bureau of Trade Analysis

The Bureau of Trade Analysis reviews agreements and monitors the concerted activities of common carriers by water under the standards of the 1984 Act. The Bureau also reviews and analyzes service contracts and NSAs, monitors rates of government controlled carriers, reviews carrier published tariff systems under the accessibility and accuracy standards of the 1984 Act, and responds to inquiries or issues that arise concerning service contracts or tariffs. The Bureau also is responsible for competition oversight and market analysis, focusing on activity that is substantially anti-competitive and market distorting in violation of the 1984 Act. BTA strives to be an expert organization on the economics of international liner shipping and maritime agreements, especially with respect to issues of competition and unfair trade practices as they may affect the interests of the shipping public and U.S. international trade.

An integral part of BTA's responsibilities is the systematic surveillance of carrier activity and commercial conditions in the U.S. liner trades. Accordingly, BTA administers a variety of monitoring programs, and other research efforts, designed to apprise the Commission of current trade conditions, emerging commercial trends, and carrier pricing and service activities.

### Office of Agreements

The Bureau's agreement program activities consist of: (1) processing carrier and marine terminal agreement filings under the procedures of the 1984 Act as modified by OSRA; (2) conducting a comprehensive review and analysis of all pertinent legal and commercial facets of agreements to recommend appropriate action to the Commission on the disposition of filed agreements; (3) making appropriate recommendations on requests for a waiver of Information Form and Monitoring Report filing requirements; (4) maintaining the FMC's official agreement archives; and (5) maintaining an agreement database that contains pertinent information on each carrier and marine terminal agreement filed with the FMC.

### *Looking Ahead: 2006*

- During FY 2006, the Bureau received 265 carrier agreement filings and 18 terminal agreement filings. The Bureau also received and reviewed minutes of meetings and reports filed by various agreement parties.

# PROGRAM PERFORMANCE



- During FY 2006, the Bureau reviewed and analyzed the justification for the establishment of the Traffic Mitigation Fee (TMF) established by PierPASS, an organization created pursuant to the West Coast MTO Discussion Agreement (FMC No. 201143), as a means of funding extended gate hours at marine terminals at the ports of Los Angeles and Long Beach. The TMF also provides a monetary incentive for shippers to move cargo traffic to off-peak evening hours as a means of reducing traffic congestion and air pollution levels attributable to truck idling time at port facilities.
- The Bureau commenced adding copies of terminal agreements to its electronic agreement library. Public access to terminal agreements will be through existing links on the agency website.
- The Commission's decision last year to allow expedited implementation of certain agreements resulted in a doubling of the percentage of low market share agreements that were exempted from the 45-day waiting period in 2006 as compared to 2005. More than 20% of all filings in FY 2006 qualified for the exemption.

### *Looking Ahead: 2007*

- The Bureau expects to complete its evaluation of the impact of the new agreement rules on the industry and the internal processes of the agency.
- The Bureau expects to further enhance public access to filed agreements, and to develop and implement procedures for the electronic filing of agreements.

### *Office of Economics and Competition Analysis*

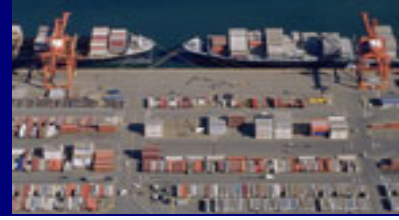
To keep the Commission apprised of current trade conditions, emerging commercial and economic trends, and the impact of regulations affecting waterborne liner transportation, the Bureau prepares studies and profiles of major trades, monitoring reports, economic analyses, and agreement/carrier profiles, and undertakes special projects to identify and track relevant competitive and economic activity in major U.S. trade lanes. The Bureau's monitoring activities include surveillance programs to identify: (1) concerted activity without an effective agreement on file with the FMC, or concerted activity exceeding the scope or authority of an effective agreement; (2) activity contravening the mandatory conference agreement provisions required by sections 5(b) and 5(c) of the 1984 Act; (3) the potential for, or emergence of, unreasonable transportation service/cost impacts that contravene the section 6(g) general standard; (4) controlled carrier activity in areas relevant to the FMC's administration of section 9 of the 1984 Act; (5) the occurrence of prohibited acts proscribed under section 10; (6) economic harm associated with unfair trade practices of foreign governments; and (7) whether the continued operation of an effective agreement in its present form is consistent with the statutes and current FMC decisions, rules, and policies. The Bureau develops profiles of major trade areas to assess carrier behavior under agreements, to determine compliance with regulatory requirements, and to ascertain the competitive posture of carriers, shippers, and shippers' associations within each trade.

### *Looking Back: 2006*

- The Bureau received 873 sets of minutes and 231 quarterly monitoring reports in FY 2006.
- The Bureau converted its FOCUS database of historical PIERS data into an SQL Server database, and implemented an intuitive point-and-click web-based PIERS data analysis system. Over 30 million records were converted and an additional 450,000 records are newly appended each month.
- The Bureau produced a variety of reports and analyses including a detailed study of service contract rate levels for major commodities moving between key port-pairs in the U.S.-China trade. That study assessed the pricing policies of the two largest Chinese state-owned carriers operating in this trade, pursuant to the rate standards for controlled carriers in section 9 of the Shipping Act.



# PROGRAM PERFORMANCE



- The Bureau initiated an economic review of the current and likely future operations of PierPASS and the procedures for and impact of the April 2006 increase of 25% in the TMF. The first stage of that review involved a series of meetings in the Los Angeles/Long Beach area with local officials, affected shippers, academics and PierPASS officials.

### *Looking Ahead: 2007*

- The Bureau intends to link the new PIERS data analysis system to the enhanced Agreements database to facilitate the review of new agreements or modification of existing agreements. The creation of a seamless link between these databases should facilitate and enhance the Bureau's monitoring activities and the production of various trade analysis reports.
- Given the impact of PierPASS on U.S. trade transiting the ports of Los Angeles and Long Beach, and its possible role as a model for addressing traffic congestion and air pollution issues at other U.S. container ports, the Bureau expects to conduct detailed research into the effectiveness of the PierPASS system and the impacts of its pricing procedures and cost allocation methods.

### U.S. Container Cargo Volumes (TEUs)

Year	U.S. Imports	Annual Growth	U.S. Exports	Annual Growth
2003	14,155,376	7.8%	7,255,026	8.8%
2004	15,981,873	12.9%	7,835,668	8.0%
2005	17,614,019	10.2%	8,374,142	6.9%
2006	19,159,611	8.8%	9,077,928	8.4%
Forecasts				
2007	20,613,744	7.6%	9,815,226	8.1%
2008	21,934,828	6.4%	10,531,750	7.3%

Source: Journal of Commerce/PIERS, Trade Horizons (Summer 2006).

### Office of Contracts and Tariffs

The 1984 Act allows ocean common carriers, either individually or through agreements, to negotiate and execute service contracts with one or more shippers or shippers' associations. Under service contracts, shippers make a commitment to provide a certain volume or portion of cargo over a fixed period of time and carriers commit to a specified rate and a defined service level. These contracts are filed confidentially with the FMC. A concise statement of certain contract terms, i.e., commodity or commodities involved, minimum volume or portion, duration, and origin and destination port ranges, is required to be published in carriers' or conferences' tariffs.

Service contracts offer an alternative to transportation under tariff terms. Contract flexibility enables carriers to tailor their transportation services to the specific commercial and operational needs of shippers. The confidentiality of contracts has spurred commercial innovations and brought greater efficiencies in the movement of cargo. Overall, the use of service contracts has continued to increase significantly due primarily to the efficiency, flexibility, and confidentiality of one-on-one negotiation of contracts between shippers and carriers.

# PROGRAM PERFORMANCE



Under final rules in the FMC's Docket No. 04-12, NVOCCs are permitted to enter into, and file with the FMC, NVOCC Service Arrangements with their shipper customers. These arrangements are similar to the confidential service contracts of common carriers and agreements of ocean common carriers.

The 1984 Act, as amended by OSRA, requires carriers and conferences to publish their tariffs in private electronic systems. Tariffs are to be made available, typically through Internet access, to any person, without time, quantity, or other limitation. Carriers are permitted under law to charge a reasonable fee for providing public access to their tariffs. The Bureau reviews and monitors the accessibility and accuracy of the private systems and reviews published tariff material for compliance with the 1984 Act's requirements. The Bureau continues to act upon applications for special permission to deviate from tariff publishing rules and regulations.

### *Looking Back: 2006*

- During FY 2006, the Bureau received approximately 50,000 new service contracts and 242,000 contract amendments. A new upgraded SERVCON system was implemented to streamline the filing process for all filers of service contracts and NSAs, and other major performance enhancements were made to the system.
- 3,996 active/current tariff location addresses for carriers, conferences, and MTOs were posted on the FMC's website during FY 2006. A total of 1,856 inactive/cancelled tariff location addresses were posted as well.
- An estimated 414 NSAs and 342 amendments were filed by NVOCCs. The Bureau completed an initial audit of filed NSAs and a related research project on the use of NSAs.
- The Bureau continued monitoring public accessibility of carriers' published tariffs, and a review, and completed an audit of unique carriers' automated tariff systems ("CATS").

### *Looking Ahead: 2007*

- The Bureau intends to automate the registration forms for filing NSAs (FMC Form 78) and service contracts (FMC Form 83).
- The Bureau will continue to participate in activities to help identify any service contract provisions that may bear on maritime security concerns.

## Bureau of Certification and Licensing

The Bureau of Certification and Licensing (1) licenses and regulates OTIs, including ocean freight forwarders and NVOCCs; (2) issues certificates to owners and operators of passenger vessels that evidenced financial responsibility to satisfy liability incurred for nonperformance of voyages or for death or injury to passengers and other persons and (3) manages programs assuring financial responsibility of OTIs and PVOs, by developing policies and guidelines, and analyzing financial documents. In carrying out these functions, the Bureau provides information and referrals in responding to a wide array of informal inquiries, and provides guidance with respect to licensing and bonding.

### Office of Transportation Intermediaries

The Office of Transportation Intermediaries has responsibility for reviewing and approving applications for OTI licenses, and maintaining and updating records about licensees. Without a license, an OTI may not legally operate in the United States. NVOCCs not domiciled in the U.S. are required to have a \$150,000 bond and designate a U.S. resident agent.

# PROGRAM PERFORMANCE



## *Looking Back: 2006*

- During FY 2006, the Commission received 500 new and 300 amended OTI applications, 475 new and 300 amended licenses were issued, 250 licenses were revoked, and an additional 55 non-U.S.-based unlicensed NVOCCs' bonds were cancelled.
- As a result Docket No. 04-02, *Optional Rider for Proof of Financial Responsibility*, OTIs may file an optional rider for additional proof of financial responsibility for U.S.-domiciled licensed NVOCCs servicing the U.S./PRC trade, allowing them to meet financial responsibility requirements imposed on NVOCCs by the PRC. During FY 2006, the FMC processed 5 PRC bond riders for a total of 44 riders.
- The FMC continued its outreach program and promoted awareness of licensing requirements.
- The FMC initiated a new project to modernize the Regulated Person Index (RPI), a Commission database containing up-to-date records of licensed OTIs, ocean common carriers and other entities. Among other data uses, the RPI is used to post on the Commission's website a list of OTIs which are compliant with OTI requirements, so that carriers and others can ascertain whether an OTI is properly licensed, bonded, and if required, has posted the location of its automated tariff.
- The Bureau developed a system to permit electronic submission of the OTI application, Form FMC-18. Testing by BCL staff is underway.

## *Looking Ahead: 2007*

- In FY 2007, the Bureau will initiate a rulemaking to release its automated FMC-18 filing system for public use. The Bureau will continue efforts in FY 2007 to design further improvements to the electronic FMC-18 system to expedite licensing, further explore integration of FMC databases and develop the functionality for electronic payments, e-signature capability and to support electronic filing of bond information.
- In FY 2007, the Bureau will enhance the OTI outreach program and promote awareness of OTI requirements. This program is envisioned to improve compliance by VOCCs and OTIs with the Shipping Act and reduce the number of transportation users currently impacted by action of unlawful operators.

# PROGRAM PERFORMANCE



Ocean Transportation Intermediary Statistics						
	Pre-OSRA	As of 9/30/02	As of 9/30/03	As of 9/30/04	As of 9/30/05	As of 9/30/06
Freight Forwarders	1,700	1,294	1,262	1,242	1,210	1,157
NVOCCs	2,200	1,298	1,317	1,401	1,455	1,561
Freight Forwarder / NVOCC	400	873	900	946	1,025	1,119
Foreign NVOCC Unlicensed	0	653	721	775	820	888
Foreign NVOCC Licensed	0	41	40	36	38	40
<b>TOTAL</b>	<b>4,300</b>	<b>4,159</b>	<b>4,240</b>	<b>4,400</b>	<b>4,548</b>	<b>4,765</b>

## Passenger Vessels and Information Processing

The Office of Passenger Vessels and Information Processing (“OPVIP”) has the responsibility of implementing the Commission’s Passenger Vessel Program in accordance with P.L. 89-777 (46 CFR 540). This program ensures that passengers are indemnified against casualty or non-performance from cruise lines. The OPVIP is responsible for reviewing applications for certificates of financial responsibility, managing all activities with respect to evidence of financial responsibility of passenger vessel owner/operators, and developing and maintaining all Bureau databases and records of OTI applicants and licensee.

### Looking Back: 2006

- The Passenger Vessel Program received 30 applications for Performance Certificates and processed 30, and received 30 and processed 34 applications for Casualty Certificates.
- OPVIP worked with four cruise lines which ceased operations or left the trade to ensure all passengers due refunds under P.L. 89-777 received them and that where coverage was evidenced by escrow, the escrow accounts were closed appropriately.
- A current list of OTIs in compliance with FMC requirements is maintained on the Commission’s website. This informs carriers and individuals regarding unlicensed OTIs, and is helpful to other government agencies.

## Monitoring Program

### Looking Back: 2006

- During FY 2006, the Bureau continued to enhance the PVO monitoring program by commencing its On-Site Monitoring Program to evaluate the financial responsibility of PVOs participating in the Commission’s PVO program.
- BCL briefed the Commission on its assessment of Passenger Vessel Operators’ Escrow Account Agreements. The purpose was to evaluate BCL’s existing program and business processes in relation to cruise line operators’ current practices involving the escrow process.

# PROGRAM PERFORMANCE



## *Looking Ahead: 2007*

- In FY 2007, the Bureau will continue its efforts to accomplish the Commission's goal related to assuring that the PVO program meets the contemporary needs of the cruising public. The Bureau will review the effectiveness of the PVO monitoring procedures previously implemented, make appropriate corrections in staff procedures and monitoring schedules, and follow up to ensure that new procedures are timely implemented.
- In FY 2007, the Bureau will continue working on a rulemaking with respect to the Commission's statutory obligation to the Passenger Vessel Financial Responsibility program derived from Sections 2 and 3 of P.L. 89-777.

## **Administration Program**

### *Office of the Director*

The Office of Administration ("OA") provides administrative support to the program operations of the Commission. The Director, OA, is responsible for the direct administration and coordination of the Office of Financial Management (formerly named the Office of Budget and Financial Management), the Office of Human Resources, the Office of Information Technology, and the Office of Management Services. Many of the functions and achievements of the OA are reflected below in the narratives for these offices.

The Director, OA, provides administrative guidance to the Offices of the Commissioners, Secretary, General Counsel, Administrative Law Judges and Operations, and administrative assistance to the Offices of the Inspector General and Equal Employment Opportunity. The Director is the FMC's Chief Acquisition officer, Audit Follow-up and Management (Internal) Controls Official, and Forms Control Officer, and serves as the agency's lead executive for strategic planning and implementation of the Government Performance and Results Act of 1993. The Director also serves as the FMC's representative, as Principal Management Official, to the Small Agency Council. As the Chief Financial Officer, the Director provides program oversight for the agency's budget and financial management responsibilities, and ensures agency compliance with the Federal Managers Financial Integrity Act, the Antideficiency Act, and the Debt Collection Improvement Act of 1996. The Deputy Director of Administration is the FMC's Chief Information Officer. He also serves as the FMC's Competition Advocate and Records Management Officer. Additionally, a staffer is the point of contact for the Small Business Administration's E-forms initiative.

### *Looking Back: 2006*

- During FY 2006, the Office guided the agency's continuing efforts to enhance its information technology program.
- The agency received an unqualified opinion in its FY 2006 financial statement audit.
- During FY 2006, the Office directed preparation of the Annual Performance Plan and the Annual Program Performance Report, as required by GPRA; prepared the Federal Activities Inventory Reform Act report, the Performance and Accountability Report (including the Management's Discussion and Analysis, and the Federal Managers Financial Integrity Act report); and transmittal letters for the Inspector General's semi-annual reports to Congress.
- The Office prepared the Agency Regulatory Plan and Semi-annual Unified Agendas, the SBPRA Implementation Plan, and the Final Regulatory Enforcement Act Report for FY 2005 to Congress, and coordinated completion of the agency's 44<sup>th</sup> Annual Report.

# PROGRAM PERFORMANCE



- The Office directed the effort to update and refine the agency's performance evaluation system, coordinated the agency's development of a pilot Individual Development Plan program, and coordinated a series of in-house functional briefings.

### *Looking Ahead: 2007*

- In FY 2007, OA will continue to implement the Chairman's policy directions aimed at refining and enhancing agency administrative programs and operations; monitor the accomplishment of agency performance goals; initiate further information technology improvements; and work with senior managers to ensure effective strategic succession planning.
- During FY 2007, OA will take the lead in assuring an effective agency-wide computer security program, that the agency's financial management system receives an unqualified opinion in annual financial audits, and that the agency complies fully with the HSPD-12 initiative.

### Office of Financial Management

The OFM administers the Commission's financial management program and is responsible for offering guidance on optimal utilization of the Commission's fiscal resources.

### *Looking Back: 2006*

- During FY 2006, OFM coordinated and prepared budget justifications and estimates for the FY 2007 Congressional budget and FY 2008 OMB budget.
- During FY 2006, OFM developed a process for the individual offices/bureaus to forecast the cost of annual goals in accordance with the Commission's strategic goals, and prepared monthly allocation reports to provide management with meaningful, timely expense data by program.
- OFM worked with BPD staff and auditors regarding the Audit of the Fiscal Year 2005 Financial Statements (resulting in an unqualified opinion), and worked with the Director of Administration to finalize and produce the Commission's 2005 Management's Discussion and Analysis and the Commission's 2005 Performance and Accountability Report and to initiate work on the 2006 versions of those documents.
- OFM coordinated and implemented the Commission's migration to NFC's new web-based Time & Attendance reporting system.

### *Looking Ahead: 2007*

- During FY 2007, OFM will facilitate the implementation of Pay.gov for agencywide and industry acceptance of electronic payments.
- During FY 2007, OFM will migrate to an updated platform for the Paperless Check Conversion through Federal Reserve Bank in Cleveland.
- OFM will strive to ensure that the agency's financial management system receives an unqualified opinion in its annual financial audit.

### Office of Human Resources

The OHR plans and administers a complete human resources management program.



# PROGRAM PERFORMANCE



### *Looking Back: 2006*

- During FY 2006, OHR served as advisor for certain employee development programs and activities to address executive succession, for example, coordinated recruitment for a Senior Executive Service (“SES”) Candidate Development Program and an Emerging Leaders Program.
- OHR conducted a comprehensive training program in accordance with the agency’s strategic and performance plans, including revising internal procedural guidance and processes to capture training-related expenses and coordinating group training.
- OHR initiated various administrative actions related to the Enterprise Human Resources Integration (EHRI) project, joined the Small Agency Human Resources Consortium to participate in a cost-effective “FastTrack” e-OPF implementation, and administered action on other e-Gov initiatives, such as Recruitment One-Stop, e-payroll, and e-learning.

### *Looking Ahead: 2007*

- During FY 2007, OHR plans to implement pertinent provisions of the HSPD-12 initiative.
- OHR will complete implementation of e-OPF.

### *Office of Information Technology*

The Office of Information Technology provides management support with respect to information technology (“IT”) to the program and administrative operations of the Commission, and thus is responsible for ensuring that the Commission’s IT program is administered in a manner consistent with applicable rules, regulations and guidelines.

### *Looking Back: 2006*

- During FY 2006, OIT upgraded the FMC’s network security infrastructure to include SSL VPN.
- During FY 2006, OIT completed the implementation of the enhanced Internet-based Service Contract Filing System.
- OIT conducted the requirements analysis and inventory to meet the Internet Protocol version 6 (IPv6) government-wide initiative.
- OIT further developed the disaster recovery/continuity of operations plans for the agency.

### *Looking Ahead: 2007*

- During FY 2007, OIT plans to complete the IPv6 upgrade and upgrade existing applications for interoperability with IPv6.
- During FY 2007, OIT will begin the analysis for upgrading the FMC’s existing desktop operating system, software applications, and equipment.

### *Office of Management Services*

The OMS is responsible for procuring and furnishing all supplies, equipment and services necessary and required to support the day-to-day operations and overall mission objectives of the Commission.

# PROGRAM PERFORMANCE



## *Looking Back: 2006*

- During FY 2006, OMS upgraded the procurement services provided through BPD from platform services to full service support.
- During FY 2006, OMS acquired and coordinated lease renewals for the Area Representatives in Los Angeles, Seattle, South Florida, and office space expansion in New York, and coordinated space renovations at Headquarters to more fully implement the recent agency realignment.

## *Looking Ahead: 2007*

- During FY 2007, OMS will work with GSA, DHS, and other tenant agencies at FMC's facilities to upgrade and/or improve the buildings' security measures and emergency preparedness for better control of office space access and safety of agency personnel.
- During FY 2007, OMS, in coordination with the agency's other administrative offices, plans to implement HSPD-12 (the new government-wide ID requirements).



# PROGRAM PERFORMANCE



## Annual Performance Report

### Introduction

The Commission has prepared the following Annual Program Performance Report for FY 2006, as required by GPRA, and in accordance with OMB Circular No. A-11, Part 2. The Commission's actual performance in FY 2006 is compared with the projected levels of performance established in the agency's FY 2006 Final Annual Performance Plan (See Appendix E for a copy of the Agency's FY 2006 Plan).

This progress report covers the Commission's efforts in FY 2006 to foster an equitable, secure, and market driven ocean transportation industry. The Commission focused on refining the agency's business practices, specifically on revising and updating internal procedures in line with the amendment of Commission regulations. This includes facilitating the use and dissemination of filed material in order to improve analysis of required filings and responsiveness to inquiries, and implementation of procedural changes to enhance the effectiveness of agency operations. We broadened our efforts to implement the President's Management Agenda initiative to expand electronic government by improving the management of information through the more effective use of available technologies. We also streamlined the delivery of services and information to regulated entities, other government agencies and the public, and further automated agency systems and enhanced the use of agency databases to allow staff to discharge program responsibilities more effectively. Further, we simplified and refined the agency's performance appraisal system and developed a strategic succession plan for agency senior executives and non-SES upper level managers.

We achieved overall success in reaching our stated goals and objectives, accomplishing most. We continue to find that the planning and direction required by the GPRA process facilitates our efforts to attain results-driven objectives.

We have forwarded this report to the President, with a copy to the Director, OMB, and appropriate Congressional committees. Additionally, we have placed this document on our Internet website to ensure that it is readily accessible to interested parties, and have advised all Commission employees to take the time to review it.

We have sought to be direct and concise in the manner in which we are presenting the relevant information. For organizational purposes, and to facilitate review, this report reflects our revised mission statement, and briefly summarizes it. We then list the Strategic Goals we have identified as crucial to accomplish our mission. Our agency Performance Goals are linked directly to our Strategic Goals. While our FY 2006 Final Annual Performance Plan contains specific Performance Goals, many of the Commission's resources were dedicated to its various day-to-day activities. These steady state activities are not specifically addressed in this Report, as they are discussed in full in other documents, such as the agency's Annual Report and President's Budget. Instead, this Report focuses on the agency's annual Performance Goals and how they were achieved. Thus, we have organized this report by the five Strategic Goals under which we operated in FY 2006. For each of these Goals, we state the Performance Goals that are directly related to them. We then state the target level of performance for each Performance Goal, and our actual level of performance regarding that Goal. For any Performance Goal that was not met or not substantially completed, we have provided a specific explanation why the Goal was not met, along with the actions and schedule for meeting the Goal in the future. Additionally, the last section of this report identifies the Performance Goals from our fiscal years 2003, 2004 and 2005 Program Performance Reports which we previously reported as not having been accomplished or substantially completed, and explains the actions we subsequently took regarding the requirements of each such Goal.

# PROGRAM PERFORMANCE



The Commission acknowledged in its 2003 Strategic Plan that the basic principles of liner shipping were being modified, as the shipping industry continued to restructure itself while shippers were placing an increasing importance on rates and services. Given the significant issues the agency was facing, in 2003 it identified the actions necessary to ensure that its oversight and legislative initiatives produced a competitive and nondiscriminatory trading environment in the U.S. ocean commerce that was in harmony with and responsive to international shipping practices. During 2004, the Commission built on that analysis and focused its energies and efforts on re-evaluating its organizational structure to ensure that it was aligned and managed in a manner best suited to accomplish its mission with a minimum of government intervention and regulatory costs. In 2005, the Commission focused on staff and program issues, and emphasized outreach for a more open dialogue with our industry partners and stakeholders in light of the changing dynamics of the ocean shipping industry. In 2006, the agency continued to focus on staff and program issues, and emphasized succession planning and expanding electronic government.

## FMC Strategic Goals

In recognition of its stated mission, and in conformity with the Shipping Act, the FMC established the following five strategic goals:

1. *Efficient Regulatory Process:* Provide a timely, efficient and decisive regulatory process, including alternative dispute resolution, to enable all segments of the industry to operate more effectively, with a minimum of regulatory costs.
2. *Compliance:* Promote efficiency and fairness in U.S. foreign waterborne commerce through various means, including outreach and monitoring, to protect the public and assist stakeholders in achieving compliance with ocean transportation statutes administered by the FMC.
3. *Balanced Enforcement:* Foster economic efficiencies, reliance on marketplace factors and maritime security by administering U.S. shipping statutes in a balanced and equitable manner to redress anticompetitive actions and other unlawful activities.
4. *Technological Efficiencies:* Employ technological enhancements to improve efficiency and to facilitate the exchange of information.
5. *Management Capabilities:* Ensure the FMC has the appropriate organizational framework and management systems to carry out its statutory mandates.

These strategic goals addressed all important FMC statutory, programmatic, and management responsibilities. They were developed with a specific focus on accomplishing the basic thrusts of our mission. The Commission determined that achieving its mission-driven goals would enable it to address effectively the external factors it faced, while assuring an equitable and efficient administration of the shipping statutes under its jurisdiction.

# PROGRAM PERFORMANCE



## Progress in Achieving Performance Goals

The Performance Goals of the Commission's FY 2006 Final Annual Performance Plan were linked directly to the Commission's Strategic Goals; they were identified as the appropriate means for accomplishing our mission. This section of the report assesses our actual performance in addressing these Goals.

### Strategic Goal: Efficient Regulatory Process

Provide a timely, efficient and decisive regulatory process, including alternative dispute resolution, to enable all segments of the industry to operate more effectively, with a minimum of regulatory costs.

#### Performance Goal 1:

By 9/30/06, make selected Opening/Reply Briefs & Exceptions & Replies in docketed proceedings available to the public through the Commission's website.

**Progress:** During FY 2006, the Commission completed this goal. Several significant dockets were identified and key documents filed in each proceeding were scanned, and posted on the Commission website. The key documents included the initial filing (i.e., complaint), notice of filing, opening and reply briefs, the Administrative Law Judge's initial decision, exceptions and replies (if any), and the Commission's final decision. The Commission plans to continue to make these types of documents, as well as other important filings and issuances in docketed proceedings, available in electronic form through its website.

#### Performance Goal 2:

By December 2005, complete project for scanning & posting historical Commission decisions issued between 1989 & 1996.

**Progress:** This performance goal was significantly completed during the fiscal year. Historical Commission decisions issued between 1989 and 1996 were identified, scanned, and stored electronically. Decisions from 1989-1991 were posted on the Commission's website. The balance of the electronic documents (from 1992-1996) will be posted on the Commission's website by the end of October 2006 – at which time this goal will be completed.

#### Performance Goal 3:

By 6/30/06, provide the option of filing carrier & marine terminal agreements online.

**Progress:** While this performance goal has not yet been accomplished, the Commission has done the following: determined the parameters of the process in terms of security issues, e-signature and e-payment capabilities, and format and storage/retrieval questions; investigated whether, and to what extent, this project could be incorporated within other ongoing IT initiatives; and vetted the idea with industry contacts. The concept of e-filing of agreements received highly favorable reactions from our industry contacts, particularly with respect to the notion of e-payments. As more funding becomes available to address IT initiatives, the Commission anticipates completing this project, hopefully in FY 2007.

# PROGRAM PERFORMANCE



## Progress in Achieving Performance Goals (continued)

### Strategic Goal: Compliance

Promote the development of U.S. exports and the efficiency of ocean shipping by monitoring and assisting stakeholders in achieving compliance with shipping statutes administered by the FMC.

#### Performance Goal 1:

By 9/30/06, enhance use of SC and NSA data, and evaluate SERVCON system functionality.

**Progress:** The performance goal has been achieved. During FY 2006, the automated SERVCON system for filing service contracts and NVOCC service arrangements (“NSAs”) was upgraded. Major performance enhancements were made to the system such as screen display cleanups, faster retrieval and more reliable architecture. The new SERVCON has the same look as the previous system with the exception of a small change regarding the menu selection screens to make it more straightforward for external filers of service contracts. In the upgraded system, filers are able to view only menu selections that they need and are able to access, e.g., File Contracts, View Contents of Personal Directory Before Uploading, or File Corrected Transmission/Copy, rather than additional menu items such as Management, Search, or View Flagged Contracts, that are for FMC internal users. Further, the system’s upgraded search feature enables internal users to sort and retrieve data faster and more accurately, and to create profiles regarding specific carrier service contract or NSA activities to use in the development of trade profiles data and preparation of reports. In addition, the upgraded SERVCON system facilitates an automated rather than manual filing process for external filers to submit/upload service contract and NSA filings into the system, and accommodates a placeholder feature for carrier organization numbers. The placeholder allows service contracts that have been filed under a carrier’s previous name to be amended under a carrier’s new organization number resulting from a name change, without having to re-file the original contract and past amendments.

#### Performance Goal 2:

Evaluate OTI rules & suggest changes, if necessary, to address industry & agency concerns.

**Progress:** The Commission has met this goal. The Commission initiated a re-evaluation of its regulations of OTIs, examined its business processes and policies with respect to OTIs, and sought to construct a more comprehensive regulatory model reflecting state of technology and new and future trends in the OTI industry. Automating the Form FMC-18, the application form required to be licensed as an OTI, is well underway and is just one example of changes to FMC business processes to improve the timeliness of licensing decisions. Future rulemaking to implement changes to the Commission’s OTI policies and procedures will be commenced in FY 2007. The Commission continues its efforts to directly inform OTIs of licensing requirements and assist small businesses in meeting the application and licensing requirements.

### Strategic Goal: Balanced Enforcement

Foster economic efficiencies, reliance on marketplace factors and maritime security by administering U.S. shipping statutes in a balanced and equitable manner to redress anticompetitive actions and other unlawful activities.

#### Performance Goal 1:

By 9/30/06, align BTA’s MR program for carrier agreements with the amended MR regulations in FMC Docket No. 03-15.

**Progress:** This performance goal has been achieved. Prior to the effective date of the Commission’s revised monitoring reports and meeting minutes regulations, the Commission met with various attorneys representing the major carrier agreements to explain the new reporting requirements. In addition, letters were sent to carrier agreements explaining their new reporting requirements under the Commission’s revised regulations.

# PROGRAM PERFORMANCE



## Progress in Achieving Performance Goals (continued)

Requests for partial waiver of specific reporting requirements were granted in cases where the agreement could continue to be effectively monitored by the Commission. Subsequent to the receipt of the revised monitoring reports and meeting minutes submitted by the agreement parties, the reports were reviewed for content and compliance. In cases where data was incomplete or raised questions, staff followed up with telephone calls, letters or meetings to outline the problems found with the information submitted to the Commission. Any remaining issues are in the process of being rectified. During FY 2006, two extensive compliance checks were conducted to ensure that agreements were submitting monitoring reports and/or meeting minutes in accordance with their specific report requirements. All agreements have now substantially complied with the Commission's new monitoring regulations.

### Performance Goal 2:

Participate effectively in ITDS program.

**Progress:** This performance goal has been met. During FY 2006, staff attended numerous meetings related to completion of the "Business Blueprinting" process necessary to integrate import, inspection and licensing functions of Federal agencies within Release 5 of the Automated Commercial Environment ("ACE") program. In June 2006, the Commission was invited to nominate a representative to the ITDS Board of Directors. A Commission senior executive was chosen to fill that role. In addition, a senior manager serves on the ITDS legal and policy committee. Various Commission staff have completed background investigations and been granted interim access to ITDS through the ACE portal.

## Strategic Goal: Technological Efficiencies

Employ technological enhancements to improve efficiency and to facilitate the exchange of information.

### Performance Goal 1:

Electronic payment of user fees.

**Progress:** The agency has not yet met this goal. Subsequent to initial planning efforts, the agency determined that limiting the potential use of an electronic payment option to user fees was too narrow a focus. Instead, the agency has begun to explore options for payment of fines and penalties as well, such as utilizing Pay.gov to accept secure electronic payments directly from an entity's bank account or credit/debit card. Staff have been in contact with the Department of Treasury, which coordinates Pay.gov, to gather further information as to agencywide usage and requirements. The process for implementation of such a process is quite complex. However, assuming no significant obstacles, it is anticipated that implementation will take place late in FY 2007.

### Performance Goal 2:

Analyze information collections of the agency and update them as necessary to ensure they are meeting the needs of the users in the most efficient way possible, by being centralized, secure, and containing no unnecessary duplication.

**Progress:** This goal has been accomplished. The agency fulfilled the requirements of this goal by reviewing its information systems and modifying and updating where appropriate. A Data Information Task Force was established to gather information and valuable input from representatives across the agency. Several information collections were modified and updated in response to expressed needs from agency staff. The agency's enforcement case tracking system and the consumer complaints data base were transferred from older protocols into relational database configurations in order to expand user access, security, transparency and speed of access. The work of the Data Information Task Force was taken over by an agency Plan of Action and Milestones strategic planning initiative. Several information collections are being significantly expanded and made available to users for electronic filing.



# PROGRAM PERFORMANCE



## Progress in Achieving Performance Goals (continued)

### Performance Goal 3:

Streamline agency procurement procedures, including: (1) credit card micro-purchases & (2) receiving & accepting of goods & services.

**Progress:** This performance goal has been met. The Commission has entered into an agreement with the Bureau of Public Debt to assume certain procurement functions. Further, the agency has a framework for a standard operating procedure to address credit card micro-purchases and the receipt and acceptance of goods and services, developed in conjunction with recommendations made by the Bureau of Public Debt. While work continues on refining and finalizing the standard operating procedures, the essential elements are in place.

## Strategic Goal: Management Capabilities

Ensure the FMC has the appropriate organizational framework and management systems to carry out its statutory mandates.

### Performance Goal 1:

Simplify and refine the agency's performance appraisal system so that expectations are clearly reflected, performance properly assessed via appropriate measures, and the system facilitates growth and development.

**Progress:** This performance goal has been substantially completed. A task force of senior and mid-level managers developed revised guidelines and a new performance appraisal form which simplifies the current process, facilitates consistent approaches to employee appraisals, and provides a clearer, easier to use framework for reflecting expectations and assessing performance. This proposal is under review by senior managers, and after roll-out of the new form and training for managers and all staff, we anticipate implementation of the revised approach in January, 2007. The agency also has introduced, via a pilot program, an individual development program which will be used as a tool to help guide careers and develop/enhance skills; the employee and supervisor agree on career objectives to be pursued and activities that can help achieve those objectives, then activities are selected to provide the employee with the opportunity to gain knowledge, develop skills and operate in specific circumstances that can broaden perspectives. It is anticipated that after the pilot program concludes early in FY 2007, all agency employees will utilize IDPs, which will work together with performance plans to frame an employee's activities over a given period.

### Performance Goal 2:

Develop strategic succession plan for agency senior executives & non-SES upper level managers.

**Progress:** This performance goal is complete. During FY 2006, the Commission instituted a Senior Executive Service Candidate Development Program, selecting several employees who have already begun their individual educational and training programs. Further, during FY 2006, the agency instituted its first ever Emerging Leaders Program, designed to provide career development opportunities and tailored work experience for mid-level staff and managers. The initial participants have been selected and are close to finalizing their specific development plans for the program. The Commission plans on conducting a second version of this program later in FY 2007, relying on lessons learned in this first effort to refine it as necessary.



# PROGRAM PERFORMANCE



## FY 2003, 2004 and 2005 Performance Goals Not Achieved

Prior to FY 2005, Performance Goals were listed by Budget Program Activity rather than by Strategic Goal.

This section discusses the goals from our FY 2003 Annual Performance Plan which we reflected in our FY 2003 Progress Report as not achieved or not substantially completed. We explain in this section the actions we have taken to address these goals.

### Performance Goal 3 (Certification and Licensing Program Activity):

Enhance informal complaint database to include more specific details on type of complaints against cruise operators.

**Progress:** The goal has been completed. During FY 2006, the pilot informal complaints database developed at the end of FY 2005 was tested and evaluated. Based on that evaluation, it was determined that the Commission's needs would be more appropriately met by developing the database with a more modern, more flexible, web-based software application. The database, along with standard data entry screens, standard queries and reports, and the ability to run customized reports was completed, tested, and deployed during FY 2006. The system is fully operational with staff entering and retrieving data on a daily basis. Other Commission offices have been given access to the database to use as a research tool in their respective program areas. As with all systems, the database will be evaluated periodically to modify programming as needed.

This section discusses the goals from our FY 2004 Annual Performance Plan which we reflected in our FY 2003 Progress Report as not achieved or not substantially completed. We explain in this section the actions we have taken to address these goals.

### Performance Goal 1 (Certification and Licensing Program Activity):

By 9/30/04, modernize the FMC's RPI database.

**Progress:** While this goal has not been met, the Commission continues to make significant progress to update the RPI system. The reprogramming of the RPI is near completion. The system has been enhanced to include an option to generate various reports. Final testing is underway and the Commission expects the system to become operational in early FY 2007. In addition, new enhanced query functionality and data presentation format are being developed for delivery in early FY 2007.

### Performance Goal 2 (Certification and Licensing Program Activity):

Complete a rulemaking by 9/30/04 that makes the changes necessary to ensure that PVOs' financial responsibility requirements for nonperformance are providing appropriate protection for the public.

**Progress:** The Bureau continues working on the rulemaking to ensure that the Passenger Vessel Program provides adequate consumer protection without being unduly burdensome on the industry. The staff continues to analyze financial information related to certain cruise lines' operations, etc., and efforts remain ongoing as the Commission continues to pursue an updated Rule.

# PROGRAM PERFORMANCE



## Progress in Achieving Performance Goals (continued)

This section discusses the goals from our FY 2005 Annual Performance Plan which we reflected in our FY 2005 Progress Report as not achieved or not substantially completed. We explain in this section the actions we have taken to address these goals.

### Strategic Goal: Efficient Regulatory Process

#### Performance Goal 2:

Develop options for updating and modernizing the Commission's Rules of Practice & Procedure, including exploring the ability to utilize technology for electronic filing.

**Progress:** After reassessing this goal, the Commission has determined to eliminate it for the foreseeable future. The Commission has determined that recent staffing changes and the need to complete certain related technological initiatives are necessary before we can effectively revise our Rules of Practice and Procedure. To do otherwise could result in additional cost and duplication of effort.

#### Performance Goal 3:

Develop an automated FMC-18 to permit electronic filing and explore the feasibility of electronic payment and e-signature capability.

**Progress:** While the Commission has not completed this goal, progress has been made in developing an automated Form FMC-18 filing system. During FY 2006, the Commission further defined system requirements and user needs in order to migrate from the present paper-based OTI licensing application Form FMC-18 to an automated Form FMC-18. During this period, software development expertise was brought into the agency and the first phase of the automated system, the electronic filing component, was developed. Internal testing of the system's electronic filing capabilities has been completed, refinements have been integrated, and the Commission is presently addressing security issues. It is anticipated that the first phase, optional electronic filing, will be implemented in the winter of 2006, at the conclusion of a brief external testing period in the fall. The second phase involves streamlining and automating internal processing procedures. Enhancements to the system, including electronic payments, e-signatures, and electronic filing of bond information are scheduled to be implemented in future releases. It is anticipated these changes will permit a more thorough review of applications, decrease costs, and increase productivity.

### Strategic Goal: Compliance

#### Performance Goal 1:

Develop public relations strategies and programs.

**Progress:** This performance goal has been met. In FY 2006, the Commission continued to formalize the development of public relations strategies and programs begun in 2005. Several new lists of government and media contacts were compiled and used to inform the public of Commission actions. Public relations policies throughout the agency were collected and evaluated to determine the best overarching strategy. The Commission continued to develop updated educational and informational materials for outreach events.

# PROGRAM PERFORMANCE



## Progress in Achieving Performance Goals (continued)

### Performance Goal 2:

Enhance industry outreach.

**Progress:** This goal is closely related to the Performance Goal Number 1, “Develop public relations strategies and programs” and was also further developed in FY 2006; thus, this goal has been accomplished. As part of our outreach efforts, the Commission designed and produced informational material including brochures, a banner, and other handouts that were used at industry conferences and other public gatherings. There was increased Commission presence at industry events and conferences. The staff also, increased its outreach efforts on an individual basis through telephone calls and personal visits. In addition, the Commission continued to host industry leaders to facilitate dialog between the staff and regulated community.

### Performance Goal 3:

Provide opportunity for VOCCs to establish a “best practices” program to limit participation of unlawful entities in ocean transportation.

**Progress:** This goal has not yet been completed. The original Performance Goal of providing VOCCs with an opportunity to establish “best practices” to restrict service to unlawful entities has been revised and enlarged to include “best practices” by NVOCCs, as well. There are nearly 4,000 licensed OTIs and their participation in developing best practices is critical to the overall efforts. The principals underlying effective “best practices” have been developed, along with model provisions covering tariff and service contract operations, and have been reviewed by, and discussed among, senior staff. Review by the Commission is scheduled for early FY 2007, with implementation, including publication on the Commission’s website and outreach efforts, to begin by the end of the first quarter of FY 2007.

# PROGRAM PERFORMANCE



## Addressing the President's Management Agenda

### Overview

The President's Management Agenda is comprised of five Government-wide initiatives to improve Government performance in 1) strategic management of human capital, 2) budget and performance integration, 3) competitive sourcing, 4) expanded electronic government, and 5) improved financial management. The FMC has made strides in a number of these areas.

### Strategic Management of Human Capital

An SES Candidate Development Program was implemented during the fiscal year to address succession planning needs. For the first time, in FY 2006 the agency implemented an Emerging Leaders Program for long-range succession planning, to provide mid-level staff and managers an opportunity to develop targeted skills and to provide career development opportunities. The FMC also initiated a pilot Individual Development Plan Program to more effectively target career development needs of individual employees and improve overall agency skill levels.

The FMC reviewed its performance appraisal system to ensure that it is a viable tool for enhancing skills, guiding career development, and assessing agency and employee progress. The agency continued to offer a college tuition reimbursement program as one option available to employees to improve skills needed in the workplace. The FMC also offers a range of flexible work options and employee-friendly and family-friendly programs and policies. These programs include transit subsidies, employee assistance, and adjustable work schedules, among others.

The FMC's recruitment practices utilize a wide range of alternatives such as those under the Direct-Hire Authority, delegated examining, and the Veterans Employment Opportunities Act, and the agency administers action on e-Government initiatives such as Recruitment One-Stop, e-payroll, Enterprise Human Resources Integration, and e-learning.

### Budget and Performance Integration

The FMC continues to make progress in achieving budget and performance integration. In FY 2005, the FMC began an agency-wide assessment of our strengths, weaknesses, opportunities and threats to assist us in identifying our initiatives and priorities for the future, along with the resources necessary for successful operations. In FY 2006, we continued that process, with internal working groups targeting specific issues for further development.

The Strategic Plan and Annual Performance Plan continue to represent the fundamental framework for the agency's planning and budgeting activities. Funding and FTE levels are integrated into the agency's performance planning document by strategic goal, to identify clearly the budgetary and staff resources that are committed to each goal.

FMC program managers receive reports which show the full cost of their programs, and reports which compare expenditures to budget allocations. These reports allow managers to plan and manage their programs more efficiently throughout the budget year.

### Competitive Sourcing

The FMC is committed to acquiring goods and services in an efficient manner. The FMC submitted its FY 2006 Federal Activities Inventory Reform Act Inventory to OMB in June 2006. The Inventory identifies 77 of the agency's 126 FTEs as commercial activity FTEs. No challenges to its commercial inventories have ever been received.

# PROGRAM PERFORMANCE



## Competitive Sourcing (continued)

The Commission is a very small agency whose personnel perform many different activities. The number of FTEs has declined from 199 in 1993 to 126 in the President's Budget for FY 2006 (the FMC ended FY 2006 with 122 FTEs). One way in which the Commission has been able to streamline and improve efficiencies is by committing budgetary resources to a variety of contracts for support services, including interagency/cross-service and commercial agreements for payroll, accounting, human resources processing, travel, health, excessing property, security guard, transit benefits, office space rent, messenger, and equipment maintenance services.

The Commission determined that a core component of in-house resources are needed for the Commission to carry out its statutory responsibilities. It is essential that the Commission, as an independent agency with regulatory responsibilities, has a core group of technically qualified individuals to monitor, analyze and investigate conditions in the U.S. foreign commerce and activities of the maritime industry. It also is critical that the agency has sufficient in-house staff that are knowledgeable and impartial in their dealings with foreign governments, the industry, Congress and other Government agencies. Therefore, the Chairman made the determination, as in years past, to list those 77 FTEs as exempt from competition (Reason Code A), i.e., the commercial activities are not appropriate for private sector performance.

The Commission is committed to improving and streamlining operations to carry out its mission and strategic goals, as is proven by its decreasing FTEs over a period of years.

## Expanded Electronic Government

The FMC has planned and continues to implement the expansion of electronic government. During the fiscal year, the FMC made a number of filings in significant docketed proceedings available on the agency's website, as well as a significant number of historical agency decisions. Further, the FMC's SERVCON system was upgraded; major performance enhancements were made to the system, such as faster and more accurate retrieval and a more reliable architecture which facilitates an automated rather than a manual filing process for external filers.

The FMC upgraded service and support for the agency's online Agreements Library, and also upgraded a number of internal databases to streamline and simplify agency operations during FY 2006. Also, work continued on automating the submission process for certain FMC forms used by regulated entities. Internally, all forms used by FMC staff were made electronically fillable. The agency also continued to provide additional content to its new website.

Senior managers are aware of the requirements and benefits of electronic government and are planning and initiating program changes to incorporate the expanded use of electronic government in day-to-day activities. Employees are required to complete on-line information technology security refresher training on an annual basis. The FMC continues to upgrade its network security infrastructure and provide a high-quality information technology program to its staff. The agency is committed to continuing its integration of information technology policies and procedures, and to continue to expand opportunities for e-government activities. In FY 2006, the agency mitigated two significant deficiencies related to its information technology program which were identified in an earlier FMFIA Report. Recently, the Inspector General, in his FY 2006 FISMA Review, identified a significant deficiency related to IT security documentation, and the FMC plans to correct the deficiency with all deliberate speed.

## Improved Financial Performance

The FMC received an unqualified opinion on its financial statements in FY 2006, for the third straight year. The FMC will continue to strive to achieve unqualified audit opinions.

In support of the e-government initiative, the FMC has interagency agreements with the BPD to provide general-ledger accounting, travel, procurement and financial reporting services, and the NFC to provide payroll services.

Our current systems satisfy operational and reporting requirements and provide timely, accurate and useful information to the agency. The FMC's systems are in substantial compliance with Federal laws and regulations.



# CHAPTER THREE



## AUDITORS' REPORTS AND FINANCIAL STATEMENTS



Fiscal Year 2006



# AUDITORS' REPORTS AND FINANCIAL STATEMENTS

## Message from the Chief Financial Officer

I am pleased to present the FMC's financial statements for FY 2006. Our independent auditor has rendered an unqualified opinion on our FY 2006 financial statements. The FMC now has received an unqualified opinion in each of the three years in which independent financial audits have been conducted, which attests to the FMC's commitment to high quality financial management.

The FMC's financial condition is sound with respect to having sufficient funds to meet its mission and having sufficient internal controls in place to ensure its budget authority is not exceeded.

The FMC has fully integrated senior managers into the budget planning and execution process and keeps them fully informed of and able to track spending against budget allocations. This approach, along with a collaborative strategic planning process, has resulted in greater management accountability. Our financial management staff is to be commended for consistently finding ways to provide budget information in concise, reliable, and understandable formats. We have emphasized teamwork among our staff, which extends into the program, financial management and audit areas to promote results, accountability and efficiency. For FY 2006, we completed corrective actions on a number of audit recommendations. Quarterly financial statements were issued 15 days after the end of the quarter, and our FY 2006 Performance and Accountability Report is being published on November 15, 2006.

As reported more fully in *Chapter 1* in the section entitled *Federal Managers' Financial Integrity Act*, the Commission mitigated two open significant deficiencies during FY 2006. Recently, our Inspector General completed his FISMA Review and identified one significant deficiency in the agency's information technology security program for which corrective action is planned for the near future. We anticipate no major impediments to the correction of that newly identified deficiency.

The FMC is committed to efficient and effective management of agency resources. We will focus in FY 2007 on maintaining an unqualified audit opinion and eliminating the non-financial significant deficiency identified by the agency's Inspector General. I anticipate that in FY 2007 the FMC will continue its high level of quality financial management.

Sincerely,



Bruce A. Dombrowski  
November 15, 2006



# AUDITORS' REPORTS AND FINANCIAL STATEMENTS

## PRINCIPAL STATEMENTS

### LIMITATIONS OF THE FINANCIAL STATEMENTS

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

The Federal Maritime Commission's financial statements were audited by Clifton Gunderson LLP, under contract to the FMC's Office of the Inspector General.

# AUDITORS' REPORTS AND FINANCIAL STATEMENTS

## Independent Auditor's Report

### Independent Auditor's Report

To the Federal Maritime Commission

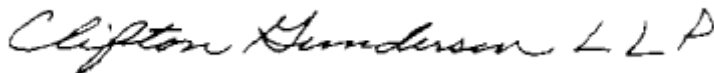
We have audited the accompanying balance sheets of the Federal Maritime Commission (FMC) as of September 30, 2006 and 2005, and the related statements of net cost, changes in net position, budgetary resources, financing, and custodial activity for the years then ended. These financial statements are the responsibility of FMC's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America; the standards applicable to the financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 06-03, *Audit Requirements for Federal Financial Statements*. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above, present fairly, in all material respects, the financial position of FMC as of September 30, 2006 and 2005 and its net cost; changes in net position; budgetary resources; reconciliation of net cost to budgetary obligations; and custodial activity for the years then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued our reports dated November 2, 2006 on our consideration of FMC's internal control over financial reporting and on our tests of FMC's compliance with certain provisions of laws, regulations, contracts, grant agreements and other matters. The purpose of those reports is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not provide an opinion on the internal control over financial reporting or on compliance. Those reports are an integral part of our audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

Our audits were made for the purpose of forming an opinion on the basic financial statements taken as a whole. The Management's Discussion and Analysis is not a required part of the basic financial statements but is supplementary information required by accounting principles generally accepted in the United States of America. We have applied certain limited procedures to such information, which consisted principally of inquiries of FMC management regarding the methods of measurement and presentation of the supplementary information. However, we did not audit the information and express no opinion on it.



Calverton, Maryland  
November 2, 2006

# AUDITORS' REPORTS AND FINANCIAL STATEMENTS

## Independent Auditor's Report on Compliance and Other Matters

### Independent Auditor's Report on Compliance and Other Matters

To the Federal Maritime Commission

We have audited the financial statements of the Federal Maritime Commission (FMC) as of, and for the year ended September 30, 2006, and have issued our report thereon dated November 2, 2006. We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 06-03, *Audit Requirements for Federal Financial Statements*.

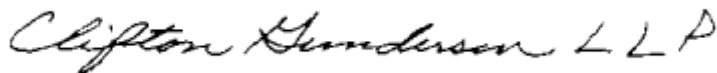
The management of FMC is responsible for complying with laws and regulations applicable to FMC. As part of obtaining reasonable assurance about whether FMC's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material affect on the determination of financial statement amounts and certain other laws and regulations specified in OMB Bulletin No. 06-03, including the requirements referred to in the Federal Financial Management Improvement Act (FFMIA) of 1996. We limited our tests of compliance to these provisions and we did not test compliance with all laws and regulations applicable to FMC.

The results of our tests of compliance with laws and regulations described in the preceding paragraph, exclusive of FFMIA, disclosed no instances of noncompliance with laws and regulations and other matters that are required to be reported under *Government Auditing Standards* and OMB Bulletin No. 06-03.

Under FFMIA, we are required to report whether FMC's financial management systems substantially comply with the Federal financial management systems requirements, applicable Federal accounting standards, and the United States Government Standard General Ledger at the transaction level. To meet this requirement, we performed tests of compliance with FFMIA section 803(a) requirements. The results of our tests disclosed no instances in which FMC's financial management systems did not substantially comply with the three requirements discussed above.

Providing an opinion on compliance with certain provisions of laws and regulations was not an objective of our audit and, accordingly, we do not express such an opinion.

This report is intended solely for the information and use of the management of FMC, the Bureau of Public Debt, the Government Accountability Office, OMB and Congress, and is not intended to be and should not be used by anyone other than these specified parties.



Calverton, Maryland  
November 2, 2006

# AUDITORS' REPORTS AND FINANCIAL STATEMENTS

## Independent Auditor's Report on Internal Controls

### Independent Auditor's Report on Internal Control

To the Federal Maritime Commission

We have audited the financial statements of the Federal Maritime Commission (FMC), as of and for the year ended September 30, 2006, and have issued our report thereon dated November 2, 2006. We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to the financial audits contained in *Government Auditing Standards*; issued by the Comptroller General of the United States; and, Office of Management and Budget (OMB) Bulletin No. 06-03, *Audit Requirements for Federal Financial Statements*.

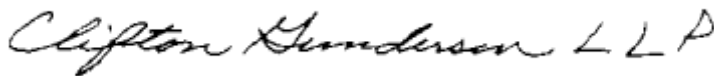
In planning and performing our audit, we considered FMC's internal control over financial reporting by obtaining an understanding of FMC's internal control, determined whether internal controls had been placed in operation, assessed control risk, and performed tests of controls in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements. We limited our internal control testing to those controls necessary to achieve the objectives described in OMB Bulletin No. 06-03. We did not test all internal controls relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act (31 U.S.C. 3512), such as those controls relevant to ensuring efficient operations. The objective of our audit was not to provide assurance on internal control. Consequently, we do not provide an opinion on internal control.

Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be reportable conditions. Under standards issued by the American Institute of Certified Public Accountants, reportable conditions are matters coming to our attention relating to significant deficiencies in the design or operation of the internal control that, in our judgment, could adversely affect FMC's ability to record, process, summarize, and report financial data consistent with the assertions by management in the financial statements. Material weaknesses are reportable conditions in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Because of inherent limitations in internal controls, misstatements, losses, or noncompliance may nevertheless occur and not be detected. We noted no matters involving the internal control and its operation that we consider to be material weaknesses. We noted other matters involving internal control and its operation that we have reported in a separate letter dated November 2, 2006.

Finally, with respect to internal controls related to performance measures reported in FMC's Management's Discussion and Analysis, we obtained an understanding of the design of significant internal controls relating to the existence and completeness assertions, as required by OMB Bulletin No. 06-03. Our procedures were not designed to provide assurance on internal control over reported performance measures, and, accordingly, we do not provide an opinion on such controls.

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This report is intended solely for the information and use of the management of FMC, the Bureau of Public Debt, the Government Accountability Office, OMB and Congress, and is not intended to be and should not be used by anyone other than these specified parties.



Calverton, Maryland  
November 2, 2006

# AUDITORS' REPORTS AND FINANCIAL STATEMENTS

## FEDERAL MARITIME COMMISSION

### BALANCE SHEETS

September 30, 2006 and 2005

	<u>2006</u>	<u>2005</u>
<b>ASSETS</b>		
Intragovernmental - Fund Balance with Treasury (Note 2)	\$ 2,676,163	\$ 2,217,146
Accounts Receivable	3,715	2,021
General Property, Plant and Equipment, Net (Note 3)	<u>30,353</u>	<u>50,439</u>
<b>TOTAL ASSETS</b>	<u>\$ 2,710,231</u>	<u>\$ 2,269,606</u>
<b>LIABILITIES</b>		
Intragovernmental liabilities (Note 4)	\$ 126,328	\$ 103,597
Accounts Payable (Note 4)	273,774	196,409
Other (Note 4)	<u>1,886,987</u>	<u>1,657,543</u>
<b>Total Liabilities</b>	<u>2,287,089</u>	<u>1,957,549</u>
<b>NET POSITION</b>		
Unexpended Appropriations	1,453,216	1,231,683
Cumulative Results of Operations	<u>(1,030,074)</u>	<u>(919,626)</u>
<b>Total Net Position</b>	<u>423,142</u>	<u>312,057</u>
<b>TOTAL LIABILITIES AND NET POSITION</b>	<u>\$ 2,710,231</u>	<u>\$ 2,269,606</u>



# AUDITORS' REPORTS AND FINANCIAL STATEMENTS

## FEDERAL MARITIME COMMISSION STATEMENTS OF NET COST For the Years Ended September 30, 2006 and 2005

	<u>2006</u>	<u>2005</u>
<b>PROGRAM COSTS</b>		
Office of Administration	\$ 8,449,512	\$ 6,763,548
Office of Operations	7,132,804	7,352,269
Formal Proceedings	4,958,503	5,771,665
Office of Inspector General	469,885	433,223
Office of EEO	<u>135,722</u>	<u>90,712</u>
<b>NET COST OF OPERATIONS (Note 7)</b>	<u>\$ 21,146,426</u>	<u>\$ 20,411,417</u>

# AUDITORS' REPORTS AND FINANCIAL STATEMENTS

## FEDERAL MARITIME COMMISSION STATEMENTS OF CHANGES IN NET POSITION For the Years Ended September 30, 2006 and 2005

	<u>2006</u>	<u>2005</u>
<b>Cumulative Results of Operations:</b>		
Beginning Balance	\$ (919,626)	\$ (867,708)
<b>Budgetary Financing Sources:</b>		
Appropriations Used	19,920,517	19,195,167
<b>Other Financing Sources (Non-Exchange):</b>		
Imputed Financing Sources	<u>1,115,461</u>	<u>1,164,332</u>
Total Financing Sources	21,035,978	20,359,499
Net Cost of Operations	<u>(21,146,426)</u>	<u>(20,411,417)</u>
Net Change	<u>(110,448)</u>	<u>(51,918)</u>
<b>Cumulative Results of Operations</b>	<u>(1,030,074)</u>	<u>(919,626)</u>
<b>Unexpended Appropriations:</b>		
Beginning Balance	<u>1,231,683</u>	<u>1,124,548</u>
<b>Budgetary Financing Sources:</b>		
Appropriations Received	20,499,000	19,496,000
Permanently Not Available	(356,950)	(193,698)
Appropriations Used	<u>(19,920,517)</u>	<u>(19,195,167)</u>
Total Budgetary Financing Sources	<u>221,533</u>	<u>107,135</u>
<b>Total Unexpended Appropriations</b>	<u>1,453,216</u>	<u>1,231,683</u>
<b>Net Position</b>	<u>\$ 423,142</u>	<u>\$ 312,057</u>

# AUDITORS' REPORTS AND FINANCIAL STATEMENTS

## FEDERAL MARITIME COMMISSION STATEMENTS OF BUDGETARY RESOURCES For the Years Ended September 30, 2006 and 2005

	<u>2006</u>	<u>2005</u>
<b>BUDGETARY RESOURCES</b>		
Unobligated Balance Brought Forward, October 1:	\$ 180,856	\$ 191,241
Recoveries of Prior Year Unpaid Obligations	150,821	129,186
Budget Authority		
Appropriation	20,499,000	19,496,000
Spending Authority From Offsetting Collections - Collected	<u>-</u>	<u>-</u>
Subtotal - Budget Authority	20,499,000	19,496,000
Permanently Not Available	<u>(356,950)</u>	<u>(193,698)</u>
<b>Total Budgetary Resources (Note 10)</b>	<u><u>\$ 20,473,727</u></u>	<u><u>\$ 19,622,729</u></u>
<b>STATUS OF BUDGETARY RESOURCES</b>		
Obligations Incurred		
Direct	\$ 20,346,990	\$ 19,441,873
Reimbursable	<u>-</u>	<u>-</u>
Total Obligations Incurred	20,346,990	19,441,873
Unobligated Balance - Apportioned	4,636	1,302
Unobligated Balance - Not Available	<u>122,101</u>	<u>179,554</u>
<b>Total Status of Budgetary Resources (Note 10)</b>	<u><u>\$ 20,473,727</u></u>	<u><u>\$ 19,622,729</u></u>
<b>CHANGE IN OBLIGATED BALANCE</b>		
Obligated Balance, Net		
Unpaid Obligations, Brought Forward, October 1	<u>\$ 2,036,289</u>	<u>\$ 1,657,763</u>
Total Unpaid Obligated Balance, Net	2,036,289	1,657,763
Obligations Incurred, Net	20,346,990	19,441,873
Less: Gross Outlays	19,683,032	18,934,161
Less: Recoveries of Prior Year Unpaid Obligations, Actual	150,821	129,186
Obligated Balance, Net, End of Period		
Unpaid Obligations	<u>2,549,426</u>	<u>2,036,289</u>
Total, Unpaid Obligated Balance, Net, End of Period	<u><u>\$ 2,549,426</u></u>	<u><u>\$ 2,036,289</u></u>
<b>NET OUTLAYS</b>		
Gross Outlays	\$ 19,683,032	\$ 18,934,161
Less: Offsetting Collections	<u>-</u>	<u>-</u>
<b>Net Outlays (Note 10)</b>	<u><u>\$ 19,683,032</u></u>	<u><u>\$ 18,934,161</u></u>

# AUDITORS' REPORTS AND FINANCIAL STATEMENTS

## FEDERAL MARITIME COMMISSION STATEMENTS OF FINANCING For the Years Ended September 30, 2006 and 2005

	<u>2006</u>	<u>2005</u>
<b>Resources Used to Finance Activities:</b>		
Budgetary Resources Obligated		
Obligations Incurred	\$ 20,346,990	\$ 19,441,873
Less: Spending Authority From Offsetting Collections and Recoveries	<u>(150,821)</u>	<u>(129,186)</u>
Obligations Net of Offsetting Collections and Recoveries	20,196,169	19,312,687
Less: Offsetting Receipts	<u>-</u>	<u>-</u>
Net Obligations	20,196,169	19,312,687
Other Resources		
Imputed Financing From Costs Absorbed by Others	<u>1,115,461</u>	<u>1,164,332</u>
Net Other Resources Used to Finance Activities	<u>1,115,461</u>	<u>1,164,332</u>
Total resources used to finance activities	<u>21,311,630</u>	<u>20,477,019</u>
<b>Resources Used to Finance Items Not Part of the Net Cost of Operations</b>		
Change in Budgetary Resources Obligated for Goods, Services and Benefits Ordered But Not Yet Provided	275,652	117,519
Resources That Fund Expenses Recognized in Prior Periods	<u>149</u>	<u>9,587</u>
Total Resources Used to Finance Items Not Part of the Net Cost of Operations	<u>275,801</u>	<u>127,106</u>
Total Resources Used to Finance the Net Cost of Operations	<u>21,035,829</u>	<u>20,349,913</u>
<b>Components of the Net Cost of Operations That Will Not Require or Generate Resources in the Current Period</b>		
Components Requiring or Generating Resources in Future Periods		
Increase in Annual Leave Liability	91,057	-
Other	<u>-</u>	<u>644</u>
Total Components of Net Cost of Operations That Will Require or Generate Resources in Future Periods	<u>91,057</u>	<u>644</u>
Components not Requiring or Generating Resources:		
Depreciation and Amortization	20,086	61,996
Other	<u>(546)</u>	<u>(1,136)</u>
Total Components of Net Cost of Operations That Will Not Require or Generate Resources	<u>19,540</u>	<u>60,860</u>
Total Components of Net Cost of Operations That Will Not Require or Generate Resources in the Current Period	<u>110,597</u>	<u>61,504</u>
<b>Net Cost of Operations</b>	<u>\$ 21,146,426</u>	<u>\$ 20,411,417</u>

# AUDITORS' REPORTS AND FINANCIAL STATEMENTS

## FEDERAL MARITIME COMMISSION STATEMENTS OF CUSTODIAL ACTIVITY For the Years Ended September 30, 2006 and 2005

	<u>2006</u>	<u>2005</u>
<b>Revenue Activity:</b>		
Cash Collections (Note 11)	\$ 1,595,530	\$ 1,194,366
Accrual Adjustments	<u>396</u>	<u>1,734</u>
<b>Total Custodial Revenue</b>	1,595,926	1,196,100
 <b>Disposition of Collections:</b>		
Transferred to Treasury	1,595,530	1,195,964
Other	<u>396</u>	<u>136</u>
<b>Net Custodial Activity</b>	<u><u>\$ -</u></u>	<u><u>\$ -</u></u>

# AUDITORS' REPORTS AND FINANCIAL STATEMENTS

## FEDERAL MARITIME COMMISSION NOTES TO THE FINANCIAL STATEMENTS For The Years Ended September 30, 2006, 2005

### NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

#### A. Reporting Entity

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

FMC monitors the activities of ocean common carriers, marine terminal operators, conferences, ports and ocean transportation intermediaries (OTIs) (non-vessel-operating common carriers and ocean freight forwarders) who operate in the foreign commerce of the U.S. and monitor these activities to ensure they maintain just and reasonable practices. FMC maintains a trade monitoring and enforcement program designed to detect and appropriately remedy malpractices and violations. FMC monitors the laws and practices of foreign governments which could be potentially restrictive and identifies and monitors carriers owned or controlled by foreign governments; processes and reviews agreements and service contracts for compliance with statutory requirements; and reviews common carriers' privately published tariff systems for accessibility and accuracy as required by the Ocean Shipping Reform Act of 1998. FMC also issues licenses to qualified OTIs in the U. S., ensures that all OTIs are bonded or maintain other evidence of financial responsibility, and ensures that passenger vessel operators demonstrate adequate financial responsibility for casualty and nonperformance.

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

Congress enacts appropriations to permit FMC to incur obligations for authorized purposes. In fiscal years 2006 and 2005, FMC was accountable for General Fund appropriations. FMC recognizes budgetary resources as assets when cash (funds held by the U. S. Treasury) is made available through the Department of Treasury General Fund warrants.

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

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

FMC has rights and ownership of all assets reported in these financial statements. There are no non-entity assets.

#### B. Basis of Presentation

The financial statements have been prepared to report the financial position, net cost of operations, changes in net position, status and availability of budgetary resources, and the reconciliation between proprietary and budgetary accounts of the FMC. The statements are a requirement of the Chief Financial Officers Act of 1990, the Government Management Reform Act of 1994, the Accountability of Tax Dollars Act of 2002 and the Office of Management and Budget (OMB) Circular A-136, *Financial Reporting Requirements*. They have been prepared from, and are fully supported by, the books and records of FMC in accordance with the hierarchy of accounting principles generally accepted in the United States of America, standards approved by the principals of the Federal Accounting Standards Advisory Board (FASAB), OMB Circular No. A-136, and FMC accounting policies which are summarized in this note.



# AUDITORS' REPORTS AND FINANCIAL STATEMENTS

## FEDERAL MARITIME COMMISSION NOTES TO THE FINANCIAL STATEMENTS For The Years Ended September 30, 2006, 2005

### NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

These statements, with the exception of the Statement of Budgetary Resources, are different from financial management reports, which are also prepared pursuant to OMB directives that are used to monitor and control FMC's use of budgetary resources.

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

#### **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. These financial statements were prepared following accrual accounting. Budgetary accounting facilitates compliance with legal requirements on the use of federal funds. Balances on these statements may therefore differ from those on financial reports prepared pursuant to other OMB directives that are primarily used to monitor and control FMC's use of budgetary resources.

#### **D. Revenues & Other Financing Sources**

Congress enacts annual appropriations to be used, within statutory limits, for operating, capital and grant expenditures. Additional amounts are obtained from service fees and reimbursements from other government entities and the public.

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

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

There are no earned revenues in the fiscal years ended September 30, 2006 and 2005.

#### **E. Taxes**

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

#### **F. Fund Balance with Treasury**

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

#### **G. Accounts Receivable**

Accounts receivable consists of amounts owed to FMC by the general public and FMC employees. Accounts receivable in the Salaries and Expense Fund represents an employee related receivable.

# AUDITORS' REPORTS AND FINANCIAL STATEMENTS

## FEDERAL MARITIME COMMISSION NOTES TO THE FINANCIAL STATEMENTS For The Years Ended September 30, 2006, 2005

### NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

#### G. Accounts Receivable (continued)

An allowance for uncollectible accounts receivable from the public is established when either (1) 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, or (2) an account for which no allowance has been established is submitted to the Department of the Treasury for collection, which takes place when it becomes 180 days delinquent.

#### H. General Property, Plant and Equipment

FMC's property, plant and equipment is recorded at original acquisition cost and is depreciated using the straight-line method over the estimated useful life of the asset. Major alterations and renovations are capitalized, except wherein the tenant improvement allowance specified in lease agreement covers the costs of certain renovations. Maintenance and repair costs are charged to expense as incurred. FMC's capitalization threshold is \$25,000 for individual purchases. Applicable standard governmental guidelines regulate the disposal and convertibility of agency property, plant and equipment. The useful life classification for capitalized equipment assets is 5 years.

#### I. 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 in select circumstances. 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.

#### J. Liabilities

Liabilities covered by budgetary or other resources are those liabilities for which Congress has appropriated funds or funding is otherwise available to pay amounts due.

Liabilities not covered by budgetary or other resources represent amounts owed in excess of available Congressionally appropriated funds or other amounts. The liquidation of liabilities not covered by budgetary or other resources is dependent on future Congressional appropriations or other funding. Intragovernmental liabilities are claims against FMC by other federal agencies. Liabilities not covered by budgetary resources on the Balance Sheet are equivalent to amounts reported as Components Requiring or Generating Resources on the Statement of Financing. Additionally, the Government, acting in its sovereign capacity, can abrogate liabilities.

#### K. Accounts Payable

Accounts payable consists of amounts owed to other federal agencies and the public.

#### L. 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.

# AUDITORS' REPORTS AND FINANCIAL STATEMENTS

## FEDERAL MARITIME COMMISSION NOTES TO THE FINANCIAL STATEMENTS For The Years Ended September 30, 2006, 2005

### NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

#### L. Annual, Sick and Other Leave (continued)

Nonvested leave is expensed when used. Any liability for unused sick leave by a Civil Service Retirement System (CSRS)-covered employee is transferred to the Office of Personnel Management upon the retirement of that individual. No credit is given for sick leave balances upon the retirement of Federal Employee's Retirement System (FERS)-covered employees.

#### M. Accrued Workers' Compensation

A liability is recorded for actual and estimated future payments to be made for workers' compensation pursuant to the Federal Employees' Compensation Act (FECA). The actual costs incurred are reflected as a liability because FMC will reimburse the Department of Labor (DOL) two years after the actual payment of expenses. 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.

#### N. Retirement Plans

FMC employees participate in either the Civil Service Retirement System (CSRS) or the Federal Employees' Retirement System (FERS). FERS was established by the enactment of Public Law 99-335. Pursuant to this law, FERS and Social Security automatically cover most employees hired after December 31, 1983. Employees hired before January 1, 1984 elected to join either FERS and Social Security or remain in CSRS.

All employees are eligible to contribute to the Thrift Savings Plan (TSP). For those employees participating in the FERS, a TSP account is automatically established and FMC makes a mandatory one percent contribution to this account. In addition, FMC makes matching contributions, ranging from one to four percent, for FERS eligible employees who contribute to their TSP accounts. Matching contributions are not made to the TSP accounts established by CSRS employees. For FERS participants, FMC also remits the employer's share of the required contribution.

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

FMC recognizes the imputed cost of pension and other retirement benefits during the employees' active years of service. OPM actuaries determine pension cost factors by calculating the value of pension benefits expected to be paid in the future and communicates these factors to FMC for current period expense reporting. OPM also provides information regarding the full cost of health and life insurance benefits. FMC recognized the offsetting revenue as imputed financing sources to the extent these expenses will be paid by OPM.

FMC does not report on its financial statements information pertaining to the retirement plans covering its employees. Reporting amounts such as plan assets, accumulated plan benefits, and related unfunded liabilities, if any, is the responsibility of the OPM.

# AUDITORS' REPORTS AND FINANCIAL STATEMENTS

## FEDERAL MARITIME COMMISSION NOTES TO THE FINANCIAL STATEMENTS For The Years Ended September 30, 2006, 2005

### NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

#### O. Use of Estimates

Management has made certain estimates when reporting assets, liabilities, revenue, and expenses, and in the note disclosures. The preparation of financial statements in conformity with generally accepted accounting principles requires management to make assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

#### P. Net Position

Net position is the residual difference between assets and liabilities and is comprised of unexpended appropriations and cumulative results of operations. Unexpended appropriations represent the amount of unobligated and unexpended budget authority. Unobligated balances are the amount of appropriations or other authority remaining after deducting the cumulative obligations from the amount available for obligation. The cumulative results of operations is the net result of FMC's operations since inception.

#### Q. Imputed Costs/Financing Sources

Federal Government entities often receive goods and services from other Federal Government entities without reimbursing the providing entity for all the related costs. In addition, Federal Government entities also incur costs that are paid in total or in part by other entities. An imputed financing source is recognized by the receiving entity for costs that are paid by other entities. FMC recognized imputed costs and financing sources in fiscal years 2006 and 2005 to the extent directed by OMB.

#### R. Contingencies

Liabilities are deemed contingent when the existence or amount of the liability cannot be determined with certainty pending the outcome of future events. FMC recognizes contingent liabilities, in the accompanying balance sheet and statement of net cost, when it is both probable and can be reasonably estimated. FMC discloses contingent liabilities in the notes to the financial statements when the conditions for liability recognition are not met or when a loss from the outcome of future events is more than remote. In some cases, once losses are certain, payments may be made from the Judgment Fund maintained by the U.S. Treasury rather than from the amounts appropriated to FMC for agency operations. Payments from the Judgment Fund are recorded as an "Other Financing Source" when made. There are no contingencies that require disclosure.

#### S. Reclassifications

Statement of Budgetary Resources - The presentation used for the Statement of Budgetary Resources (SBR) prior to FY06 has been revised to reflect a new format required pursuant to the Office of Management and Budget (OMB) Circular A-136, *Financial Reporting Requirements*. Circular A-136 requires agencies to present both FY06 and FY05 SBR in the same format. Accordingly, certain reclassifications were made to the previously issued FY05 SBR to conform to the new format.

Other - Certain fiscal year 2005 balances have been reclassified, retitled, or combined with other financial statement line items for consistency with the current year presentation. Due to a change in the accrual process, certain balances in Other Accrued Liabilities for fiscal year 2005 have been reclassified to Accounts Payable for consistency with the current year presentation.

# AUDITORS' REPORTS AND FINANCIAL STATEMENTS

## FEDERAL MARITIME COMMISSION NOTES TO THE FINANCIAL STATEMENTS For The Years Ended September 30, 2006, 2005

### NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

#### T. Expired Accounts and Cancelled Authority

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

### NOTE 2 – FUND BALANCE WITH TREASURY

Fund balance with Treasury as of September 30, 2006 and 2005 consisted of:

	2006		2005
Fund Balances:			
Appropriated Funds	\$ 2,676,163		\$ 2,217,146

#### Status of Fund Balance with Treasury:

Unobligated Balance			
Available	\$ 4,636		\$ 1,302
Unavailable	122,101		179,554
Obligated Balance not yet Disbursed	2,549,426		2,036,290
Total	\$ 2,676,163		\$ 2,217,146

Restricted 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.

### NOTE 3 – GENERAL PROPERTY, PLANT AND EQUIPMENT

Property, plant and equipment account balances as of September 30, 2006 and 2005 were as follows:

Description	Acquisition Cost	Accumulated Depreciation	Net Book Value
<u>September 30, 2006</u>			
Office Equipment	\$ 419,982	\$ (389,629)	\$ 30,353
<u>September 30, 2005</u>			
Office Equipment	\$ 419,982	\$ (369,543)	\$ 50,439

# AUDITORS' REPORTS AND FINANCIAL STATEMENTS

## FEDERAL MARITIME COMMISSION NOTES TO THE FINANCIAL STATEMENTS For The Years Ended September 30, 2006, 2005

### NOTE 4 – LIABILITIES

The accrued liabilities for FMC are comprised of program expense accruals, payroll accruals, and annual leave (funded and unfunded) earned by employees. Program expense accruals represent expenses that were incurred prior to year-end but were not paid. Similarly, payroll accruals represent payroll expenses that were incurred prior to year-end but were not paid.

	September 30	
	2006	2005
Intragovernmental:		
Accounts Payable & Other Accrued	\$ 11,145	\$ 10,130
Payroll Taxes Payable	102,709	82,970
Other Post-Employment Benefits	8,529	8,034
Unfunded FECA Liability	495	644
Custodial Liabilities	3,450	1,819
Total Intragovernmental	126,328	103,597

Accounts Payable	\$ 273,774	\$ 196,409
Payroll Accrual	816,238	677,525
Unfunded Annual Leave	1,061,614	970,557
Payroll Taxes Payable	11,305	10,396
Custodial Liabilities	(2,170)	(935)
Total Other Liabilities	2,160,761	1,853,952
Total Liabilities	\$ 2,287,089	\$ 1,957,549



# AUDITORS' REPORTS AND FINANCIAL STATEMENTS

## FEDERAL MARITIME COMMISSION NOTES TO THE FINANCIAL STATEMENTS For The Years Ended September 30, 2006, 2005

### NOTE 5 - LEASES

FMC occupies office space under six lease agreements that are accounted for as operating leases. The lease locations and terms are listed below:

LOCATION	TERM	LEASE EXPIRATION DATE
Jamaica, NY	9 months	12-31-2006
Jamaica, NY	5 years	1-01-2007
Hollywood, FL	2 years	8-31-2007
Seattle, WA	2 years	5-31-2008
Washington, DC	10 years	11-02-2012
San Pedro, CA	Indefinite	-

The lease amounts vary from year to year depending on the specific lease. The total operating lease expense for fiscal years 2006 and 2005 was \$2,820,287 and \$2,732,261, respectively. The schedule of future payments for the term of the leases is as follows:

Fiscal Year	Lease Payments
2007	\$ 2,751,173
2008	2,749,283
2009	2,770,460
2010	2,795,448
2011	2,821,193
Thereafter	<u>3,085,408</u>
Total Future Payments	<u>\$ 16,972,965</u>

### NOTE 6 – LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

The liabilities on FMC's Balance Sheet as of September 30, 2006 and 2005, include liabilities not covered by budgetary resources, which are liabilities for which 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. Liabilities not covered by budgetary resources consist entirely of unfunded leave. Unfunded leave balances are \$1,061,614 and \$970,557 as of September 30, 2006 and 2005, respectively.

# AUDITORS' REPORTS AND FINANCIAL STATEMENTS

## FEDERAL MARITIME COMMISSION NOTES TO THE FINANCIAL STATEMENTS For The Years Ended September 30, 2006, 2005

### NOTE 7 – INTRAGOVERNMENTAL COSTS

Intragovernmental costs represent goods and services exchange transactions made between two reporting entities within the Federal government, and are in contrast to those with non-federal entities (the public). Such costs are summarized as follows:

	2006	2005
Office of Administration:		
Intragovernmental Costs	\$ 5,487,121	\$ 3,841,006
Public Costs	<u>2,962,391</u>	<u>2,922,542</u>
Total Office of Administration Costs	<u>\$ 8,449,512</u>	<u>\$ 6,763,548</u>
Office of Operations:		
Intragovernmental Costs	\$ 1,145,281	\$ 1,779,211
Public Costs	<u>5,987,523</u>	<u>5,573,058</u>
Total Office of Operations Costs	<u>\$ 7,132,804</u>	<u>\$ 7,352,269</u>
Formal Proceedings:		
Intragovernmental Costs	\$ 754,837	\$ 1,403,172
Public Costs	<u>4,203,666</u>	<u>4,368,493</u>
Total Formal Proceedings Costs	<u>\$ 4,958,503</u>	<u>\$ 5,771,665</u>
Office of Inspector General:		
Intragovernmental Costs	\$ 51,228	\$ 85,112
Public Costs	<u>418,657</u>	<u>348,111</u>
Total Office of Inspector General Costs	<u>\$ 469,885</u>	<u>\$ 433,223</u>
Office of EEO:		
Intragovernmental Costs	\$ 17,798	\$ 32,207
Public Costs	<u>117,924</u>	<u>58,505</u>
Total Office of EEO Costs	<u>\$ 135,722</u>	<u>\$ 90,712</u>

FMC had no earned revenues.

# AUDITORS' REPORTS AND FINANCIAL STATEMENTS

## FEDERAL MARITIME COMMISSION NOTES TO THE FINANCIAL STATEMENTS For The Years Ended September 30, 2006, 2005

### NOTE 8 – IMPUTED FINANCING SOURCES

FMC recognizes as imputed financing 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, the Office of Personnel Management (OPM). For the fiscal years ended September 30, 2006 and 2005, respectively, imputed financing from OPM were \$1,115,461 and \$1,164,332.

### NOTE 9 – UNDELIVERED ORDERS AT THE END OF THE PERIOD

Beginning with FY06, the format of the Statement of Budgetary Resources has changed and the amount of undelivered orders at the end of the period is no longer required to be reported on the face of the statement. Statement of Federal Financial Accounting Standards No. 7, Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting, states that the amount of budgetary resources obligated for undelivered orders at the end of the period should be disclosed. For the years ended September 30, 2006 and 2005, undelivered orders amounted to \$1,326,478 and \$1,050,826, respectively.

### NOTE 10 – BUDGETARY RESOURCE COMPARISONS TO THE BUDGET OF THE UNITED STATES GOVERNMENT

Statement of Federal Financial Accounting Standards No. 7, Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting, calls for explanations of material differences between amounts reported in the Statement of Budgetary Resources (SBR) and the actual balances published in the Budget of the United States Government (President's Budget). However, the President's Budget that will include FY06 actual budgetary execution information has not yet been published. The President's Budget is scheduled for publication in February 2007 and can be found at the OMB Web site: <http://www.whitehouse.gov/omb>. The 2007 Budget of the United States Government, with the Actual Column completed for 2005, has been reconciled, and there were no material differences.

### NOTE 11 – CUSTODIAL ACTIVITY

FMC is an administrative agency collecting for another entity or the General Fund. As a collecting entity, FMC measures revenue based on cash collection and refunds. This revenue is reported as custodial activity 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 part of the custodial activity is application for licenses issued to qualified ocean transportation intermediaries (OTI's) in the U.S., commission reviews, petitions, status changes and special permission fees.

# Inspector General's Assessment of the Most Serious Management Challenges Facing the FMC

## Management Challenges Facing the FMC

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

November 01, 2006

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TO: Steven Blust, Chairman  
Federal Maritime Commission

FROM: Adam R. Trzeciak  
Inspector General

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

On November 22, 2000, the President signed the Reports Consolidation Act of 2000 (Public Law 106-531), an amendment to the Chief Financial Officers (CFO) Act of 1990. The Reports Consolidation Act requires inspectors general to provide a summary and assessment of the most serious management and performance challenges facing Federal agencies and the agencies' progress in addressing these challenges. The attached document responds to the requirements and provides the annual statement on Commission challenges to be included in the *Federal Maritime Commission Performance and Accounting Report for Fiscal Year 2006*.

This year's Statement on the Federal Maritime Commission's Management and Performance Challenges summarizes two areas for inclusion in the FMC's FY 2006 PAR: Improving Government Operations and Information Technology Security. These assessments are based on information derived from a combination of sources, including Office of Inspector General audit and inspection work, Commission reports, and a general knowledge of the Commission's programs. I am glad to report that the FMC has already devoted significant efforts to address the challenges and progress is being made on these important areas.

The Reports Consolidation Act of 2000 permits agency comment on the inspector general's statements. Agency comments, if applicable, are to be included in the final version of the PAR that is due on November 15, 2006.

### **FMC Management and Performance Challenges** (Submitted by FMC Office of Inspector General)

#### **I. Improving Government Operations**

##### Management Challenge:

To effectively meet the needs of those the FMC regulates in a changing maritime industry. To assist the maritime industry to comply with federal laws and regulations while enhancing U.S. competitiveness both at home and abroad.

## Appendix A

# Inspector General's Assessment of the Most Serious Management Challenges Facing the FMC

### Agency Progress in Addressing the Challenge:

The FMC's mission is to:

- Develop and administer policies and regulations that foster a fair, efficient and secure maritime transportation system;
  - Protect U.S. maritime commerce from unfair foreign trade practices and market-distorting activities;
- Facilitate compliance with U.S. shipping statutes through oversight and outreach.

The international maritime transportation industry has changed dramatically in the last decade. In response to these changes, and the further changes that are anticipated, the Commission has undertaken an extensive review of its internal regulatory processes and its rules to ensure they are reflective of the industry and responsive to its stakeholders.

In 1998, Congress amended the Commission's primary statute, the Shipping Act of 1984, with passage of the Ocean Shipping Reform Act of 1998 (OSRA), which became effective May 1, 1999. OSRA changed the way many entities subject to the Commission's regulation do business. The most significant change introduced by OSRA was to give ocean carriers and their customers the ability to individually negotiate, on a confidential basis, the terms and conditions for the movement of freight. As a consequence, "conference-based" service contracts gave way to the free negotiation of individual rate-and-service packages. This reform has successfully promoted a market-driven, efficient liner shipping regime by stimulating changes in the way the industry does business. A greater degree of cooperation among ocean carriers, ocean transportation intermediaries and shippers was achieved, and continues to exist today.

In addition, the terrorist attacks of September 11, 2001, highlighted vulnerabilities surrounding ocean shipping and the security of cargo moving into the United States. Although the Commission is not a front-line agency in this regard, it stands ready to offer its expertise and support to those who protect U.S. seaports.

More recently, the FMC's review of its regulations and internal business processes has led to additional market enhancing changes. First, in response to several petitions from the industry, the Commission established an exemption to its tariff publication requirements to allow "non-vessel-operating common carriers" (i.e., freight middlemen) to offer their customers "service arrangements"—a contracting option similar to the service contracts that ocean carriers use.

In addition, the Commission has streamlined the agreement review process (46 CFR Part 535), by removing burdens on agreements that are seen as generally non-problematic and concentrating limited resources on agreements that tend to have impacts on competition.

In the consumer affairs arena, the Commission promotes the use of alternative dispute resolution to encourage non-judicial settlements of disputes (generally seen as a very efficient and effective use of limited Commission resources by the industry). The agency has realigned its five field offices so that their primary role is to assist the industry to comply with U.S. laws and regulations rather than a more punitive enforcement approach. It introduced a "friendlier," more accessible website and generally permits the electronic filing of many documents.

### The Challenge Ahead:

Change in the industry is continuing. The trade imbalance is expected to widen even as we approach the upper limits on the U.S. distribution infrastructure. There is an expanding emphasis on environmental concerns and awareness. Many large Non-Vessel- Operating Common Carriers are appearing on the scene (UPS, FedEx, DHL) while smaller Vessel Operating Common Carriers are merging. The industry is also seeing more vertical integration of transportation providers.

The FMC cannot rest on its accomplishments. It must continue to change with the industry. For example, the FMC should continue its efforts to provide a more thorough review of licensure applications. This will satisfy the dual goals of protecting the shipping public and helping to promote maritime security.

# Inspector General's Assessment of the Most Serious Management Challenges Facing the FMC

The FMC should revisit ocean transportation intermediary rules and internal processes regularly (relating to both review and enforcement) to proactively identify and, if necessary, amend unforeseen and unintended impediments to U.S. competitiveness and viability. The FMC could also play a more active role in identifying restrictive trade practices in developing nations.

Finally, although the FMC's roles and responsibilities only tangentially encompass security, still it is a paramount concern in the shipping industry, as seen by recent proposals aimed at enhancing container inspections. FMC field personnel currently work closely with Customs and other law enforcement officials to assist in verifying container contents. Moving forward, the agency should continue this assistance and identify new and innovative ways to tap its considerable expertise in container shipping and shipping agreements to enhance the effectiveness of law enforcement security efforts.

### **Technology Security**

#### Management Challenge:

To maintain a comprehensive information security program that safeguards Commission data from internal and external threats.

#### Agency Progress in Addressing the Challenge:

The accomplishment of the Federal Maritime Commission's mission and goals depends heavily on information systems. Further, the President has placed a high priority on securing the Federal government's operations and assets. Protecting the information and information systems on which the Federal government depends requires agencies to identify and resolve current security weaknesses and risks and to protect against future vulnerabilities and threats.

The OIG has performed numerous IT security evaluations over the past several years, both in response to legislative mandates and to the OIG's strategic plan. Each year, the agency has made steady improvements in its overall security posture. Just within the last few years, the agency established physical security controls that restrict access to FMC controlled areas including the Data Center. FMC established safe rooms throughout its facility to protect personnel from various security incidents. The agency has documented back-up procedures and stores backups at various off-site locations. FMC has also established a hot site that should keep critical systems functioning in the event that the primary Data Center is destroyed or damaged. Finally, FMC implemented an on-line security awareness training program to promote security awareness among FMC personnel.

The FMC has also taken steps to ensure privacy and protection of personally identifiable information. The FMC appointed a Privacy Officer and has posted its privacy policy on its website. Recently the agency completed a thorough review of employee-initiated forms to identify and revise outdated forms that ask for the employee's Social Security Number (SSN) even though the SSN is not needed to process the transaction.

While improvements have been made, there is still much work to be done. The Certification and Accreditation (C&A) packages do not contain sufficient detail for the Chief Information Officer or system owner to make valid, risk-based decisions on whether to place the system into production. The agency lacks documented information security policies in many critical areas. The FMC is not adequately tracking its IT vulnerabilities to ensure that they are properly addressed and closed. Finally, the FMC's back-up site was recently hacked; however OIT personnel responded quickly and contained the potential damage. Notwithstanding this positive outcome, this break-in could have been prevented by employing basic security measures that simply were not implemented.

#### The Challenge Ahead:

No federal agency, including the FMC, can rest on its security accomplishments made in response to yesterday's threats. Agencies must be proactive and continually evaluate their risks and take concrete steps to mitigate those risks – essentially keeping one step ahead of those who threaten agency data and IT operations.



## Appendix A

### Inspector General's Assessment of the Most Serious Management Challenges Facing the FMC

The FMC faces a challenge to balance its operational needs – which are both tangible and visible, with its security needs, which are often made in response to perceived vulnerabilities. The requirement to certify and accredit all information systems is the end result of a lengthy and detailed review of risks and steps to mitigate them. With a small IT staff, performing these critical functions means time away from operations. Nonetheless, it is important that a balance be struck and security be assigned a prominent role in the IT program. As recent security lapses at various federal agencies have demonstrated, the resources required to fix compromised systems or stolen data often dwarf the relatively meager security budgets in place to prevent those episodes from happening in the first place. Unfortunately, once information is lost or compromised, the impact on the agency, both financial and the public's perception of it, can be devastating.

### Actions to Address the FMC's Management Challenges

#### Actions to Address the FMC's Management Challenges

This appendix discusses the management challenges that the FMC's Inspector General identified for FY 2006 in a memorandum to Chairman Blust, dated November 1, 2006.

##### Challenge 1 - Information Technology

The Commission fully embraces the Inspector General's management challenge to continue to change with the ocean transportation industry and to regularly revisit our ocean transportation intermediary rules. As the Inspector General outlined, our trade imbalance grows while our domestic infrastructure is reaching its upper limit. The industry continues to find innovative solutions to meet the growing demand with the existing infrastructure. It is incumbent upon the Commission to evolve in order to meet the demands of an ever-changing industry.

As the industry expands, it is ever more important for the Commission to continue its diligent review of its practices and policies to ensure that it is able to meet the needs of the industry while fulfilling our statutory role. The Commission has been engaged in a comprehensive review of our licensing procedures to ensure broad compliance with our rules and regulations. Further, we are continually reviewing our rules and regulations to avoid unintended impediments to U.S. competitiveness and the viability of our trades and we are fully prepared to amend our rules when necessary. Finally, the Commission has continued to assist security efforts by identifying new ways to utilize commercial information to provide for a more secure supply chain. Through these efforts, the Commission seeks to meet the demands of today with the flexibility to prepare for tomorrow.

##### Challenge 2 – Information Technology Security

The Commission agrees with the Inspector General's management challenge to maintain a comprehensive information security program that safeguards Commission data from internal and external threats. The Commission has come a long way in its efforts to assess and improve its information security protections in recent years. The Inspector General remarked upon some of our positive efforts, and has indicated our steady improvement.

Over the past few years, the Commission hired critical information security staff who stabilized our network environment and introduced robust security features. More recently, the agency focused more intently on physical security, such as establishing an alternate site from which to restore agency access to critical databases and e-mail in the event of a disaster. And as discussed earlier in the section entitled *Federal Managers' Financial Integrity Act*, the Commission mitigated two significant deficiencies during the fiscal year which were related to information security issues. There is one significant deficiency in this program area which the Inspector General discussed in his FY 2006 FISMA review related to documentation, which the Commission will address aggressively in the coming fiscal year. Please see that earlier section for a more in-depth discussion of issues related to this Challenge.

While much has been accomplished to bolster the Commission's information security program already, we agree that ongoing efforts are needed to refine the program. The Commission is committed to mitigating the significant deficiency recently identified by the Inspector General with all deliberate speed. Further focusing of resources is needed not only in the area of documentation but also risk mitigation, and as resources are available, the Commission will make a more concerted effort to be more proactive in addressing possible new threats.

## Appendix C

### Management Decisions and Final Actions on OIG Audit Recommendations

#### Management Decisions and Final Actions on OIG Audit Recommendations

The FMC has established and strives to maintain a good record in resolving and implementing audit recommendations presented in OIG reports. Section 5(b) of the Inspector General Act of 1978, as amended, requires agencies to report on final actions taken on OIG audit recommendations.

The following tables give the dollar value of questioned or unsupported costs and of reports of recommendations that funds be put to better use as determined through audits conducted by the OIG.

<b>Table I - Disallowed Costs, section 5(b)(2)</b>		
	<b>Number of Reports</b>	<b>Amounts agreed by Management</b>
IG audit reports for which final action by management had not been taken by 9/30/05	0	\$0.00
IG audit report on which a Management Decision was Made from 10/01/05 through 9/30/06.	0	\$0.00
For Which Final Actions Were Taken During the Reporting Period.	0	\$0.00
<b>Subtotal:</b>	<b>0</b>	<b>\$0.00</b>
<b>Less:</b>		
IG audit reports for which final action was taken by management from 10/01/05 through 9/30/06.	0	\$0.00
(a) Amounts that were recovered by management.	0	\$0.00
(b) Amounts that were not recovered by management.	0	\$0.00
(c) Amounts classified by the IG as unrecoverable.	0	\$0.00
IG audits for which no management decision was made within six months of issue.	0	\$0.00
<b>Totals:</b>	<b>0</b>	<b>\$0.00</b>

## Appendix C

### Management Decisions and Final Actions on OIG Audit Recommendations

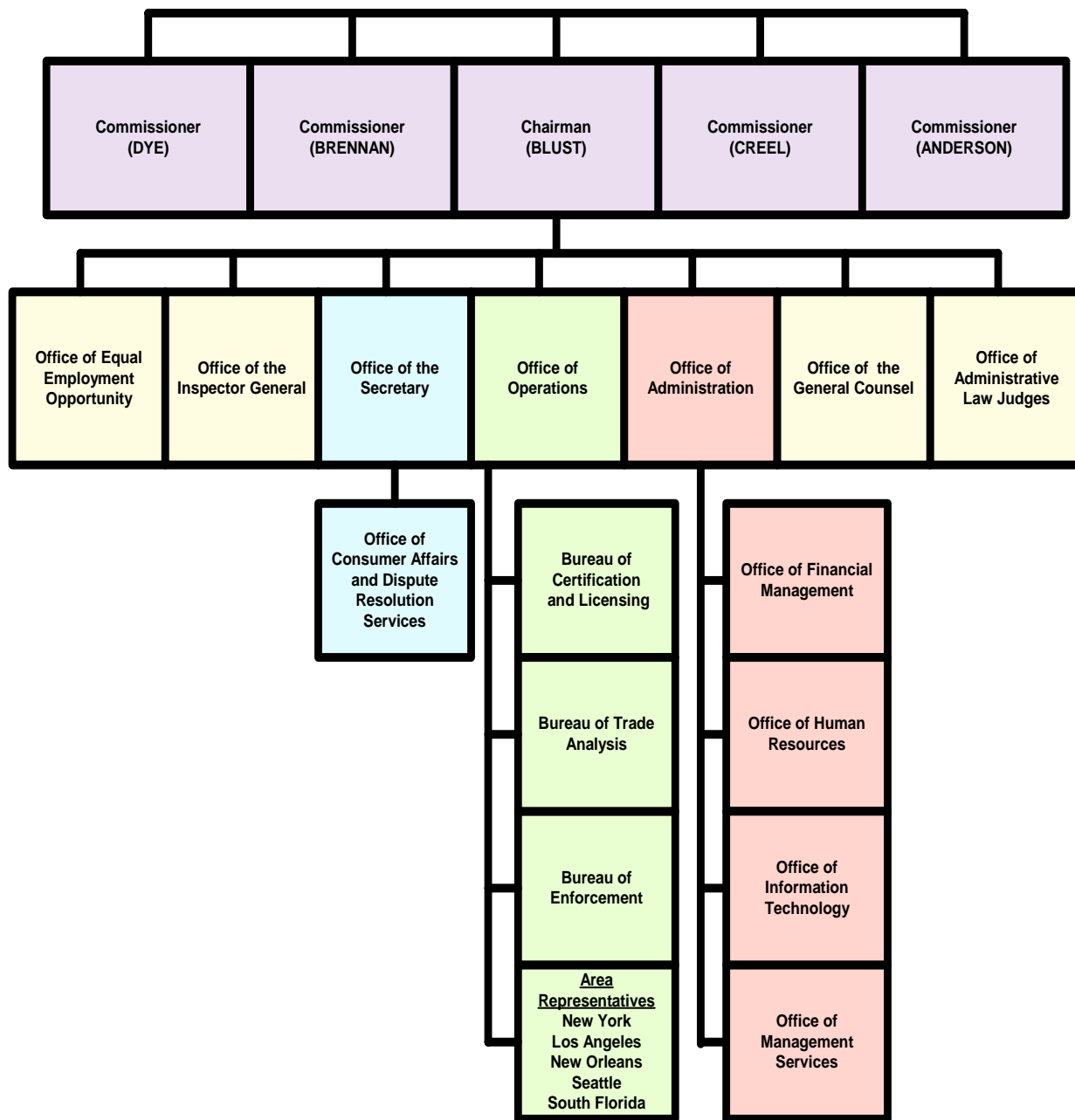
#### Management Decisions and Final Actions on OIG Audit Recommendations (cont)

Table II - Funds Put to Better Use, section 5(b)(3)		
	Number of Reports	Amounts agreed by Management
IG audit reports for which final action by management had not been taken by 9/30/05	0	\$0.00
IG audit report on which a Management Decision was Made from 10/01/05 through 9/30/06.	0	\$0.00
For Which Final Actions Were Taken During the Reporting Period.	0	\$0.00
<b>Subtotal:</b>	<b>0</b>	<b>\$0.00</b>
<b>Less:</b>		
IG audit reports for which final action was taken by management from 10/01/05 through 9/30/06.	0	\$0.00
(a) Amounts that were recovered by management.	0	\$0.00
(b) Amounts that were not recovered by management.	0	\$0.00
(c) Amounts classified by the IG as unrecoverable.	0	\$0.00
IG audits for which no management decision was made within six months of issue.	0	\$0.00
<b>Totals:</b>	<b>0</b>	<b>\$0.00</b>

Table III - Final Action Not Complete in One Year, section 5(b)(4)				
Audit Report Number	Date Issued	Disallowed Costs	Funds Put to Better Use	Explanation Final Action Not Taken
None	0	\$0.00	\$0.00	None

# Appendix D

## FMC Organization Chart as of September 30, 2006



## Appendix E

### Final Annual Performance Plan 2006

#### INTRODUCTION

This document comprises the FMC's Final Annual Performance Plan for FY 2006. This plan is closely linked to the agency's Strategic Plan and it sets forth objective performance goals and narrow, measurable performance indicators so as to facilitate implementation and assessment of performance.

For FY 2006, we have continued the modified approach for our annual planning first implemented with our Revised Final Plan for FY 2005. Agency performance goals now are tied directly to our Strategic Goals instead of our budget program activities. This has resulted in the development of broader performance goals better suited to the achievement of agency-wide objectives, as opposed to more narrowly focused goals tailored to the responsibilities of individual units. It also facilitates our aim of utilizing a more inclusive, collaborative approach in conducting our ongoing activities, which we believe both enhances decision-making and improves ultimate results. Addressing our performance goals in this fashion also has enabled us to link planning, budgeting and performance more effectively.

Our Plan for FY 2006 focuses on refining the agency's business practices, specifically on revising and updating internal procedures in line with the amendment of Commission regulations. Several performance goals were developed to facilitate the use and dissemination of filed material in order to improve analysis of required filings and responsiveness to inquiries, and to implement procedural changes to enhance the effectiveness of agency operations.

Our FY 2006 Plan also broadens our efforts to implement the President's Management Agenda initiative to expand electronic government. Several performance goals were formulated to improve the management of information by more effective use of available technologies. We plan to streamline and simplify the delivery of services and information to regulated entities, other government agencies and the public, as well as automate agency systems and enhance the use of agency databases, which will allow staff to discharge program responsibilities more effectively.

The Commission's Annual Performance Plan comports with the overall objectives of GPRA while maintaining flexibility in its presentation and application. The majority of Commission activities are statute-driven and our goals essentially are based upon legislative mandates which are clear and direct. Significant alteration of our existing programs is not possible, given that many measures and goals are required by statute.

Accordingly, OMB agreed that the Commission should use an appropriately scaled mechanism for GPRA process and development with a framework which would be productive, yet less resource-intensive. Nonetheless, our Plan presents relevant information clearly and concisely, and strives to be as detailed as necessary while avoiding minutiae.

Our Plan sets forth the mission statement and general goals from our Strategic Plan, as a point of reference for the reader. As aforementioned, we have prepared performance goals for the agency in line with each of the agency's Strategic Goals. Each performance goal has been stated as a narrow, measurable objective. For each performance goal, we have identified the related "means to achieve" from the Strategic Plan, the intended outcomes, appropriate performance indicators, the processes and resources required to accomplish it, and the means for measuring/evaluating performance. To ensure a clear understanding of the Plan's contents, set forth below are definitions of basic terms used. We relied on OMB's published guidance for these definitions, and have included parenthetically our interpretation of their practical application.

- A target level of performance; a measurable objective (a specific, proposed performance action).
- A specific action identified in the agency's Strategic Plan as one means of achieving a particular Strategic Goal (actions to accomplish Strategic Goals).



## Appendix E

### Final Annual Performance Plan 2006

#### INTRODUCTION (continued)

- Intended result or consequence of carrying out the activity (the projected effect or what is hoped to be achieved).
- A value or characteristic for measuring results (the quantifier or qualifier of performance).
- The processes, skills, or resources that are required to effectively accomplish a performance goal (what is needed to achieve the goal).
- The means used to verify and validate measured values (methods used for assessing if programs achieved objectives, or, the specific means to measure if outcomes were realized).

The Commission used its existing consultation process in developing this Plan. We have kept key Congressional Committees apprised of our efforts, and have responded to any inquiries. We continued our ad hoc meetings and visits with all sectors of the industry to discuss the state of U.S. ocean shipping and the FMC's oversight responsibilities. In coordination with the various sectors of the maritime industry, we are holding periodic briefings by industry experts designed to provide Commission staff with valuable information on industry services, operations, business practices, and regulatory concerns. And we plan to initiate the second phase of our seminar series, where agency staff travel to various locations to exchange information and discuss relevant issues with the industry and the shipping public. The opinions and comments we received via these various efforts have assisted us in developing our performance goals and implementing approaches.

In line with OMB guidance, the Commission has reflected the resources needed to accomplish its performance goals. We have provided an FTE and funding figure for each Strategic Goal, which reflects what we believe will be required to accomplish the performance goals and "steady state" functions under each respective Strategic Goal. Accordingly, all Commission resources are accounted for in this Plan, i.e., the figures under each Strategic Goal, when summed, reflect the full FTE and funding levels of the President's budget for the FMC for FY 2006.

The Commission will post this Performance Plan on its Internet website to ensure that it is readily accessible to interested parties, and will advise all employees to take the time to review it. Additionally, all employee performance plans are required to comport with the agency's Strategic and Annual Performance Plans, and contain specific elements and standards with a clear explanation of what is expected of the employee in support of the agency achieving its goals. This process in turn has the effect of directly furthering the Administration's initiative on strategic human capital management. Performance of managers and staff is evaluated in part on how they achieve the objectives in this plan.

### Final Annual Performance Plan 2006

#### FMC VISION AND MISSION

The FMC's vision is:

*Fairness and Efficiency in U.S. Maritime Commerce.*

To achieve its vision, the FMC's mission is to:

- *Develop and administer policies and regulations that foster a fair, efficient and secure maritime transportation system.*
- *Protect U.S. maritime commerce from unfair foreign trade practices and market-distorting activities.*
- *Facilitate compliance with U.S. shipping statutes through outreach and oversight.*
- *Assist in resolving disputes.*

OSRA and the events of September 11, 2001, have significantly changed the manner in which the business of ocean shipping is being conducted. The industry continues to restructure its operations to adapt to dynamic economic conditions, emerging trends, and maritime security efforts. International trade remains dependent upon an efficient ocean transportation system. Therefore, it is imperative for the FMC to ensure that its oversight activities produce a competitive trading environment in U.S. ocean commerce that is in harmony with and responsive to international shipping practices, and permits fair and open commerce. We must focus our energies and efforts on this mission, and assure that the agency is organized and managed in a manner best suited to accomplish it with a minimum of government intervention and regulatory cost. Effective use of emerging information technologies will facilitate our efforts. Our actions also must encourage the development of a sound U.S.-flag liner fleet. Accordingly, the FMC has established the following five strategic goals to carry out its statutory mandates.

## Appendix E

### Final Annual Performance Plan 2006

#### FMC STRATEGIC GOALS

1. Provide a timely, efficient and decisive regulatory process, including alternative dispute resolution, to enable all segments of the industry to operate more effectively, with a minimum of regulatory costs.
2. Promote efficiency and fairness in U.S. foreign waterborne commerce through various means, including outreach and monitoring, to protect the public and assist stakeholders in achieving compliance with ocean transportation statutes administered by the FMC.
3. Foster economic efficiencies, reliance on marketplace factors and maritime security by administering U.S. shipping statutes in a balanced and equitable manner to redress excessive anticompetitive actions and other unlawful activities.
4. Employ technological enhancements to improve efficiency and to facilitate the exchange of information.
5. Ensure the FMC has the appropriate organizational framework and management systems to carry out its statutory mandates.

## Appendix E

### Final Annual Performance Plan 2006

#### LINKAGE BETWEEN MISSION STATEMENT AND STRATEGIC GOALS

Our strategic goals address essential FMC statutory, programmatic, and management responsibilities. They were developed with a specific focus on accomplishing the basic purposes of our mission and attaining the competitive, nondiscriminatory shipping environment envisioned by the 1984 Act, as amended by OSRA.

The primary intention of Strategic Goal 1 is to minimize regulatory costs by maintaining timely and decisive regulatory processes, and providing various dispute resolution services. This will render the FMC more effective in addressing matters that perpetuate discrimination or preclude industry efficiency, while reducing the costs of pursuing matters before the Commission. Decisive action and effective assistance in resolving informal complaints or disputes will help to remove uncertainties as to statutory interpretations or the application of FMC rules. Such uncertainties may impede operational efficiencies or technological changes, each of which can foster a more economical ocean shipping system.

Our second strategic goal centers on achieving compliance with the substantive provisions of the shipping statutes the FMC administers, and protecting those involved in U.S. ocean commerce from unfair practices. We will address this goal particularly by interacting with all sectors of the industry, and by vigilant monitoring of ongoing commercial activities. Accomplishing this goal should minimize the unjust discrimination and undue preference or prejudice that precludes certain shipping interests from obtaining rates or service levels that can render their businesses more economic and efficient. Increasing industry compliance should enable stakeholders to concentrate on fair and legal means of enhancing operational efficiency, secure in the knowledge that competitors are not engaging in widespread illegal actions aimed at improving short-term profits. The agency's focus on the qualifications of intermediaries operating in the U.S. trades will afford greater protection to our stakeholders and contribute to national maritime security. And cruise passengers also will be protected through the demonstration of financial responsibility by passenger vessel operators.

Strategic Goal 3 is designed to foster economic efficiencies, assist maritime security initiatives, promote reliance on marketplace factors, and redress excessive anticompetitive practices harmful to international commerce. This is a direct link to our mission statement's call for an efficient, secure, competitive, market-driven ocean transportation system. Our continuing efforts to address the actions of foreign governments that adversely affect U.S. interests and our foreign trade comport with that aspect of our mission aimed at creating an environment "free of unfair foreign maritime trade practices." Our focus on commercial malpractices enhances our objective of limiting unlawful activities.

We also have a specific strategic goal that focuses on making effective use of advancements in IT to improve the efficiency of our operations and enhance our exchange of information with external parties. Carrying out the agency's mission in times of budgetary limitations dictates that we appropriately utilize all available resources. Dynamic changes continue to be made in this area, and the Commission intends to take advantage of any improvement that can enable it to perform its functions more effectively. We hope to improve our business operations so as to add efficiency to the Commission's dissemination and receipt of information. We intend to perform the research and analysis necessary to identify the best options for implementing technical enhancements to facilitate our efforts to achieve our mission.

Finally, our fifth strategic goal addresses Commission management and operations. In order to achieve the objectives of our mission, we must maintain effective processes that enhance efficiency, without serving as ends in themselves. It is essential that we manage for results, and that we effectively tie our budget needs to our performance. This strategic goal serves as the internal underpinning that enables us to accomplish the policy objectives set forth in our mission statement. This goal also ensures continuation of a comprehensive approach to the strategic management of our human capital.

Achieving these mission-driven goals will enable us to address the external factors we face, while assuring an equitable and efficient administration of the shipping statutes under our jurisdiction. Our processes and procedures will be refined or updated as necessary. We are committed to accomplishing our strategic goals and the outcome goals related to them. Therefore, specific means have been identified to enable the FMC to achieve these goals in the most cost-efficient and least disruptive manner possible.

## Appendix E

### Final Annual Performance Plan 2006

#### I. STRATEGIC GOAL: Efficient Regulatory Process

37 FTEs and \$6,032,075 will be required to accomplish this goal.

- Adjudication and resolution of complaints.
- Adjudication and resolution of investigatory proceedings, including fact-findings and show cause proceedings.
- Issuance of rules through the rulemaking process.
- Commission decision-making activities through meetings (formal and notation) that comply with the Government in the Sunshine Act.
- Public information and assistance processes such as press relations, responses to legislative and regulatory inquiries, and compliance with Freedom of Information Act and Privacy Act requirements.
- Other regulatory processes, including activities such as appeals of delegated authority actions, policy issuances, and formal petition processes.
- Providing timely legal counsel to the Commission in order to facilitate regulatory action that is consistent with statutory mandates, representing the Commission's interest in matters before Congress and OMB.
- Reviewing and refining Commission rules to determine their economic impact and ensure that they reflect the current industry environment, as well as meet the needs of the Commission's regulatory mandate.
- Compiling, organizing, and maintaining Commission records.
- Monitor, review and modify, as necessary, Commission regulations to address changing trade conditions, industry practices or statutory modifications.

## Appendix E

### Final Annual Performance Plan 2006

Performance Goal	Related Strategic Goals/Outcomes/ Means	Outcome	Performance Indicator	Process/Activity	Performance Measure/ Evaluation
1. By 9/30/06, make selected Opening/ Reply Briefs & Exceptions & Replies in docketed proceedings available to the public through the Commission's website.	Encourage use of electronic filing.	-Reduce duplicating costs & costs associated with responding to public requests for copies of filings. -Provide for quicker access to such document filings. -Improve efficiency of providing Commission staff with access to public filings.	-Selected Opening Briefs & Reply Briefs & Exceptions & Replies, if any, are made available through the website. -Filings & proceedings are placed on the homepage & are readily accessible in electronic format.	OS requests litigants to submit filings in electronic form or scans filings which are received in hard-copy form.	-OS reviews the number of briefs, exceptions & replies available to the public. -Assess feedback from external & internal users.
2. By December 2005, complete project for scanning & posting historical Commission decisions issued between 1989 & 1996.	Encourage use of electronic filing.	The maritime & legal communities will have greater access to the Commission's decisions, which provide the basis for its policies & precedent.	Historical Commission decisions issued between 1989 & 1996, when the Commission began posting its decisions on the web, will be made available through the website.	-Commission staff will identify, compile & scan decisions/rulings issued between 1989 and 1996. -Scanned documents will be posted on the Commission's website.	Assess feedback from external & internal sources.
3. By 6/30/06, provide the option of filing carrier & marine terminal agreements online.	Update agreement content, monitoring rules.	-Reduction in hour burden & costs on the public associated with filing agreements with the agency. -Quicker dissemination & availability of documents within the agency & to the general public. -Reduction in agency resources needed to handle & process the filing of paper documents. -Reduced agency costs in handling filing fees through direct deposit of filing fees.	-The number of filings accomplished online as a percentage of total filings. -Availability of staff resources for other projects. -Industry interest in the possibility of extending a similar option to other applications.	-Develop IT systems to accommodate the online submission of agreements & accompanying documents. -Have necessary safeguards & security protections in place, including e-signature, to ensure confidentiality of documents where required. -Develop filing procedures & software standards to be employed in conjunction with industry suggestions & views.	-Feedback from the filing public on the efficacy of online filing. -Level of interest shown in obtaining copies of filings.



### Final Annual Performance Plan 2006

#### II. STRATEGIC GOAL: Compliance

39 FTEs and \$6,165,243 will be required to accomplish this goal.

- Reviewing and maintaining a database of SCs between ocean common carriers and shippers, and using this database to guard against anticompetitive practices and other unfair prohibited activities under the 1984 Act.
- Ensuring that common carriers' rates and charges are accessible to the shipping public in private, electronically accessible systems.
- Ensuring that OTIs maintain bonds that protect the shipping public from financial losses.
- Providing formal and informal legal opinions and guidance to the Commission's staff and the general public to ensure clarity and understanding of Commission rules and regulations.
- Administering the Commission's international affairs program.
- Liaisoning with other agencies regarding maritime security.
- Reviewing operational and pricing agreements among ocean common carriers and marine terminals to ensure that they do not unduly restrict competition.
- Issuing passenger vessel certificates evidencing financial responsibility of vessel owners or charterers to pay judgments for personal injury or death or to repay fares for the nonperformance of voyage or cruise.
- Licensing OTIs to protect the public from unqualified, insolvent, or dishonest companies.
- Responding to informal complaints and informal inquiries from Congress and the public relating to Commission responsibilities.
- Acting as a liaison between the FMC and the public by responding and/or coordinating agency responses to public inquiries.
- Maintaining a specialized maritime law library for agency and public use.
- Conduct audit activity of regulated entities, including OTIs and VOCCs, to promote and ensure compliance with applicable statutes and Commission regulations.
- Respond to inquiries and complaints from the regulated industry and shipping public. Provide information, assistance and forms necessary to comply with applicable statutes and Commission regulations including educational seminars.

## Appendix E

### Final Annual Performance Plan 2006

Performance Goal	Related Strategic Goals/Outcomes/ Means	Outcome	Performance Indicator	Process/Activity	Performance Measure/ Evaluation
1. By 9/30/06, enhance use of SC and NSA data, and evaluate SERVCON system functionality.	Enhance monitoring program.	<ul style="list-style-type: none"> <li>-Consistent retrieval of accurate SC and NSA data.</li> <li>-Access to certain data in standard format.</li> <li>-Increase confidence level of statistics &amp; SERVCON query results used in analyses for reports &amp; enforcement actions.</li> <li>-Increase accuracy of SC and NSA information being filed into the system.</li> <li>-More user-friendly features for industry &amp; government.</li> <li>-Better ability to manage data in the database &amp; IT resources.</li> </ul>	<ul style="list-style-type: none"> <li>-Easy access to efficient &amp; useful data.</li> <li>-Data retrieved in organized manner.</li> <li>-Reduction in number of inquiries received for SC and NSA filing assistance.</li> <li>-Increased awareness of certain terms &amp; conditions provided in SCs and NSAs.</li> <li>-Increased ability to keep abreast of issues involving specific SC and NSA activities.</li> <li>-More disk storage space &amp; fewer indexing &amp; other related problems.</li> </ul>	<ul style="list-style-type: none"> <li>-Contact filer users to obtain relevant information.</li> <li>-Confer with government users for input.</li> <li>-Collect relevant information.</li> <li>-Prepare any rulemaking as may be needed to present to FMC.</li> <li>-Monitor &amp; analyze terms &amp; conditions in larger volume of SC and NSA filings.</li> <li>-Report persistent compliance problems to BOE.</li> <li>-Create, update &amp; enter results of SC &amp; NSA/ET review &amp; analysis in Tariff Profile System, SC &amp; NSA/ETs section.</li> </ul>	<ul style="list-style-type: none"> <li>-Industry &amp; government user feedback regarding ongoing efforts.</li> <li>-Overall efficiency of SERVCON system.</li> <li>-Periodic assessment &amp; ability to determine compliance.</li> <li>-BTA Director manages ongoing staff efforts.</li> </ul>
2. Evaluate OTI rules & suggest changes, if necessary, to address industry & agency concerns.	Enhance monitoring program.	<ul style="list-style-type: none"> <li>-Recommendations for up-to-date rules that reflect current industry environment.</li> <li>-Improved compliance with regulations.</li> <li>-Less uncertainty among regulated entities regarding requirements.</li> </ul>	<ul style="list-style-type: none"> <li>-Recommendation to Commission.</li> <li>-Positive feedback from stakeholders &amp; the public.</li> </ul>	<ul style="list-style-type: none"> <li>-Discussion with staff &amp; industry experts.</li> <li>-Internal analysis of rulemaking.</li> </ul>	<ul style="list-style-type: none"> <li>-Final Commission determination on staff recommendations.</li> <li>-Assess impact of any proposals finalized.</li> </ul>

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#### III. STRATEGIC GOAL: **Balanced Enforcement**

15 FTEs and \$2,208,948 will be required to accomplish this goal.

- Investigating discriminatory rates, charges, classifications, and practices of common carriers, terminal operators, and OTIs operating in the foreign commerce of the U.S.
- Representing the FMC before U.S. courts and other administrative agencies.
- Reviewing staff recommendations and initial decisions for legal sufficiency and preparing final decisions and orders.
- Regulating rates, charges, and rules of government-owned or -controlled carriers to ensure that they are just and reasonable and are not unfairly undercutting private competitors.
- Protecting shippers and carriers engaged in the foreign commerce of the U.S. from restrictive or unfair foreign laws, regulations or business practices that harm U.S. shipping interests or ocean trade.
- Prosecute formal proceedings initiated by the Commission.
- Monitor activities and conduct investigations of regulated entities and of SC activity to ensure compliance with statutes and regulations administered by the Commission.
- Conduct non-adjudicatory fact-finding proceedings as directed by the Commission.
- Provide liaison between the Commission and the shipping industry, the public and other governmental entities.
- Coordinate and cooperate with other government entities to improve homeland security by effective exchange of information and assistance regarding foreign ocean transportation.

## Appendix E

### Final Annual Performance Plan 2006

Performance Goal	Related Strategic Goals/ Outcomes/ Means	Outcome	Performance Indicator	Process/Activity	Performance Measure/ Evaluation
1. By 9/30/06, align BTA's MR program for carrier agreements with the amended MR regulations in FMC Docket No. 03-15.	Monitor competitive trade conditions.	<ul style="list-style-type: none"> <li>-Compliance by all applicable agreement parties with the Commission's MR regulations.</li> <li>-Access to quarterly MR data &amp; info for use by the Commission on carrier agreement matters, including: analyses of carrier competition in trades; support for recommendations on agreement matters; background information to address complaints, investigations, or petitions on agreements before the Commission.</li> <li>-An increased understanding &amp; awareness of economic conditions, agreement activities &amp; carrier competition in the major trades.</li> </ul>	<ul style="list-style-type: none"> <li>-Timely &amp; accurate MR data &amp; info on carrier agreements.</li> <li>-Reduction in the number of problems relating to compliance of agreement parties with the MR regulations.</li> <li>-Greater use of MR data &amp; info on agreement matters before the Commission.</li> <li>-Reduction in the number of internal Commission inquiries for further info or clarification on agreement/ trade activities.</li> <li>-Increased Commission awareness of the specific economic &amp; competitive issues affecting conditions in the major trades.</li> </ul>	<ul style="list-style-type: none"> <li>-Inform all carrier agreements of their reporting obligations when final rule becomes effective.</li> <li>-On annual/as needed basis, inform all applicable agreements of any changes in their reporting obligations.</li> <li>-Assign all carrier agreements required to submit MR to BTA staff to review parties' compliance w/the regs. Record info on receipt &amp; compliance of each MR in BTA's database. Promptly inform agreement rep. of any problems relating to parties' compliance w/ the regs. When compliance problems persist &amp; parties are uncooperative, forward matter to BOE for formal review.</li> <li>-Add quarterly MR data to latest Trade Profile for distribution to FMC. Post latest Trade Profile on Intranet website for greater access by FMC staff.</li> <li>-Update and maintain MR in Bureau files for easy access for use on agreement/trade matters.</li> </ul>	<ul style="list-style-type: none"> <li>-BTA Director manages ongoing staff efforts.</li> <li>-Periodically assess agreement parties' compliance with the regulations.</li> <li>-Assess the use &amp; dissemination of MR data &amp; information in BTA's projects &amp; analyses on agreement related matters, &amp; the responsiveness to internal inquiries on agreements.</li> <li>-Determine whether MR data and info is, or can be, incorporated in other Commission programs, projects, &amp; analyses.</li> </ul>
2. Participate effectively in ITDS program.	Cooperate with government agencies for marine security.	<ul style="list-style-type: none"> <li>-ITDS-based trade data becomes available for BTA competitive analyses.</li> <li>-ITDS-based trade data becomes available for investigative &amp; enforcement purposes.</li> </ul>	<ul style="list-style-type: none"> <li>-Timely incorporation of ITDS trade data for use in BTA agreement reviews.</li> <li>-Integration of ITDS search results into preliminary reviews &amp; in more comprehensive investigative efforts.</li> </ul>	<ul style="list-style-type: none"> <li>-Identify budgetary impacts of ITDS (w/ OBFM &amp; BTA).</li> <li>-Identify IT requirements &amp; implications of ITDS (w/OIT &amp; BTA).</li> <li>-Identify security implications of ITDS participation.</li> </ul>	<ul style="list-style-type: none"> <li>-Request for supplemental funding, if any, required to implement ITDS.</li> <li>-Commission enters initial agreement for ITDS participation.</li> <li>-Review of ITDS program upon roll-out of new ITDS modules.</li> </ul>

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#### IV. STRATEGIC GOAL: Technological Efficiencies

17 FTEs and \$2,422,485 will be required to accomplish this goal.

- Implementing a wide range of IT programs and services, including operating the agency's local area network, strategic planning for short- and long-term IT initiatives, IT security, data telecommunications, database development and management, and Internet page development and maintenance to enhance productivity and efficiency.
- Maintaining and updating internal databases to enhance the ability of the public and Commission to obtain relevant program-related information and enhance staff productivity.
- Converting Commission records into electronic format to enable easier public access to information.

## Appendix E

### Final Annual Performance Plan 2006

Performance Goal	Related Strategic Goals/ Outcomes/ Means	Outcome	Performance Indicator	Process/Activity	Performance Measure/ Evaluation
1. Electronic payment of user fees.	Use technology to improve agency work processes to the extent possible and practical.	Existence of web-based system to permit electronic payment of user fees to the extent possible and practical.	Assist stakeholders in submitting payment electronically.	Development of technological tools to provide secure Internet-based interface for payment of user fees to the extent possible and practical.	Lower number of paper checks received & increased usage of electronic payment system.
2. Analyze information collections of the agency and update them as necessary to ensure they are meeting the needs of the users in the most efficient way possible, by being centralized, secure, and containing no unnecessary duplication.	Automate agency systems.	<ul style="list-style-type: none"> <li>-Enhance efficiency of various business processes.</li> <li>-Better utilization of agency resources.</li> <li>-Enables broader, more in-depth analyses of relevant regulatory issues.</li> <li>-Information provided to senior management &amp; various stakeholders more expeditiously.</li> </ul>	<ul style="list-style-type: none"> <li>-Relevant information more readily available for access, manipulation &amp; analysis.</li> <li>-Agency managers report broader use of information resulting in improved analyses &amp; ability to address difficult issues.</li> <li>-Agency staff indicates increased effectiveness in accomplishing relevant tasks developing/ providing information.</li> <li>-Reductions in time involved in completing assignments.</li> </ul>	<ul style="list-style-type: none"> <li>-Task Force with CIO, Operations, and representatives from Bureaus is formed to create plan.</li> <li>-Task Force identifies, documents, and analyzes current information systems.</li> <li>-Task Force conducts a user survey to identify user needs.</li> <li>-Task Force creates recommendation paper outlining short-, medium-, and long-term changes.</li> <li>-Implementation.</li> <li>-Post-implementation review.</li> </ul>	<ul style="list-style-type: none"> <li>-Director of Operations monitors progress of Task Force.</li> <li>-Senior management assesses results of all automation efforts.</li> <li>-CIO incorporates all changes/ refinements identified by senior management.</li> </ul>
3. Streamline agency procurement procedures, including: (1) credit card micro-purchases & (2) receiving & accepting of goods & services.	Automate agency systems.	<ul style="list-style-type: none"> <li>-Complying with various government regulations, such as Prompt Payment Act &amp; OMB Circular A-123, concerning the establishment &amp; maintenance of management &amp; controls.</li> <li>-Faster invoice processing, making better use of valuable agency resources.</li> </ul>	<ul style="list-style-type: none"> <li>-Prism entries for receipt &amp; acceptance of goods &amp; services are captured in a timely &amp; appropriate manner.</li> <li>-Blanket purchase orders are entered into Prism replacing individual Prism requisitions for each micro-purchase.</li> </ul>	<ul style="list-style-type: none"> <li>-For micro-purchasing, various bureau/offices are given a budget as reflected in a blanket purchase order. Purchases are made by OMS upon e-mail requests from various bureaus/offices.</li> <li>-When goods are delivered to the FMC, entries for receipt &amp; acceptance are made into the Prism system.</li> </ul>	<ul style="list-style-type: none"> <li>-Various bureaus/ offices are more empowered in micro-purchasing, which under the blanket purchase order approach, is conducted in a streamlined manner.</li> <li>-The receipt &amp; acceptance of purchased items is tracked in a timely manner in the Prism system.</li> </ul>



### Final Annual Performance Plan 2006

#### V. STRATEGIC GOAL: Management Capabilities

25 FTEs and \$3,670,249 will be required to accomplish this goal.

- Executing financial management policies and programs, including developing annual budget justifications for submission to the Congress and OMB, managing agency appropriations, administering internal control systems for agency funds, travel and cash management, and coordinating with contractors who provide accounting and payroll services.
- Fostering human resources management principles, including recruitment and placement, position classification and pay administration, occupational safety and health, employee assistance, employee relations, workforce discipline, performance management and incentive awards, employee benefits, career transition, retirement, employee development and training, personnel security, and an equal employment opportunity.
- Ensuring the program operations of the agency are administratively supported via telecommunications, procurement of administrative goods and services, property management, space, printing and copying, mail and records services, facilities and equipment maintenance, and transportation.
- Promoting economy and efficiency in the administration of, and protecting and detecting waste, fraud and abuse in, the agency's programs via auditing agency operations.
- Providing guidance to staff regarding administrative matters, including procurement, personnel and contracting issues.
- Ensuring program compliance with various rules and regulations regarding such areas as forms clearance, Paperwork Reduction, Small Business Paperwork Reduction Act, and other Federally required reports and submissions.

## Appendix E

### Final Annual Performance Plan 2006

Performance Goal	Related Strategic Goals/Outcomes/ Means	Outcome	Performance Indicator	Process/Activity	Performance Measure/ Evaluation
1. Simplify and refine the agency's performance appraisal system so that expectations are clearly reflected, performance properly assessed via appropriate measures, and the system facilitates growth and development.	Develop & monitor performance plans.	<ul style="list-style-type: none"> <li>-Any lingering emphases on processes &amp; productivity are replaced with a focus on intended results.</li> <li>-Facilitates evaluations based on what is actually accomplished, as opposed to work produced.</li> <li>-Performance appraisal system serves as an effective tool to provide feedback, guide careers, and offer developmental advice.</li> <li>-Increased incentive for all agency staff to achieve results that are aligned with the agency's mission &amp; stated policy objectives.</li> <li>-Clear communication with employees &amp; more candid, effective, equitable conduct of employee appraisals.</li> </ul>	<ul style="list-style-type: none"> <li>-Specific methods/ means agreed to by senior management.</li> <li>-Consensus among managers &amp; employees that performance plans clearly convey expected results &amp; contain viable means of measuring performance.</li> <li>-Use of performance measures is readily accomplished &amp; performance appraisal process conducted more effectively.</li> <li>-System facilitates effective feedback and developmental advice.</li> </ul>	<ul style="list-style-type: none"> <li>-Employees fully engaged in development of all measures to be used.</li> <li>-Based on recommendations of task force comprised of unit deputies, revised system initiated early in FY06.</li> <li>-Consistent approach taken in stating goals, identifying desired outcomes, &amp; specifying means to be used to measure/evaluate results.</li> <li>-All agency officials ensure that performance goals &amp; employee performance elements clearly specify expected outcomes in a measurable manner, and that appropriate feedback and guidance is provided to all employees.</li> </ul>	<ul style="list-style-type: none"> <li>-Senior management meets to discuss preliminary progress under new system.</li> <li>-Chairman assesses agency progress in implementing new system.</li> <li>-Senior management assesses progress at mid-year reviews.</li> <li>-Chairman reviews final appraisals, and speaks with a cross-section of employees to determine success of new system in meeting objectives.</li> </ul>
2. Develop strategic succession plan for agency senior executives & non-SES upper level managers.	Anticipate future skill problems & recruit.	<ul style="list-style-type: none"> <li>-Agency will be prepared to fill leadership positions with trained, competent staff as vacancies occur.</li> <li>-No significant reduction in effectiveness and efficiency of agency operations upon departure of senior managers.</li> </ul>	<ul style="list-style-type: none"> <li>-No discernible shortfalls in required employee skill sets.</li> <li>-Ability of agency to absorb expected attrition &amp; meet current &amp; ongoing mission needs.</li> </ul>	<ul style="list-style-type: none"> <li>-Task force of various agency staff, led by OA, assesses situation and recommends specific actions.</li> <li>-Necessary development/ training actions initiated.</li> </ul>	<ul style="list-style-type: none"> <li>-Approved succession plan.</li> <li>-Existence of trained, capable staff members ready to fill vacant leadership positions.</li> </ul>

## Appendix F

### GLOSSARY OF ACRONYMS

#### -#-

1920 Act Merchant Marine Act, 1920  
1984 Act Shipping Act of 1984

#### -A-

ACE/ITDS Automated Commercial Environment/  
International Trade Data System  
ADR Alternative Dispute Resolution  
ALC Agency Location Code  
ALJ Administrative Law Judge

#### -B-

BCL Bureau of Certification and Licensing  
BOE Bureau of Enforcement  
BPD Bureau of the Public Debt  
BTA Bureau of Trade Analysis

#### -C-

CATS Carriers' Automated Tariff System  
CADRS Office of Consumer Affairs and Dispute Resolution  
Services  
C&A Certification and Accreditation Services  
CFR Code of Federal Regulations  
CIO Chief Information Officer  
CPIC Capital Planning and Investment Control

#### -D-

DC District of Columbia  
DHS Department of Homeland Security  
DOT Department of Transportation

#### -E-

EEO Equal Employment Opportunity  
EHRI Enterprise Human Resources Integration  
e-OPF Electronic Official Personnel File

#### -F-

FACTS Federal Agencies' Centralized Trial-Balance System  
FASA Fashion Accessories Shippers Association  
FFMIA Federal Financial Management Improvement Act  
FISMA Federal Information Security Management Act  
FMC/Commission Federal Maritime Commission

## Appendix F

### GLOSSARY OF ACRONYMS

#### -F-

<b>FMFIA</b>	<b>Federal Managers' Financial Integrity Act</b>
<b>FOIA</b>	<b>Freedom of Information Act</b>
<b>FSPA</b>	<b>Foreign Shipping Practices Act of 1988</b>
<b>FTE</b>	<b>Full Time Equivalent</b>
<b>FY</b>	<b>Fiscal Year</b>

#### -G-

<b>GPRA</b>	<b>Government Performance and Results Act</b>
<b>GRI</b>	<b>General Rate Increase</b>
<b>GSA</b>	<b>General Services Administration</b>

#### -H-

<b>HSPD-12</b>	<b>Homeland Security Presidential Directive 12</b>
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#### -I-

<b>IDP</b>	<b>Individual Development Plan</b>
<b>IG</b>	<b>Inspector General</b>
<b>IPAC</b>	<b>Intergovernmental Payments and Collections</b>
<b>IPv6</b>	<b>Internet Protocol Version 6</b>
<b>IRS</b>	<b>Internal Revenue Service</b>
<b>IT</b>	<b>Information Technology</b>

#### -M-

<b>MD&amp;A</b>	<b>Management's Discussion and Analysis</b>
<b>MR</b>	<b>Monitoring Reports</b>
<b>MTO</b>	<b>Marine Terminal Operator</b>

#### -N-

<b>NFC</b>	<b>National Finance Center</b>
<b>NIST</b>	<b>National Institute of Standards and Technology</b>
<b>NOI</b>	<b>Notice of Inquiry</b>
<b>NPRM</b>	<b>Notice of Proposed Rulemaking</b>
<b>NSA</b>	<b>NVOCC Service Arrangements</b>
<b>NVOCC</b>	<b>Non-Vessel Operating Common Carrier</b>

#### -O-

<b>OA</b>	<b>Office of Administration</b>
<b>OFM</b>	<b>Office of Financial Management</b>
<b>OGC</b>	<b>Office of General Counsel</b>
<b>OHR</b>	<b>Office of Human Resources</b>
<b>OIG</b>	<b>Office of the Inspector General</b>
<b>OIT</b>	<b>Office of Information Technology</b>
<b>OMB</b>	<b>Office of Management and Budget</b>
<b>OMS</b>	<b>Office of Management Services</b>

## Appendix F

### GLOSSARY OF ACRONYMS

#### -O-

OPM	Office of Personnel Management
OPS	Office of Operations
OPVIP	Office of Passenger Vessels and Information Processing
OS	Office of the Secretary
OSRA	Ocean Shipping Reform Act of 1988
OTI	Ocean Transportation Intermediary

#### -P-

P.L.	Public Law
PAR	Performance and Accountability Report
PIERS	Port Import Export Reporting Service
PMA	President's Management Agenda
POA&M	Plan of Action and Milestones
PRC	People's Republic of China
PVO	Passenger Vessel Operator

#### -R-

RPI	Regulated Persons Index
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#### -S-

SBPRA	Small Business Paperwork Relief Act of 2002
SBR	Statement of Budgetary Resources
SC	Service Contract
SERVCON	Service Contracts Filing System
SES	Senior Executive Service
Shipping Act	Shipping Act of 1984
STB	Surface Transportation Board
SQL	Structured Query Language
SSL	Secure Socket Layer

#### -T-

TEU	Twenty-foot Equivalent Unit (container)
TIN	Taxpayer Identification Number
TMF	Traffic Mitigation Fee

#### -U-

URL	Uniform Resource Locator
U. S.	United States

#### -V-

VOCC	Vessel-Operating Common Carrier
VPN	Virtual Private Network