FEDERAL MARITIME COMMISSION



MANAGEMENT'S DISCUSSION and ANALYSIS


Fiscal Year 2007

MANAGEMENT'S DISCUSSION & ANALYSIS

A MESSAGE FROM THE COMMISSION

The Federal Maritime Commission's ("FMC" or "Commission") Performance and Accountability Report ("Report" or "PAR") for Fiscal Year ("FY") 2007 will enable industry participants and the general public to become more aware of the Commission's ongoing efforts and successes in the regulation of the shipping industry. We believe that the performance and financial data in the Report are complete and reliable under the Office of Management and Budget guidelines. In a few clearly marked instances, estimates have been used where actual numbers do not yet exist. As data becomes available, those estimates will be replaced with actual figures in subsequent Reports.

The Commission'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;
- Assist in resolving disputes.

The fundamental mandate underlying the agency's mission is to help remove impediments to fair competition – undue controls, influences or non-market barriers imposed by any nation, carrier, cargo owner or transportation intermediary – which can adversely affect U.S. oceanborne trade. Our regulatory system enables necessary oversight with minimal disruption to the efficient flow of U.S. imports and exports, ensuring fair competition in the ocean transportation industry while allowing the industry to conduct business as efficiently as possible. We are committed to developing programs and processes that will enable the Commission to fulfill this mission in the context of an evolving industry. In doing so, we strive to increase performance efficiencies and the effectiveness of our workforce.

In FY 2007, the Commission set out to achieve eleven specific performance goals. The agency fully achieved four goals, neared full completion of two goals, and made substantial progress towards the completion of five goals. We anticipate that the agency will fully complete these remaining five goals in Fiscal Year 2008. In addition, the Commission continued its substantial progress towards fulfillment of the President's Management Agenda. Notably, the agency received an "unqualified opinion" on its financial statements for the fourth consecutive year. The agency further expanded its use of electronic government by increasing the number of documents available online and by making substantial progress towards agency-wide database integration. Regarding succession planning, the Commission designed and implemented a Senior Executive Service Candidate Development Program, and continued its Emerging Leaders Program.

The Commission is proud of its FY 2007 accomplishments and looks forward to providing high-quality service to the American public in future years.

Sincerely,

A. Paul Anderson Commissioner	Joseph E. Brennan Commissioner	Harold J. Creel Jr. Commissioner	Rebecca F. Dye Commissioner

November 15, 2007

Chapter One

MANAGEMENT'S DISCUSSION and ANALYSIS

I. Introduction

The Commission is an independent transportation/trade regulatory agency that administers the Shipping Act of 1984 ("Shipping Act") as amended by the Ocean Shipping Reform Act of 1998 ("OSRA"); section 19 of the Merchant Marine Act, 1920; the Foreign Shipping Practices Act of 1988; and Public Law ("P.L.") 89-777 (Passenger Vessel Financial Responsibility). This Report represents the completion of the FMC's program and financial management process for FY 2007, which began with mission and program planning, continued with the formulation and justification of the agency's budget submission to the President and Congress, continued through budget execution, and ended with a report of our program performance and the agency's 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 Office of Management and Budget ("OMB") Circular No A-136, and covers the FMC's activities from October 1, 2006 through September 30, 2007.

II. Vision and Mission Statements

The Federal Maritime Commission's vision is:

Fairness and efficiency in U.S. maritime commerce.

The Federal Maritime Commission'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:
- Assist in resolving disputes.

III. Highlights of FY 2007 Performance

The FMC focused on eleven performance goals during FY 2007. Four of the goals were fully completed. Seven of the goals were not met, although progress was made and the agency anticipates meeting those goals during FY 2008.

The FMC met all of its performance goals relating to the fulfillment of its substantive regulatory responsibilities. The agency successfully expanded its ocean transportation intermediary monitoring and audit program, met its goals in addressing unlicensed ocean transportation intermediary ("OTI") activity, and enhanced its passenger vessel financial responsibility oversight. The agency also met its succession planning goals, developing and implementing both a Senior Executive Service Candidate Development Program and an Emerging Leaders Program.

The FMC made progress in meeting its remaining goals, most of which related to electronic filing, database upgrades, and the automation of forms. For example, the agency is close to completing an upgrade of its Internet web site, and has made substantial progress in integrating its Office of Consumer Affairs and Dispute Resolution Services ("CADRS") complaint database with other existing agency databases. The agency continues to work towards its goals of automating several regulatory forms, as well as enabling the regulated community to electronically file monitoring reports and bonds. Finally, the agency's ongoing efforts to redesign its Intranet and to implement a new performance appraisal system, should see substantial progress in FY 2008.

IV. Regulatory Responsibilities

The FMC oversees approximately 5,400 regulated persons, including ocean common carriers, marine terminal operators ("MTOs"), and OTIs. The agency'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. The FMC is authorized to ensure that the foreign commerce of the U.S. is not burdened by non-market barriers to ocean shipping. The agency may take countervailing action to correct unfavorable shipping conditions caused by carriers or foreign governments, and may impose penalties.

- Reviewing operational and pricing agreements among ocean common carriers and MTOs to ensure that they do not have excessively anticompetitive effects. The Shipping Act exempts these agreements from the U.S. antitrust laws, and the FMC reviews and evaluates such agreements to ensure that they do not result in unreasonable increases in transportation cost or unreasonable reductions in transportation service.

- Reviewing and maintaining an electronic system for the filing of service contracts between ocean common carriers and shippers, and service arrangements between non-vessel-operating common carriers (“NVOCCs”) and shippers.

- Ensuring that common carriers’ rates and charges are available to the shipping public in private, electronically accessible systems.

- Regulating the rates, charges, and rules of government-controlled carriers to ensure that they are just and reasonable and do not unfairly undercut private competitors.

- Ensuring that passenger vessel operators (“PVOs”) provide evidence of sufficient financial responsibility to pay judgments for personal injury or death, or to reimburse fares in the event of 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.

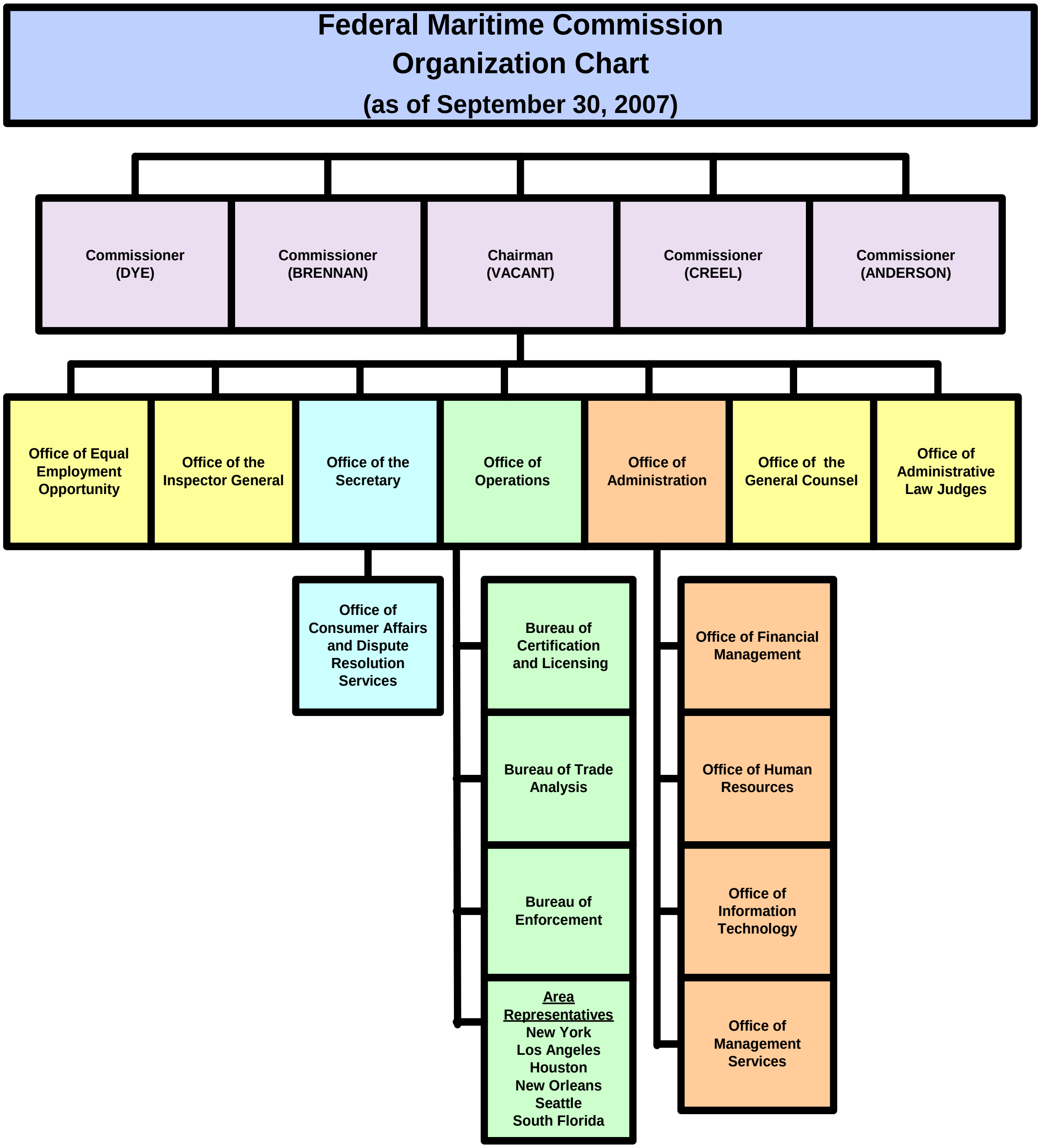
- Investigating potentially discriminatory rates, charges, classifications, and practices of common carriers, MTOs, and OTIs operating in the foreign commerce of the United States.

The FMC carries out its regulatory responsibilities by conducting formal and informal investigations. It holds hearings, considers evidence, 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.

V. Organizational Structure

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. In FY 2007, the FMC’s appropriation totaled $20,427,910, which funded 119 full-time equivalent staff.

The former Chairman resigned from the Commission in November, 2006. The President has designated an individual to fill this position, pending Senate confirmation.


Federal Maritime Commission
Organization Chart
(as of September 30, 2007)
Commissioner (DYE)
Commissioner (BRENNAN)
Chairman (VACANT)
Commissioner (CREEL)
Commissioner (ANDERSON)
Office of Equal Employment Opportunity
Office of the Inspector General
Office of the Secretary
Office of Operations
Office of Administration
Office of the General Counsel
Office of Administrative Law Judges
Office of Consumer Affairs and Dispute Resolution Services
Bureau of Certification and Licensing
Bureau of Trade Analysis
Bureau of Enforcement
Area Representatives
New York
Los Angeles
Houston
New Orleans
Seattle
South Florida
Office of Financial Management
Office of Human Resources
Office of Information Technology
Office of Management Services

VI. President's Management Agenda

The President's Management Agenda is intended to make government more citizen-centered, results-oriented, and market-based. The Agenda's five initiatives are: Strategic Management of Human Capital; Competitive Sourcing; Improved Financial Management; Expanded E-Government; and Budget and Performance Integration. The FMC has achieved success in addressing these initiatives.

A. Strategic Management of Human Capital

A Senior Executive Service Candidate Development Program, which was initiated during FY 2006 to address succession planning needs, was fully implemented during FY 2007, with candidates engaged in training and developmental activities, including temporary assignments within and outside the agency. In FY 2007, the agency graduated the first class from its new Emerging Leaders Program, which was developed for long-range succession planning and to provide mid-level staff and managers an opportunity to develop targeted skills and provide career development. The FMC also initiated an agency-wide Individual Development Plan Program after concluding a pilot of the program; this program was implemented to more effectively target career development needs of individual employees and improve overall agency skill levels.

The agency continued to offer a college tuition reimbursement program, to encourage 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.

In its recruiting practices, the FMC utilizes a wide range of alternatives, such as those under the Direct-Hire Authority, delegated examining, and the Veterans Employment Opportunities Act. The agency implements e-Government initiatives such as e-clearance, e-payroll, Enterprise Human Resources Integration, and e-learning. The FMC is one of eight small agencies which have joined together as a Consortium to implement eOPF, the electronic Official Personnel Folder (OPF), part of the Enterprise Human Resources Integration initiative. The Consortium has formally partnered with the Office of Personnel Management to acquire eOPF and achieve economies of scale by sharing fixed costs associated with assessment, implementation and conversion. During the fiscal year, the Consortium completed background work necessary to schedule a "fast-track" implementation of eOPF at each agency, and to provide Consortium employees with the ability to more easily access their OPFs and all corresponding personnel documentation retained in the OPF by the agency.

B. Budget and Performance Integration

The FMC continues to make progress in achieving budget and performance integration. In FY 2007, the FMC began a re-assessment of its Government Performance and Results Act ("GPRA") process, with a focus on how to improve its performance planning. In the coming year, the agency intends to build upon this initiative as its strategic plan is also re-evaluated.

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

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

C. Competitive Sourcing

The FMC is committed to acquiring goods and services in an efficient manner. The FMC submitted its FY 2007 Federal Activities Inventory Reform Act Inventory to OMB in June 2007. The Inventory identifies 79 of the agency's 133 FTEs as commercial activity FTEs. No challenges to its commercial inventories have ever been received.

The Commission is a small agency whose personnel perform many different functions. The number of FTEs has declined from 199 in 1993 to 133 in the President's Budget for FY 2007 (the FMC ended FY 2007 with 119 FTEs). The Commission streamlines and improves efficiencies by committing budgetary resources to a variety of contracts for support services, including interagency/cross-service and commercial agreements for payroll, accounting, procurement, human resources processing, travel, health, excessing property, security guard, transit benefits, office space rent, messenger, and equipment maintenance services.

To carry out its statutory responsibilities as an independent agency the Commission must have 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 have sufficient in-house staff who are knowledgeable and impartial in their dealings with foreign governments, the industry, Congress and other government agencies. Therefore, the Commission determined to list those 79 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.

D. Expanded Electronic Government

The FMC continues to expand electronic government. During the fiscal year, the FMC increased the number of filings in significant docketed proceedings available to the public on the agency's website, as well as a significant number of historical agency decisions. Further, the FMC completed development and testing of an automated Form FMC-18 and placed it on the agency website for optional use by applicants for licenses as OTIs. By fiscal year's end, work was nearly completed on an updated Regulated Persons Index, which is to be placed on the agency's Intranet for the use of FMC staff.

Work continued on automating the submission process for certain FMC forms used by regulated entities, and on planning for the mandatory implementation in June of 2008 of the next generation of Internet protocol, IPv6. The agency also provided additional content on its Intranet for the use of FMC staff.

Senior managers are aware of the requirements and benefits of electronic government, and are planning and initiating program changes to expand the use of electronic government in daily activities. Employees are required to complete on-line information technology security refresher training on an annual basis. The FMC continues to upgrade its network infrastructure and to 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 expand opportunities for e-government activities. In FY 2007, the agency resolved a significant deficiency related to its information technology program; the deficiency had been identified in an earlier Federal Managers' Financial Integrity Act ("FMFIA") Report.

E. Improved Financial Performance

The FMC received an "unqualified opinion" on its financial statements in FY 2007, for the fourth 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 Bureau of Public Debt ("BPD") to provide general-ledger accounting, travel, procurement and financial reporting services, and with the National Finance Center ("NFC") to provide payroll services.

Our current financial 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.

VII. Financial Performance

A. Overview

As of September 30, 2007, the financial condition of the FMC was sound with respect to having sufficient funds to meet program needs and adequate control of funds to ensure that obligations did not exceed budget authority. The FMC's accounting services provider, BPD, prepared the agency's financial statements in accordance with accounting standards codified in the Statements of Federal Financial Accounting Standards, and OMB Circular A-136, Financial Reporting Requirements.

The FMC's total budget authority for fiscal year 2007 was $20,427,910. This represents an increase in budget authority of $133,900 over fiscal year 2006's budget of $20,294,010.

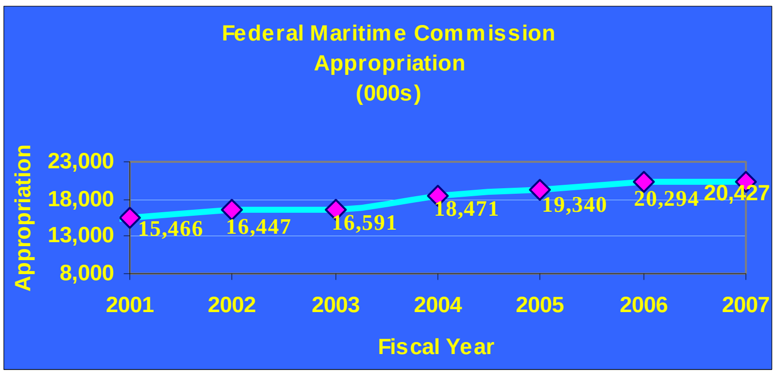


Table A

Although the FMC collects remittances for "user fees" and "fines and penalties," the agency is not authorized to offset any of its budget authority with these funds.

The FMC's single source of funds, Salaries and Expenses, is funded by an annual appropriation that is available for commitments and obligations incurred during the fiscal year in which the authority was granted. As reflected in Table B, approximately 71% of the total appropriation was used for salaries and benefits. Of the remaining budget authority, 1% was used for Commission travel expenses and 28% was used for administrative expenses, also known as operating expenses (e.g., rent, furniture, printing, maintenance). The un-obligated authority balance of $4,511.00 will remain active for four years to service FMC-established requirements.

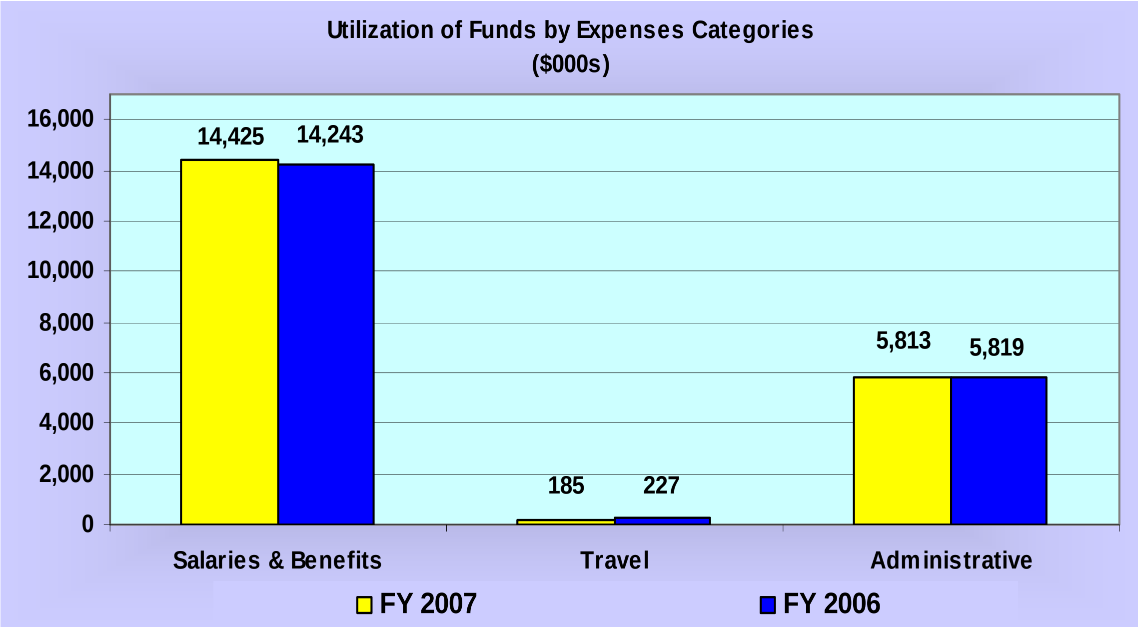


Table B

1. Personnel Strength History

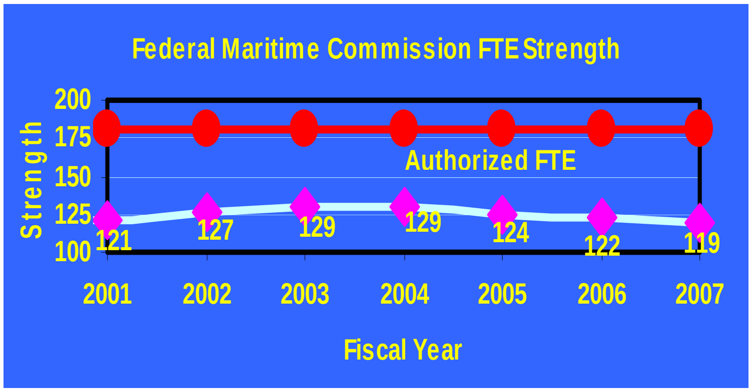


Table C

As reflected in Table C, 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 effectively accomplish our mission. In recent years, the Commission was authorized a total of 180 full-time-equivalent positions. Due to appropriations levels, the Commission has been required to maintain full-time personnel levels much lower than authorized.

2. Audit Results

The FMC received an unqualified opinion on its FY 2007 financial statements from the auditing firm of Dembo, Jones, Healy, Pennington & Marshal, P.C. under contract through the FMC's Inspector General.

B. Financial Statement Highlights

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 Chapter 3, Auditors' Report and Financial Statements. 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). 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.

As shown in Table D, the analysis of Net Costs presents the net cost of the FMC's five agency programs from the agency's financial statements. The five programs are: Administration; Operations; Formal Proceedings; Inspector General; and Equal Employment Opportunity. The Statement of Net Costs shows the net cost of operations for the agency as a whole and its sub-organizations and/or programs from the five active appropriations. The Administrative program costs include agency overhead expenses.

Summary of the Statement of Net Cost as of September 30, 2007

	FY 2007	FY 2006
Administration	$8,869,541	$8,449,512
Operations	$7,203,333	$7,132,804
Formal Proceedings	$4,801,085	$4,958,503
Inspector General	$394,294	$469,885
Equal Employment Opportunity	$141,593	$135,722
Net Cost of Program Services	**$21,409,846**	**$21,146,426**

Table D

VIII. Improper Payments Information Act

The Commission has not identified any program that alone 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. 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 the NFC. In FY 2007, the FMC had no overpayments. The FMC did not identify any improper collections through Intergovernmental Payments and Collections ("IPAC") collections.

IX. 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

A. Federal Managers' Financial Integrity Act

The Federal Managers' Financial Integrity Act ("FMFIA") requires that agencies establish management controls over their programs and financial systems. Specifically, section 2 of the FMFIA requires an annual assessment of internal controls necessary to ensure compliance with applicable laws; protect against waste, fraud, and abuse; and ensure receivables and expenditures are properly recorded. Section 4 requires an assessment of conformance with government-wide financial system requirements.

In accordance with guidance issued by OMB, agency program managers conducted reviews of their financial, administrative and program management controls. Every office participated in the review, ensuring comprehensive coverage throughout the agency. Each office head prepared an annual assurance statement that identified any control deficiencies that merited the attention of the agency head. These statements were based on information gathered from various sources, including management's personal knowledge gained from daily operation of the office, Office of the Inspector General audits/reviews, annual performance plans and reports, and audits of the FMC's financial statements. Management concluded that controls in effect during FY 2007 provided reasonable assurance that the FMC's system of internal controls is achieving its objectives. Management control deficiencies, when identified, are addressed at the highest management levels within the agency. For example, the agency's Chief Information Officer directly oversees corrective actions for significant deficiencies identified in the agency's information technology area.

Commission's Assurance Statement

In the absence of a Chairman, the Commission advises that management controls in effect during FY 2007 provided reasonable assurance that, taken as a whole, the FMC's system of internal controls is achieving the applicable objectives under sections 2 and 4 of the FMFIA.

A. Paul Anderson Commissioner	Joseph E. Brennan Commissioner	Harold J. Creel, Jr. Commissioner	Rebecca F. Dye Commissioner

B. FY 2007 Integrity Act Results

During the fiscal year, the FMC resolved one significant deficiency which was first identified in a previous fiscal year. The deficiency concerned the quality of certification and accreditation ("C&A") documents and security self-assessments, i.e., that C&A documents developed for the FMC network and applications did not provide enough information to evaluate the threats, vulnerabilities, safeguards and risks associated with operating the systems in a production environment. To resolve the deficiency, the FMC's Information Technology ("IT") Security Officer developed updated C&A documents. The FMC is pleased to report that this significant deficiency was resolved.

C. Federal Financial Management Improvement Act

The 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.

D. FY 2007 Federal Financial Management Improvement Act Results

The Commission determined that, as of September 30, 2007, the agency's financial management systems were in substantial compliance with the FFMIA. In making this determination, the Commission considered, among other resources, Inspector General reports as well as audits conducted by outside auditors in previous fiscal years.

E. 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 2007, the FMC maintained a percentage of on-time payments at 98.78%. Interest payment in the amount of $72.00 was primarily due to a change in the telecommunication vendor and to billing anomalies. 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.

F. 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 names and taxpayer identification numbers ("TIN") are matched against TINs of recipients of government payments. To satisfy the debt, the balance owed the government is deducted or offset from the payment to the entity. All Office of Personnel Management ("OPM") retirement, vendor, Internal Revenue Service refunds, Social Security benefits, and some federal salary payments are subject to 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.

G. 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. The fees are posted on the FMC's website. During FY 2007, the FMC initiated its biennial review, which was nearing completion at the end of the fiscal year. It is anticipated that a revised schedule of fees will be finalized early in FY 2008.

H. 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.

I. Inspector General Act

Briefly, during fiscal year 2007, the Inspector General completed the following audits/inspections:

- Audit of FY2006 Financial Statements;
- Audit of Contracts FMC-05-00021 and FMC-06-00007, Procurement of Consulting Services;
- Data Accuracy of FMC's FY 2006 Performance and Accountability Report;
- Penetration Test of the Federal Maritime Commission's Outward-Facing Network;
- The Federal Maritime Commission's Implementation of the Federal Information Security Management Act – OMB Report Template.

The Inspector General's reviews disclosed one instance of approximately $56,000 questioned costs; there were no 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 2008.

During FY 2007, the agency resolved one significant deficiency which had been identified by the Commission in a previous fiscal year.

The FMC has established and strives to maintain a good record in resolving and implementing audit recommendations presented in Office of Inspector General ("OIG") reports.

X. Inspector General's Assessment of the Most Serious Management and Performance Challenges Facing the Federal Maritime Commission

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

November 1, 2007

Office of Inspector General

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TO: Commissioner Anderson
Commissioner Brennan
Commissioner Dye
Commissioner Creel

FROM: Adam R. Trzeciak
Inspector General

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

On November 22, 2000, the President signed the Reports Consolidation Act of 2000 (Public Law 106-531), an amendment to the Chief Financial Officers (CFO) Act of 1990. The Reports Consolidation Act requires inspectors general to provide a summary and assessment of the most serious management and performance challenges facing Federal agencies and their progress in addressing these challenges. The attached document responds to the requirements and provides the annual statement on Commission challenges to be included in the Federal Maritime Commission's (FMC) Performance and Accountability Report (PAR) for Fiscal Year 2007.

This year, the Office of Inspector General (OIG) has identified three management and performance challenges for inclusion in the FMC's FY 2007 PAR. These assessments are based on information derived from a combination of sources, including OIG audit and inspection work, Commission reports, and a general knowledge of the Commission's programs. 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, 2007.

Attachment

Office of Inspector General
Management and Performance Challenges

Management & Performance Challenge: To integrate responsibility for information security between the Office of Information Technology (OIT) and FMC program bureaus.
Agency Progress in Addressing the Challenge: The Federal Information Security Management Act of 2002 (FISMA) requires the agency head to ensure that (i) information security management processes are integrated with agency strategic and operational planning processes; and (ii) senior agency management officials play an active role in protecting the information that supports the operations and assets under their control.

A fully integrated agency-wide information security program provides the framework for ensuring that risks are understood and that effective controls are selected and properly implemented. In a recent FMC / IT security evaluation, the OIG concluded that the agency has not adequately documented and implemented its information security program consistent with Office of Management and Budget (OMB) and National Institute of Standards and Technology (NIST) requirements and guidance. While we point to many possible causes for this outcome, we believe that the most likely impediments are (i) the prevailing (and incorrect) presumption that OIT is solely responsible for IT security; and (ii) vesting OIT with the responsibility without the corresponding authority to implement an integrated program. As a consequence, IT managers are making security decisions over data and information without the authority to enforce security policy and the resources needed to implement a robust security program.

The Challenge Ahead: OIT must regularly coordinate with program offices to document, implement and enforce the FMC information security program, which ultimately protects the data used by the program offices. To be most effective, it needs to refocus or redefine IT security responsibilities as agency responsibilities, not only CIO responsibilities. Specifically, FMC should focus on obtaining active involvement by program managers in the security decisions of their systems and adhere to government-wide security guidance in assessing and implementing its security program.

Management & Performance Challenge: Securing the agency's critical systems and networks from destruction, data loss or compromise.

Agency Progress in Addressing the Challenge: Information security is an ongoing challenge at most Federal agencies, including the FMC. Some weaknesses identified by the OIG in past security reviews include untested or inadequate security plans, systems placed into production before accreditation by the CIO, failure to adhere to NIST standards in the certification and accreditation of major applications and the development of contingency plans that do not address all the NIST-required plan elements.

Within the last year, the FMC has made some progress in (i) developing needed policies and procedures addressing many of its IT resources and functions, (ii) certifying and accrediting three major systems, (iii) closing recommendations identified in prior IT security evaluations, (iv) acquiring and implementing patch management software and introducing an in-depth annual computer security awareness program, including an interactive, online security awareness course with an assessment at completion.

The Challenge Ahead: While taking steps to safeguard systems and information from the most creative and sophisticated IT intruders, it is sometimes easy to overlook basic security controls, such as changing default passwords on newly purchased systems, limiting employees' access to systems and data needed to perform their job responsibilities and terminating access to IT resources by separating employees. The challenge for the agency's IT managers is to remain focused on basic security controls as they strive to stay one step ahead of new, highly sophisticated security threats and to balance the competing demands of IT security and operations.

Management & Performance Challenge: To enhance accountability of the Federal Maritime Commission to its stakeholders and to the American taxpayers by focusing on results and tying agency programs to reliable cost and performance data.

Agency Progress in Addressing the Challenge: The Government Performance and Results Act of 1993 (GPRA) holds Federal agencies accountable for using resources efficiently and effectively and achieving program results.

Reviews of other Federal agencies' performance reporting by the Government Accountability Office and their respective IG's have found that performance measures were frequently not clear or quantifiable, some activities lacked performance measures, while other reported performance results were not always valid.

In a recent review of the accuracy of performance information presented in the agency's annual PAR report, the OIG found that the agency communicated inaccurate program performance data to Congress and its stakeholders. These reporting errors resulted from management's decision to rely on estimates rather than actual numbers when reporting results.

The OIG also notes that many of the agency's performance measures are output rather than outcome based. Being a small regulatory agency with a very narrow, albeit important jurisdiction, it is an arduous task to focus on measurable outcomes.

Recognizing the challenges the agency faces in this regard, we also note that other regulatory agencies have developed outcome measures. We encourage the FMC to mirror their efforts and strive to develop measurable outcomes.

The Challenge Ahead: The FMC should strive to ensure the accuracy of performance information reported externally. The strategic plan must be viewed as the first step in laying the foundation for the FMC's budget request and its performance plan, enabling the agency to demonstrate accountability to the public. The agency must focus on outcome-oriented reporting that is accurate and verifiable, develop measurable outcome-oriented goals and make adjustments based on performance feedback and program evaluations. Finally, the FMC must continue to develop cost based accounting systems that enable it to accurately tie costs to performance measures.