



# **Federal Maritime Commission**

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## **Fiscal Year 2018 Budget Request**

**July 2017**  
Revised



To be submitted to the Appropriations Committees  
(Subcommittees on Transportation, Housing and  
Urban Development, and Related Agencies)

**Acting Chairman Michael A. Khouri**

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## Our Mission and Goals

### Competition and Integrity for America's Ocean Supply Chain

The FMC's mission is to ensure a competitive and reliable international ocean transportation supply system that supports the U.S. economy and protects the public from unfair and deceptive practices.

The FMC's 2014-2018 Strategic Plan calls for achieving its mission by fulfilling two goals:

- Maintain a competitive international ocean transportation supply system.
- Protect the public from unlawful, unfair, and deceptive practices.

## Overview of the FMC

The Federal Maritime Commission (FMC or Commission) is an independent agency responsible for the regulation of oceanborne transportation in the foreign commerce of the United States for the benefit of U.S. exporters, importers, and consumers. The Commission is directed by five Commissioners appointed for staggered five-year terms, with one Commissioner designated by the President to serve as Chairman. The Chairman is the Chief Executive and Administrative Officer of the agency. Under a recent statutory change, Commissioners appointed and confirmed after December 18, 2014 may serve no more than two terms.

Congress has charged the FMC with a number of oversight responsibilities designed to ensure competitive and efficient ocean transportation services for the shipping public, and to protect the public from unfair and deceptive practices. The principal statutes administered by the Commission, now codified at 46 U.S.C. §§ 40101-44106, are:

- The Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (Shipping Act)
- The Foreign Shipping Practices Act of 1988 (FSPA)
- Section 19 of the Merchant Marine Act, 1920 (1920 Act)
- Sections 2 and 3 of Pub. L. No. 89-777, 80 Stat. 1350

The FMC ensures competitive and efficient ocean transportation services for the shipping public by:

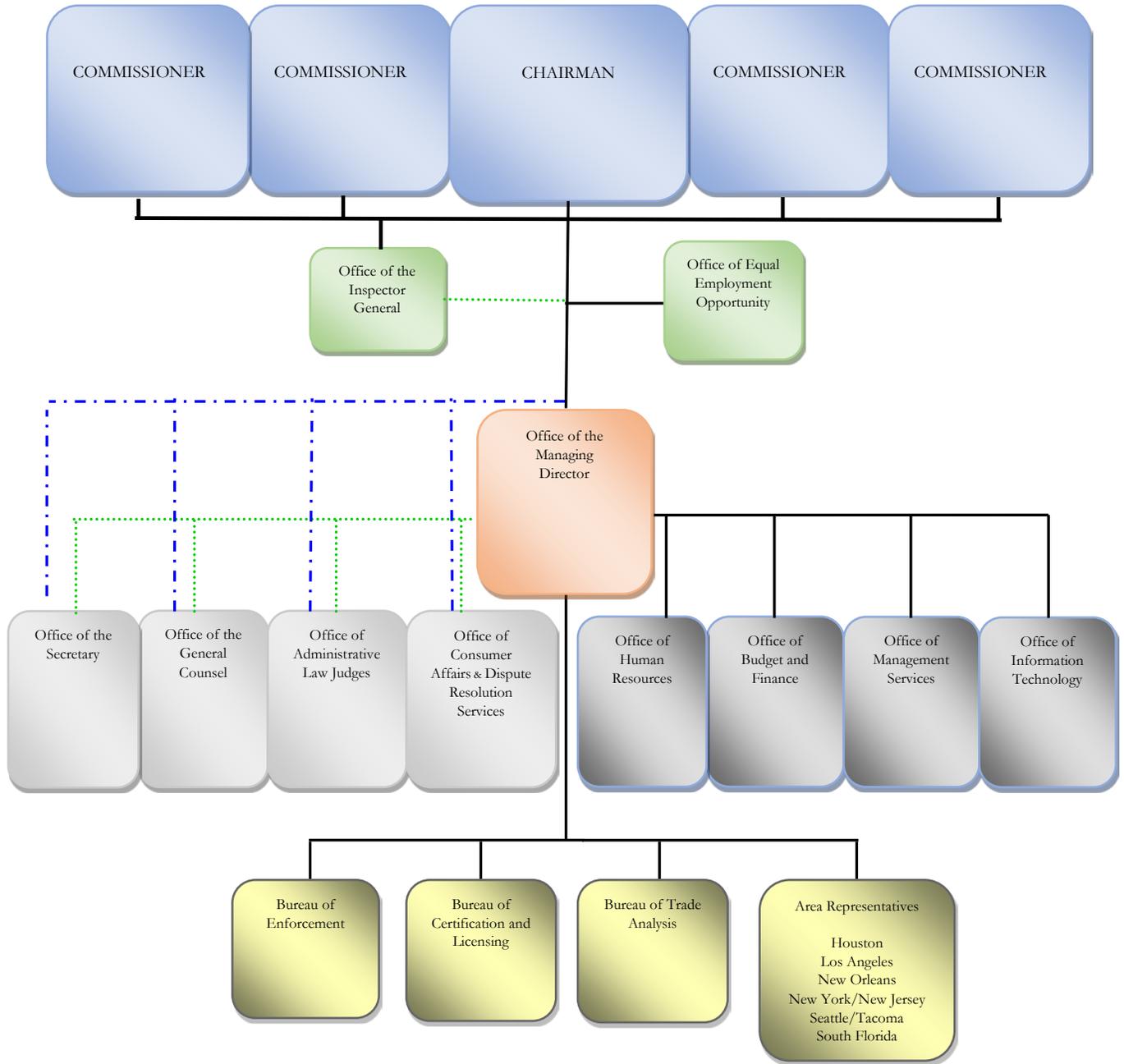
- Reviewing and monitoring agreements among and between ocean common carriers and among and between marine terminal operators (MTOs) serving the U.S. foreign oceanborne trades to ensure that they do not cause unreasonable increases in transportation costs or decreases in transportation services;
- Maintaining and reviewing confidentially filed service contracts and Non-Vessel-Operating Common Carrier (NVOCC) Service Arrangements to guard against detrimental effects to shipping;
- Providing a forum for exporters, importers, and other members of the shipping public to obtain relief from ocean shipping practices or disputes that impede the flow of commerce;
- Ensuring common carriers' tariff rates and charges are published in private, automated tariff systems and electronically available;
- Monitoring rates, charges, and rules of government-owned or -controlled carriers to ensure they are just and reasonable; and
- Taking action to address unfavorable conditions caused by foreign government or foreign business practices in U.S. foreign shipping trades.

The FMC engages in a variety of activities that protect the public from financial harm, and contribute to the integrity and security of the Nation's import and export supply chains and ocean transportation system. These activities include:

- Licensing and registering ocean transportation intermediaries;
- Helping resolve disputes about the shipment of goods or the carriage of passengers;

- Administering and enforcing a surety bond program to ensure payment of judgments for damages by NVOCCs and freight forwarders;
- Investigating and prosecuting violations of the Shipping Act and other statutes referenced above;
- Adjudicating private party complaints alleging Shipping Act violations; and
- Ensuring that passenger vessel operators maintain proper financial coverage to reimburse cruise passengers in the event their cruise is cancelled or to cover liability in the event of death or injury at sea.

FEDERAL MARITIME COMMISSION  
ORGANIZATION CHART



..... Administrative  
 - - - - - Technical

## Our Organization

The FMC's staff is comprised of economists, attorneys and experts in ocean transportation and government administration. While most of the Commission's workforce is located at its Washington, D.C. headquarters, the Commission maintains a presence in six major port locations nationwide.

In addition to its Commissioners' offices, the Commission is organized into bureaus and offices to accomplish its mission:

**Area Representatives (ARs):** Stationed in six strategic locations, the ARs represent the FMC and serve major ports and transportation centers within their respective areas and beyond. The ARs facilitate the flow of information to and from the maritime industry and the shipping public, resolve complaints and disputes between parties involved in international oceanborne shipping (often coordinating with our office of Consumer Affairs and Dispute Resolution Services), investigate alleged violations of shipping statutes, and function as an intelligence resource. They provide advice and guidance to the shipping public, collect and analyze information of regulatory significance, and assess industry conditions. The ARs frequently cooperate and coordinate with other Federal, state and local governmental agencies, providing shipping expertise and information. The ARs educate the public on FMC regulations and services at industry seminars and conferences as well as prepare and give presentations through local community contacts.

**Bureau of Certification and Licensing (BCL):** BCL is responsible for the Passenger Vessel Certification and Ocean Transportation Intermediary programs. BCL is composed of two offices, the Office of Passenger Vessels and Information Processing and the Office of Transportation Intermediaries.

**Bureau of Enforcement (BOE):** BOE is the prosecutorial arm of the Commission. Bureau attorneys participate as trial counsel in formal proceedings, and work closely with the Commission's Area Representatives in investiga-

tions of potential violations of the Shipping Act and Commission regulations. BOE negotiates settlements and informal compromises of civil penalties, and may act as investigative officers in formal fact-finding investigations initiated under the Shipping Act or the FSPA.

**Bureau of Trade Analysis (BTA):** BTA reviews agreements and monitors the concerted activities of ocean common carriers and marine terminal operators under the standards of the Shipping Act. BTA is responsible for competition oversight and market analysis, focusing on activity that is substantially anti-competitive under the standards of 6(g) of the Shipping Act. BTA also reviews and analyzes service contracts, monitors rates of government-owned controlled carriers, reviews carrier-published tariff systems under the accessibility and accuracy standards of the Shipping Act and responds to inquiries or issues that arise concerning service contracts or tariffs.

**Office of the Administrative Law Judges (OALJ):** The OALJ resolves cases of alleged violations of the Shipping Act and other laws within the Commission's jurisdiction.

**Office of Consumer Affairs and Dispute Resolution Services (CADRS):** CADRS provides assistance to shippers, ocean transportation intermediaries, cruise operators and passengers, truckers, marine terminal operators, and vessel-operating common carriers (VOCCs) by providing alternative dispute resolution services, ombuds assistance, mediation, facilitation, and arbitration to resolve disputes involving cargo

shipments, household goods shipments, and cruises.

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

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

*Office of the General Counsel (OGC):* The OGC provides legal services to the Commission. Key responsibilities include: providing advice and recommendations; preparing final decisions, orders and regulations for Commission approval and issuance; representing the Commission in litigation before the courts; representing the Commission's interests in matters before Congress; providing technical and policy assistance to other government agencies engaged in international negotiations or discussions on shipping matters; and providing legal opinions to the Commission, its staff, and the general public in appropriate instances. OGC also oversees the Commission's international affairs activities.

*Office of the Managing Director (OMD):* The OMD is responsible for implementing the administrative directives of the Chairman, the management and coordination of Commission Bureaus, and overseeing the agency's Area Representatives. It has direct oversight of the administrative offices of the Commission, which include the Offices of Budget and Finance, Human Resources, Information Technology, and Management Services.

*Office of the Secretary (OS):* The OS serves as the focal point for all matters and documents submitted to and emanating from the Commission. It receives and processes a variety of documents in regulatory and administrative proceedings; as well as subpoenas served on the Commission or its members. The OS 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; maintaining official files and records of all formal proceedings; issuing orders and notices of actions of the Commission; compliance with Freedom of Information, Government in the Sunshine and Privacy Acts; responding to information requests from the public; issuing publications and authenticating instruments and documents of the Commission; publishing Commission historical decisions; maintaining a Public Reference/Law Library and a Docket Library; and overseeing the organization and content of the Commission's website.

## Proposed Appropriation Language: Salaries and Expenses

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act, 1936, as amended (46 U.S.C. §307), including services as authorized by 5 U.S.C. §3109; hire of passenger motor vehicles as authorized by 31 U.S.C. §1343(b); and uniforms or allowances therefore, as authorized by 5 U.S.C. §§5901 - 5902, ~~\$27,490,000~~ \$26,149,000: Provided, That not to exceed \$2,000 shall be available for official reception and representation expenses. (*Consolidated Appropriations Act, 2017*).



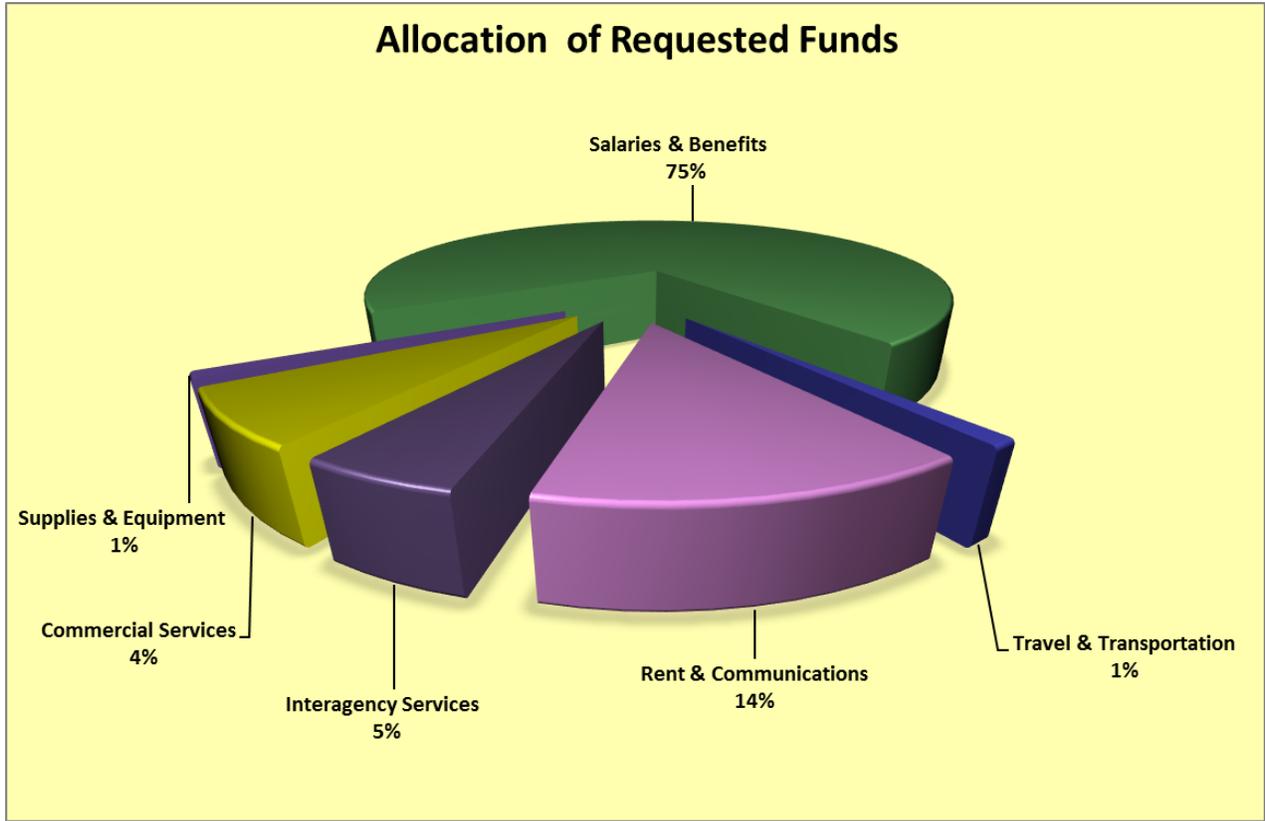
## Fiscal Year 2018 Budget Request

The FMC's Fiscal Year (FY) 2018 Budget Request is \$26,149,000 to support 127 full-time equivalent (FTE) employees. This is a net decrease of \$1,341,000 from the Commission's FY 2017 President's Budget level. Although the budget request is relatively small, the Commission has a large mandate, and plays a vital role in international commerce. This budget request has, wherever possible, considered cutbacks to spending while maintaining the performance and quality of the FMC's mission and programs.

The Commission will realize a net reduction in personnel costs of \$220,896 due to staff reductions through attrition. In addition, the Commission has reduced official travel by \$70,000, contractor support by \$526,426 and commercial services by \$204,472 while realizing increased costs for GSA rent of \$172,200. The reduction in administrative expenses includes cuts in the Commission's Information Technology (IT) infrastructure investments. However, the Commission had previously prioritized improving its IT systems through a multiyear project, currently underway, to greatly improve its efficiency, reliability and cybersecurity readiness. When fully implemented, these investments will enhance the Commission's internal business processes, expand research and analysis capabilities and provide better public accessibility to FMC information. The FMC's transition to Enterprise Content Management (ECM) technology is on target to drastically streamline the stakeholder application handling/registration processes. The new technology will enable instant access to documents, data, and the real-time status of applications, licenses and registrations. It will also provide a modern and efficient business process for applicants and staff, thereby saving time and money while also enabling the FMC to keep pace with the electronic business practices of the industry it serves.

The FY 2018 request reduces the FY 2017 projected workforce by seven FTEs. The FMC's dedicated workforce plays a vital role in the Commission's continuing success in maintaining an efficient and competitive international ocean transportation system and protecting the public from unlawful, unfair and deceptive practices. The FMC continues to use internal agency teams to improve workplace satisfaction while increasing productivity.

This budget request chiefly covers estimated costs for mandatory operational needs. As depicted in the following chart, 98% of the FMC's FY 2018 Budget Request provides for payroll expenses, mandatory rent, telephones, interagency services, and important commercial contracts. The remaining 2% covers supplies and equipment (including IT hardware and software), and official travel. Funding resources needed for FY 2016 through FY 2018 by object class are provided in Appendix C. Compensatory reductions have been made wherever possible. The Commission must continue to invest in mission-critical technologies (both software and hardware) if it is to effectively and efficiently carry out its statutory duties.



The FY 2018 Budget Request includes a number of graphs and tables which explain the funding and FTE resources needed to meet the Commission’s mission and statutory mandates. Appendices A and B provide detailed funding and FTE requirements at the program level. Appendix C categorizes the funding resources needed for FY 2016 through FY 2018 by object class. Appendix D provides funding by program areas and the relationship of the Commission’s Obligations to Outlays by fiscal year. Appendix E details the FMC’s Strategic Goals, Objectives and Performance Measures. Appendix F provides the Commission’s Workload Summary statistics, Appendix G is an Evidence Submission for agency decision making, and Appendix H is the Certification of the Office of the Inspector General’s FY 2018 Budget Request.

### **FMC Strategic Plan and the FY 2018 Budget Request**

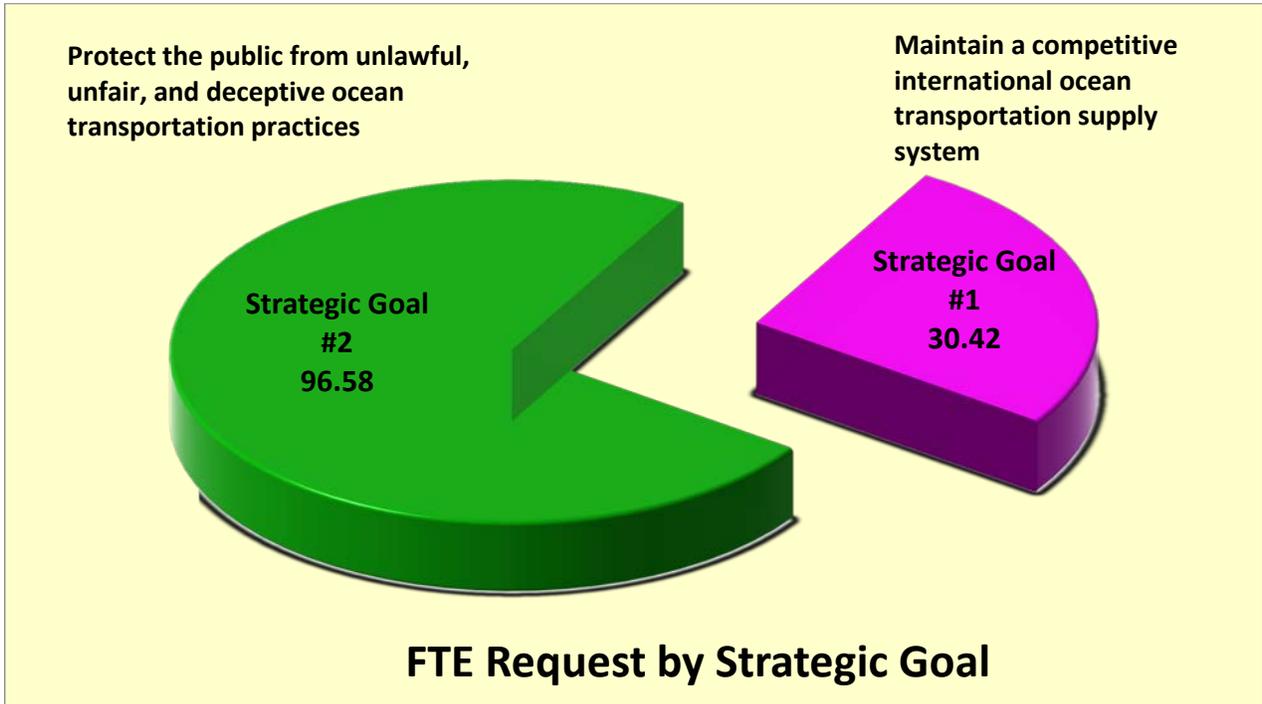
Over the past five decades, international ocean transportation has changed dramatically. The FMC, an independent expert agency charged with regulating liner shipping in the U.S. trades, has adapted to and evolved with those changes. From its statutory reorganization in 1961, the FMC has worked to further its mission to foster a fair, efficient, and reliable international ocean transportation system for the benefit of U.S. exporters, importers, and consumers. While the specifics of U.S. maritime policy and legislation have changed markedly during the last few decades, the FMC’s goal of protecting American exporters, importers and end consumers remains the cornerstone of today’s regulatory efforts. Consequently, the Commission’s Strategic Plan focuses on the goals of maintaining a competitive international ocean transportation system for U.S. exporters and importers and protecting the shipping public from financial harm.

The Commission supports the President’s Management Agenda and government-wide initiatives by working to increase efficiencies and customer service initiatives, transparency, and by providing public access to information to make a positive difference in the lives of the American people and the economy. The FMC’s mission supports the President’s commitment to economic growth and job creation.

The Commission regularly provides outreach and education to the shipping industry, stakeholders, and other government entities on the statutes it implements, and to address any issues that may arise. Commissioners and staff address various industry and stakeholder groups as speakers and panelists to provide information on the latest issues related to Commission activities.

<b>Federal Maritime Commission</b>				
Executive Summary				
		FY 2016 Actual	FY 2017 Enacted	FY 2018 Request
<b>FTE:</b>	<b>Headquarters &amp; Field</b>	<b>122.52</b>	<b>124.48</b>	<b>127.00</b>
<b>Cost:</b>	<b>Salaries &amp; Benefits</b>	\$18,369,630.13	\$20,014,000.00	\$19,793,104.00
	<b>Non-Personnel Expenses</b>	<u>\$7,204,645.26</u>	<u>\$7,476,000.00</u>	<u>\$6,355,896.00</u>
	<b>Total Cost</b>	<b>\$25,574,275.39</b>	<b>\$27,490,000.00</b>	<b>\$26,149,000.00</b>
FY 2018 FTE by FMC Strategic Goal				
Strategic Goal 1		Strategic Goal 2		
Maintain an efficient and competitive international ocean transportation system		Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes		
<b>30.42</b>		<b>96.58</b>		
FY 2018 Cost by FMC Strategic Goal				
Strategic Goal 1		Strategic Goal 2		
<b>\$6,476,991.46</b>		<b>\$19,672,008.54</b>		

The Commission has two strategic goals. The first goal – *maintain a competitive international ocean transportation supply system* – encompasses the critical tasks of reviewing and monitoring carrier and MTO agreements, and monitoring foreign shipping practices. The second goal – *protect the public from unlawful, unfair, and deceptive practices* – encompasses a broader mandate to protect the shipping public. As reflected in the table below, of the total FY 2018 request, \$6,476,991 and 30.42 FTEs are needed to support Strategic Goal 1. Strategic Goal 2 support requires \$19,672,009 and 96.58 FTEs. Commission-wide action items, addressed on page 17, identify the FMC’s ongoing commitment to support the President’s Management Agenda by continually looking to improve its operational infrastructure as well as the availability of informational resources for the benefit of public and industry stakeholders.



The Commission is committed to integrating evidence into its strategic decision-making, and tracking its progress through performance metrics. An evidence submission demonstrating the FMC’s progress is included in Appendix G.

## Strategic Goal 1:

### Maintain a competitive international ocean transportation supply system

*Objective: Enhance efficiency in the trades through the use of asset sharing authority under the Shipping Act of 1984*

#### Competition under the FMC's Authority

The Commission reviews and monitors carrier and MTO agreements to enhance trade efficiency through the use of various types of agreement authority. The Commission estimates that it will receive 260 agreement filings in 2017, and that 255 will be filed in FY 2018 (see Appendix F for these and other workload statistics). The filed agreements included amendments to existing agreements and terminations of existing agreements. The Commission reviewed, evaluated, and processed 250 filings during FY 2016, including those pending at the end of the prior fiscal year.

Significant changes in the ocean carrier industry, notably related to consolidations and a notable bankruptcy, have resulted in changes to the composition of operational alliances. Implementation of carrier consolidations is ongoing, and will continue to impact existing and future filed agreements. In particular, the merger of COSCO and China Shipping Container Lines, and the purchase of APL by CMA CGM, necessitated several amendments to existing agreements, and resulted in plans for the formation of a new alliance, the OCEAN Alliance, consisting of COSCO, CMA CGM, Evergreen, and OOCL. The OCEAN Alliance agreement was implemented in early 2017. Leading up to the proposed implementation there were substantial changes to existing alliances, as COSCO and Evergreen exited the CKYHE Alliance, and OOCL and APL left the G6 Alliance. Also, the CKYHE Alliance unexpectedly lost one of its five members when Hanjin Shipping, the seventh largest liner operator in the world at the time, filed for bankruptcy in September 2016. Beyond the devastating impact which reverberated throughout the supply chain and the maritime industry as a whole, the Hanjin Shipping Bankruptcy also created uncertainty regarding its impact on the spring 2017 reconfiguration of global ocean carrier alliances. With the industry in the process of significant structural change, the FMC will continue to play an important role in analyzing agreements for anticompetitive practices, overseeing the changes and monitoring the impact on the Nation's exporters/importers to ensure goods reach international markets efficiently and effectively.

Operationally, FY 2016 saw great progress in the development and deployment of the new eAgreements system, which provides for the electronic filing of agreements and updates the review and online publication process for filed agreements at the Commission. This effort involved development of the infrastructure for this system, and the transfer of agreement content from the legacy database to the newly developed system. FMC spent significant time working with stakeholders to ensure that system functionality met their needs. As part of this effort, staff engaged in a comprehensive audit of agreements on file to ensure that when the new system was deployed, it reflected an accurate and up-to-date representation of agreements currently in effect within the ocean transportation industry. As a result of this audit, FY 2016 saw a larger-than-average number of agreement terminations as staff identified and requested termination of agreements that were no longer in use or valid. Going forward, the system will be reviewed to enhance external users' filing processes as well as streamline internal business processes and expand research capabilities.

In FY 2016, the Commission created and implemented a Supply Chain Innovation Project led by Commissioner Rebecca Dye, to bring together industry leaders from across the international ocean transportation supply chain to discuss challenges, collaborate on solutions to help reduce port congestion, and remove related obstacles to efficient U.S. supply chain operations. On May 3, 2016, the

Commission held a two-day inaugural team meeting. The three teams are each composed of industry leaders who, under FMC authority and oversight, conduct non-public discussions aimed at identifying and implementing actionable processes to improve supply chain visibility and better integrate the various transportation and logistics actors involved. Industry participants include ports, terminal operators, major shippers, ocean transportation intermediaries, port labor, railroads, truckers, and chassis providers. In FY 2017, Commissioner Dye will organize three additional Supply Chain Innovation Teams to focus on challenges and solutions for the U.S. export trades.

In FY 2017 and FY 2018, the Commission will continue to monitor service contract, tariff, and agreement activities, prepare reports and economic analyses on developments and issues in key U.S. trades, review the activities of controlled carriers, and respond to inquiries and informal complaints. The FMC will continue to monitor key U.S. trade lanes. The FMC will review and analyze the competitive impact of agreements and monitor the activities of agreement parties, particularly focusing on issues of vessel capacity and equipment availability. In addition, the Commission will continue to monitor changes taking place in the provision of chassis for the inland movement of containerized goods and the competitive effects of changing carrier alliance structures.

## **Strategic Goal 2:**

### **Protect the public from unlawful, unfair, and deceptive practices**

#### *Objective 1: Identify and take action to end unlawful, unfair and deceptive practices*

The Commission uses both its enforcement and compliance programs to identify and take action to end unlawful, unfair and deceptive practices. Major investigations undertaken or completed during FY 2016 addressed ongoing practices of certain OTIs operating in the volatile China-U.S. inbound trades, as well as VOCCs seeking to operate pursuant to agreements that were not filed with the Commission. Enforcement-based initiatives will continue against VOCCs and NVOCCs that engage in unfair service contracting practices, particularly those practices which permit unlicensed OTIs to compete unlawfully with carriers and OTIs operating in compliance with U.S. laws. The FMC will pursue enforcement actions against those who pursue market-distorting, fraudulent, or anti-competitive practices harmful to the industry and the public.

In FY 2016, the compliance audit program continued as a major focus. This program, conducted from headquarters primarily by mail, e-mail and telephone, reviews the operations of licensed OTIs to assist them in complying with the statutory requirements and the Commission's rules and regulations. The audit program also reviews entities holding themselves out as VOCCs, where there is no indication of actual vessel operations. During the fiscal year, 223 audits were commenced, 208 audits were completed, and 15 remained pending on September 30, 2016.

During the fiscal year, the Commission completed notable compromise agreements with several of the major NVOCCs serving the inbound Far East-US trades, addressing a variety of service contracting malpractices. The Commission continued investigations relating to unfiled carrier agreements in the U.S.-foreign trades, both inbound and outbound. Penalties were collected against one smaller carrier for operating under unfiled space charter agreements affecting its roll on/roll off operations. Further settlements with vessel-operating carriers are expected.

The FMC is active in security initiatives as they relate to U.S. ocean commerce. The Commission works to coordinate the use of available database systems with other agencies engaged in homeland security to improve identification of entities providing and utilizing maritime transportation services. To facilitate

these activities, the FMC executed a Memorandum of Understanding (MOU) with the U.S. Customs and Border Protection to provide a more efficient utilization of existing systems and services. The FMC also has an active MOU with the Census Bureau, U.S. Department of Commerce, to provide the FMC with access to the Census' Automated Export System (AES) database. These relationships allow the FMC to access confidential U.S. export shipment data to accomplish its mission and to protect the Nation's security interests. The Commission also supports the Nation's economic and security interests by partnering with the National Intellectual Property Rights Coordination Center (IPR Center), a Department of Homeland Security-led partnership of 23 Federal and international agencies targeting intellectual property- and trade-related crimes. This partnership has resulted in coordinated enforcement efforts to address international criminal activity.

*Objective 2: Prevent public harm through licensing and financial responsibility requirements*

Ocean transportation intermediaries (OTIs) are transportation middlemen for oceanborne cargo moving in the U.S.-foreign trades. Before the FMC grants licenses to OTIs as mandated by the Shipping Act, the OTI applicant must establish that it has the necessary character and a minimum of three years of experience in the U.S., as well as establish its financial responsibility by means of a bond, insurance, or other instrument.

Approximately 6,250 domestic and foreign OTIs are regulated by the Commission. In FY 2016, the FMC processed approximately 950 licensing transactions. At the end of FY 2016, 980 ocean freight forwarders (OFFs), 1,729 U.S.-based NVOCCs, 2,049 joint NVOCCs/OFFs, and 80 foreign-based NVOCCs held active OTI licenses. Additionally, 1,419 foreign-based NVOCCs are registered and maintain proof of financial responsibility with the Commission.

The FMC also oversees a program to ensure financial responsibility for passenger vessels that have berth or stateroom accommodations for 50 or more passengers, and embark passengers at U.S. ports and territories. The requirement for Certificates of Performance, which provide financial responsibility for the indemnification of passengers for non-performance of transportation, prevents unscrupulous or financially weak operators from serving U.S. ports. The Passenger Vessel Operator (PVO) program encompasses 225 vessels and 47 passenger vessel operators with aggregate evidence of financial responsibility coverage of \$594 million for non-performance and \$705 million for casualty. During FY 2016, the Commission received 16 Passenger Vessel Applications (Performance) and completed the processing of 13 applications. An additional 18 Passenger Vessel Applications (Casualty) were received, and 15 processed during the fiscal year. Through its website and the CADRS office, the FMC offers information and guidance to the cruising public on passenger rights and obligations regarding monies paid to cruise lines that fail to perform voyages. For example, BCL and CADRS assisted passengers impacted by the Haimark Line bankruptcy.

In FY 2017 and FY 2018, the Commission will pursue further opportunities to streamline its business processes and consider additional regulatory reforms, as appropriate, including: (1) reviewing the impact of recent rule changes affecting the passenger vessel program and explore alternatives to enhance PVO monitoring procedures; (2) reviewing procedures regarding OTI licensing applications; and (3) continuing efforts to develop, enhance, and implement an improved electronic application process for both OTIs and PVOs.

*Objective 3: Enhance public awareness of agency resources, remedies, and regulatory requirements through education and outreach*

The Commission provides information in many forms to educate regulated entities, stakeholders and the public about its resources, remedies and regulatory requirements. Brochures, how-to guides, forms and applications, reference libraries, news releases, information on investigations, and advice on topics such as FMC regulations, OTI licensing, household goods moves, and using ADR services to assist parties with resolving cruise- and cargo-related disputes are among the available offerings on the Commission's website. In addition, throughout the year, Commission staff participate in presentations and instructional opportunities to educate consumers and regulated entities regarding regulations, shipping trends, best practices, and the effective use of available FMC resources to resolve formal proceedings, service contract matters, and other commercial shipping disputes.

The FMC will continue its efforts to increase public access to Commission resources in FY 2018 by improving the design, usability, and platform of the website docket library and historical document repository. In addition, the Commission continues to enhance its technological capabilities to stream the agency's public meetings. Further, the Commission will develop a plan for increased availability of public documents, including minutes of Commission actions under the Sunshine Act, on the FMC's website.

*Objective 4: Impartially resolve international shipping disputes through alternative dispute resolution and adjudication*

The FMC offers informal dispute resolution, and adjudicates claims of unlawful practices by carriers, MTOs, and OTIs. The Commission's Area Representatives and its Office of Consumer Affairs and Dispute Resolution Services (CADRS) educate industry members and the public on the Shipping Act and shipping regulations, and help to address international ocean transportation disputes.

The FMC, through CADRS, offers both facilitation and arbitration services to the industry and shipping public to resolve disputes. An online mediation tutorial and tool was created for parties to use to prepare for mediation. The Commission supports mediation and collaborative dispute resolution when feasible, and requires parties involved in formal Commission docketed proceedings to attend mandatory mediation conferences.

The Administrative Law Judges (ALJs), whose independence is protected by the Administrative Procedure Act, 5 U.S.C. Subchapter II, resolve cases involving alleged violations of the Shipping Act and other laws within the Commission's jurisdiction. Cases may be initiated either by private parties or by the Commission (represented by the Bureau of Enforcement to seek civil penalties for law violations). The Chief ALJ also has the authority to assign small claims complaints, valued at up to \$50,000, to a Small Claims Officer for resolution.

**Commission Action Items – Supporting the President's Management Agenda and Government-wide Priorities**

The Commission serves the public transparently. The FMC is committed to making smart investments and using management strategies to deliver effective and efficient government that rapidly reacts to the changing needs of its citizens and supports economic growth.

### *Customer Service*

A number of the Commission's offices and programs provide direct services to the public. CADRS receives many time-sensitive requests for assistance from shippers, carriers, and the cruising public. The Commission's Area Representatives are located near key maritime ports (Southern California, Seattle, New York, Houston, New Orleans, and South Florida) and operate as the front line for questions and issues facing the industry. The Office of the Secretary updates the FMC's website and social media frequently, providing timely and important information to the public. The FMC responds to requests for information from the media and the public, delivering information directly to those potentially affected via on-camera interviews and its website. Other offices interact with the industry and the public by providing information and assistance with tariffs, licensing, and competition-related issues. The FMC works diligently to provide the public with exceptional customer service.

### *Efficient Government - Reducing Regulatory Burden and Improving Necessary Information Collection*

The FMC continuously reviews its processes and regulatory requirements for efficiency and effectiveness. As economic conditions alter the state of our trades, regulations are revised to respond to new conditions. As part of the Commission's ongoing *Plan for Retrospective Review of Existing Rules*, the FMC will continue to review and update regulations related to a number of its programs. In FY 2016, the Commission issued an Advance Notice of Proposed Rulemaking, and after reviewing filed comments, issued a Notice of Proposed Rulemaking (NPRM) containing recommendations concerning potential regulatory reforms to the filing and processing of agreements, quarterly monitoring reports and agreement meeting minutes. The Commission also issued an Advance Notice of Proposed Rulemaking, and a later NPRM, on the regulations governing service contracts and NVOCC service arrangements. The Commission subsequently issued NPRMs for public comment in each of these rulemakings in August 2016.

Further toward the goal of eliminating or reforming regulations, the Commission designated its Managing Director as Regulatory Reform Officer. The Regulatory Reform Officer is now leading an internal team that is identifying those regulations that have become less relevant in today's fast moving commerce, or are unduly burdensome. This team will then establish a definitive timeline within the agency to move those items to a vote before the Commission.

To help the Commission properly allocate its resources to most effectively drive its mission, it relies on evidence-supported policy and program decision-making in implementing its current FY 2014-2018 Strategic Plan. The FMC's commitment to smart government with measurable goals can be seen in Appendices E, *Performance Measures by Strategic Goal*; F, *Workload Summary*; and G, *Evidence Submission*.

### *Open Data / Applying Innovative Technologies*

The FMC remains committed to a multiyear enhancement of its IT systems, which will make it faster, easier and more efficient for individuals and businesses to complete transactions and have positive experiences with the government. Much of this enhancement involves a transition to the use of Enterprise Content Management technology.

Planned FMC actions that open up government data for FY 2017 and FY 2018 include efforts to replace the aging Regulated Persons Index (RPI) with a modernized enterprise system, a critical database that will contain up-to-date records of licensed OTIs (OFFs and NVOCCs), vessel ocean common carriers, MTOs and other entities. This information is accessed by FMC staff, the shipping public, and security

and trade-related governmental agencies on a daily basis. The modernization of this system, along with continued investments in public information and education, will provide efficient public access to useful information to make critical decisions on the movement of goods by sea.

The Commission is also planning improvements for access to its public documents and providing relevant trade-related information by launching a newly designed website that will implement new technologies to make Commission information more easily accessible (including via mobile devices). The technologies will also facilitate updating the public on current issues in the trade via consumer alerts and public service announcements published on the FMC website and other social media; provide continuous updates to key public information, including docketing activity and documents for cases filed before the Commission; provide public access to filed agreements through the FMC's agreements library, accessible through the website; and provide the public with key FMC studies and economic analysis of shipping industry trends, when applicable.

Plans that will advance the Commission's Information Resources Management Strategic Plan in FY 2017 and FY 2018 include:

- developing and deploying advanced ECM technology which will consolidate the OTI license application and registration renewal processes, enhance the ability of applicants to file electronically, and significantly increase efficiency in processing applications. These improvements will support the ability of American entrepreneurs to enter the industry and offer needed services to the public. The system will also provide benefits to the public seeking information about regulated entities;
- building and deploying a new Service Contract Filing System for ease of filing and optimizing the internal architecture of SERVCON, particularly the search functionality needed to keep pace with the rapid accumulation of records. This improvement will facilitate U.S. trade and allow shippers and carriers to more rapidly respond to real-time business needs;
- automating the filing of applications for certificates by PVOs for more efficient processing, and to permit applicants to use available technology to easily interact with the Commission to complete their Congressionally-mandated requirements; and
- migrating the current agency website to Microsoft Azure tenant, a more efficient and cost effective hosting platform.

### *People and Culture – Empowering Employees*

The diligent work of its small and dedicated staff is critical to the FMC achieving its mission. The FY 2018 budget request allocates 75% to salaries and benefits for these employees. To ensure that the FMC attracts and continues to maintain the skillsets necessary to provide exceptional service to the public, the FMC has made commitments to improve employee satisfaction in the workplace, provide relevant training for job skills and employee professional growth, and to improve workplace flexibilities.

#### *Workplace Satisfaction*

The Commission recognizes that when employees are satisfied with their employer and the work that they do, performance is enhanced. The FMC has participated for a number of years in the Federal Employee Viewpoint Survey (FEVS) to gather information on employee satisfaction. The Commission also seeks input on workplace satisfaction through regular all hands meetings, top-level meetings with staff, and agency-wide employee teams. Based on FEVS results, the FMC received an award for being

the *2015 Most Improved Small Agency*, recognized in the Best Place to Work in the Federal Government rankings.

The FMC made improving employee morale and workplace satisfaction a priority objective, and has made positive strides in improving workplace satisfaction in terms of leadership, transparency, matching skills to its mission, and work/life balance. A Workplace Improvement Plan (WIP) was put in place in 2013, and employee teams were created to address such topics as diversity training, employee suggestions, telework, fitness, and other workplace initiatives. The Commission's senior leadership encourages staff involvement and provides opportunities for participation in these agency-sponsored teams. The WIP process continues to be a driving force in workplace and employee engagement.

During 2016, the Commission continued to build on its accomplishments and recognition as the *2015 Most Improved Small Agency*, posting a 2.5 point gain over its own 2015 Partnership results. Results from the 2016 FEVS indicates that the Commission continues to make impressive progress in bringing about positive change.

### Training

The FMC offers job and professional training opportunities to all employees. Online training, provided through a commercial vendor to Commission employees, is a cost-effective way to ensure that appropriate training is available year-round. The online offerings include classes in IT technical skills, project management, communication, leadership, management, and writing.

The Commission's Office of Human Resources provides annual performance management training, and announces opportunities for employees to participate in training classes offered by the Small Agency Council. The Office also facilitated commission-wide training on best communication practices and leadership through a class entitled *Crucial Conversations* in order to promote greater engagement and communication in the FMC workplace. The Office of Equal Employment Opportunity provides annual diversity and "No FEAR Act" training. The Office of Information Technology provides staff training on new technologies and cybersecurity. Annual ethics training is provided by the Designated Agency Ethics Officer, an adjunct of the Office of General Counsel.

### Work Flexibilities: Alternate/Flexible Schedules and Telework

The FMC offers employees a number of alternative, flexible work schedules and telework opportunities, which serve to increase employee productivity and to improve work/life balance. More than 71% of the staff participate in alternate/flexible work schedules and telework regularly.

A new, modernized telework policy and employee telework agreement became effective during FY 2016. The plan removes restrictions on the number of days an employee may request telework and lifted restrictions on a manager's ability to telework on a regular basis. It also empowers managers to decide whether and how much telework to allow. Consistent with OPM guidance, the Commission requires Telework-Ready employees to telework when OPM announces that Federal offices will be closed.

### *Managing Real Property Needs – "Freezing the Footprint"*

The FMC works in partnership with the General Services Administration (GSA) to act as a good steward of government resources. In looking to better align the size of Federal real property assets with actual program needs, the FMC reconfigured its headquarters space during FY 2016, and returned approximately 460 square feet of space, providing an annual cost savings of approximately \$18,000. The FMC will continue to evaluate its space needs going forward.

### *Enhancing Shared Services*

In order to achieve efficiencies and cost-savings, the FMC uses shared services to accomplish some of its fiscal and personnel-related administrative functions. Each service is regularly reviewed to ensure that the best value is provided to the public. The Commission currently uses the following shared service providers:

#### National Finance Center

The National Finance Center (NFC) currently provides the Commission with several human resources services, including payroll and time and attendance (T&A) transaction processing, managing employee debt, and employee separation payments. The FMC is working in coordination with NFC to transition to a new, automated time and attendance system, PayCheck8, in FY 2016-2017.

#### Office of Personnel Management (OPM)

In FY 2016, the FMC transitioned to OPM's electronic Official Personnel File (eOPF) services. The eOPF is an electronic version of the paper OPF, and is a system for accessing the electronic folder online. The eOPF system allows each employee to have an electronic personnel folder instead of a paper folder. Benefits of eOPF include: immediate access to personnel forms and information for a geographically dispersed workforce; e-mail notifications to employees when documents are added to their eOPF; a multi-level secure environment with security rules for sensitive information; no loss of official personnel documents due to filing and routing errors; reduced costs associated with storage, maintenance, and retrieval of records; electronic transfer of HR data; integration with the agency's human resources information systems (HRIS); and compliance with OPM and Federally-mandated HR employee record management regulations. In FY 2017, the FMC will transition from the current paper-based time and attendance system to the automated PayCheck8 system. PayCheck8 is a web-based Time and Attendance (T&A) Report system allowing users the flexibility to enter their time and attendance from anywhere they have internet connection. The T&As created in PayCheck8 will be sent directly to the National Finance Center (NFC) for payroll processing.

Beginning in FY 2016, the Commission's Office of Human Resources began providing the agency with full service, including the recruitment, assessment, referral, and onboarding of candidates. The FMC retains a Memorandum of Understanding (MOU) with OPM for staffing services if demand exceeds internal staffing capabilities.

#### Bureau of Fiscal Services (BFS)

The FMC carefully manages its costs. In order to meet its Federal financial reporting requirements, it leverages the Bureau of Fiscal Services for several of its administrative services. It is cost prohibitive for the FMC to purchase and maintain an integrated Federal financial reporting system. Since 2001, the FMC has been utilizing the BFS (formerly the Bureau of Public Debt) for a wide range of services.

To operate under a fully integrated Federal financial reporting system, the FMC utilizes the Oracle platform services provided by the Administrative Resource Center (ARC) of BFS. ARC's superior business model, impeccable performance record and progressive technological accomplishments have earned it the distinction of "Center of Excellence" in financial management by the Office of Management and Budget. Through this cross-service provider, the FMC obtains a full range of financial management and accounting services, including a financial management system platform, vendor and employee record maintenance and reporting services, budget processing, budget reporting (MAX), payroll accounting services, accounts payable and accounts receivable services, and procurement system

platform services, including purchase and fleet card services. Additionally, the FMC contracts for ARC Travel services, including E-Gov Travel Service, Travel Card Administration, Travel Payments and Relocation Services. Financial Reporting services provided by ARC will be expanded in 2017 to include required DATA Act reporting services.

## FY 2016 Accomplishments



### Strategic Goal 1:

#### Maintain a competitive international ocean transportation supply system

*Objective: Enhance efficiency in the trades through the use of asset sharing authority under the Shipping Act of 1984*

#### Competition and Foreign Practices

The Commission evaluates the competitive impacts of carrier and marine terminal agreements and ensures that filed agreements comply with U.S. shipping statutes and regulations. To do so, the Commission reviews agreement activities, prepares economic analyses, researches and produces studies and profiles on agreements, carrier organizations and market conditions in a variety of U.S. liner trades. The FMC also identifies and researches issues of an economic or commercial nature that may affect or distort competition in U.S. liner markets, and reviews developments in international trade and the global economy.

As the basis for its analytic work, the Commission receives and reviews minutes of agreement meetings and regular informational reports filed by parties to potentially anti-competitive agreements such as those that discuss freight rates, service contract guidelines, cargo or revenue pooling, and/or the rationalization of vessel capacity. During FY 2016, the FMC received 767 sets of minutes, 635 monitoring reports and related reports, 120 voluntary service contract guidelines, and no applications for waivers to the agreements, minutes, or monitoring report filing requirements. After a sequence of ocean carrier mergers/acquisitions, the ocean shipping industry witnessed a major restructuring of ocean alliances in FY 2016 which raised potentially significant competitive concerns to be addressed by the Commission.

The Commission monitors foreign shipping laws and practices that may have an adverse effect on the industry, and makes recommendations to the Commission for investigating and addressing such practices. The FMC addresses restrictive foreign shipping practices under section 19 of the 1920 Act and the FSPA. Section 19 empowers the Commission to make rules and regulations governing shipping in the foreign trade to adjust or meet conditions unfavorable to shipping. The FSPA directs the Commission to address adverse conditions that affect U.S. carriers in foreign trade and that do not exist for foreign carriers in the United States.

In FY 2016, the FMC continued to monitor potentially restrictive foreign practices, including reviewing new legislation and new interpretations of existing legislation. The FMC continued to monitor and participate, both formally and informally, in international agreement negotiations that could affect foreign-borne cargo shipments to the United States. In addition, the FMC tracked consumer inquiries regarding possible foreign restrictive shipping practices.

The FMC continued its international outreach efforts by attending and coordinating events with foreign embassies and counterparts. In FY 2016, the Commission, in conjunction with other Federal agencies, participated in bilateral and multilateral international negotiations and discussions on shipping matters. In May 2016, the FMC participated in maritime bilateral discussions with officials from the People's Republic of China in Los Angeles, California. In June 2016, the FMC participated in bilateral discussions with the Republic of Korea in Sejong City, South Korea. In August 2016, the Commission participated in the U.S. Japan Maritime Bilateral Discussions in Washington, D.C. In September 2016, the Commission participated in a high level multilateral dialogue with members of the Consultative Shipping Group in Washington, D.C. as well as separate maritime bilateral discussions with Panamanian government officials. In September 2016, the Commission participated in a high level multilateral dialogue with members of the Consultative Shipping Group in Washington, D.C.

The Commission also classifies controlled carriers subject to section 9 of the Shipping Act. Common carriers owned or controlled by foreign governments are required to adhere to certain requirements under the Shipping Act, and their rates are subject to Commission review. The Commission monitored the activities of controlled carriers in FY 2016.

#### Trade Oversight and Industry Research

The Commission administered its oversight responsibilities during FY 2016, conducting research and analysis into a number of filed agreements and industry issues. Activities included:

- preparing a comprehensive regulatory review of 46 C.F.R. Part 535 (Ocean Common Carrier and Marine Terminal Agreements) and related regulations in 46 C.F.R. § 501.27 in accordance with the Commission's Plan for the Retrospective Review of Existing Rules, and seeking public comment to possible rule changes;
- conducting an in-depth review of the West Coast Marine Terminal Operators Agreement's (WCMTOA) PierPASS program, and issuing a formal request for additional information concerning the program's service levels, conducting a detailed analysis of the program's cost and service levels in the context of the Act's section 6(g) general standard, and monitoring PierPASS's conformity with the U.S. shipping statutes;
- reviewing WCMTOA's implementation of a new chassis services fee to assess whether the fee, as initially proposed, either raises potentially anti-competitive concerns under the Act's 6(g) standard or, alternatively, whether the fee potentially violates section 10 of the Shipping Act;
- revising WCMTOA's monitoring requirements to facilitate ongoing agreement monitoring;
- addressing a filed amendment with officials of the Port of Oakland aimed at establishing the OAKPASS (extended gates) program and the port's plan to provide partial funding for extended gates;
- analyzing responses to a formal request for additional information directed at the ocean carrier members of the *Pacific Ports Operational Improvement Agreement*, FMC No. 201227, and determining how activities being conducted pursuant to the agreement should be monitored;
- conducting biannual meetings with representatives of the *Transpacific Stabilization Agreement* to review developments in the U.S./Asia trade;

- analyzing the overall cost impact and effect on small businesses of the Commission’s proposed rule to adjust its user fees based on FY 2015 costs in accordance with the Regulatory Flexibility Act;
- monitoring the operational and competitive impacts associated with the Hanjin Shipping bankruptcy, with an emphasis on responding to requests for assistance and identifying conduct which may violate the Act;
- conducting economic analyses on new alliance agreements resulting from carrier consolidations and acquisitions; and
- providing data and economic information on liner trade conditions and agreement matters.

The Commission continued its comprehensive status review of marine terminal operators and removed from the Commission’s website those that are no longer active in providing MTO services. In addition, for those MTOs that elect to make their MTO schedules publicly available, the FMC verified the internet location where those schedules are published and updated the FMC website accordingly to provide more current information to the public. The Commission annually reviews the status of VOCCs to verify the carrier operates one or more vessels owned, operated or time-chartered in the waterborne foreign commerce of the United States.

#### Service Contracts and Tariffs

During FY 2016, 88 VOCCs filed 52,968 service contracts and 734,106 contract amendments into the SERVCON system. The FMC processed 984 original NSAs and 1,814 amendments filed by 96 NVOCCs. The Commission received, processed, and reviewed 1,431 Form FMC-1 filings, and provides the locations of those tariffs to the public. The FMC posted 5,560 active/current tariff locations to the Commission’s website.

The FMC conducted service contract and tariff research in support of the Commission’s agreement monitoring program and *ad hoc* research to meet the agency’s review of industry trends and practices. Additionally, the Commission conducted research on various surcharges, such as congestion surcharges, low sulfur fuel surcharges, as well as General Rate Increases published by the ocean carriers. The FMC also reviewed tariffs for rules on overweight containers as well as possible rules on the verifiable gross mass (VGM) prior to carriers implementation on July 1, 2016.

In FY 2016, the FMC conducted compliance audits of NVOCC tariffs. The Commission monitored NVOCC tariff rules in connection with the Commission’s regulations governing NVOCC Negotiated Rate Arrangements (NRAs) allowing NVOCCs to “opt out” of publicly posting rate tariffs on the internet so long as they use NRAs exclusively, maintain their rules tariffs free of charge, and comply with other requirements. At the end of FY 2016, an estimated 1,400 NVOCCs filed prominent notices or a rule in their respective tariff allowing them to utilize NRAs, if they opted to use the exemption instead of publishing a tariff rate item. The FMC continues to educate NVOCCs regarding NRA compliance and will continue to inform the shipping public, including through web-based training, to facilitate full compliance with NRA requirements.

The FMC anticipates that filings through 2017 and 2018 will remain steady. NVOCCs and VOCCs will be required to publish, and the FMC will need to verify, rules tariffs in carriers’ tariffs or conferences. As OTIs continue to enter and exit the market, the Commission will ensure that an accurate listing of tariff publication locations on the Commission’s website is maintained and ensure that published tariffs meet the Commission’s tariff publication requirements. The Commission continued to reach out to various service contract filers to encourage the use of web services when filing service contracts to increase efficiency, reduce costs and eliminate frequent filing errors.

## Strategic Goal 2:

### Protect the public from unlawful, unfair, and deceptive practices

The Commission significantly advanced its mission in FY 2016 by focusing on the integrity and security of international supply chains and protecting the shipping public from financial harm.

*Objective 1: Identify and take action to end unlawful, unfair and deceptive practices.*

Several major investigations undertaken or completed during FY 2016 addressed the ongoing practices of unlicensed and unbonded operators, of certain OTIs operating in the China-U.S. inbound trades, and VOCCs seeking to operate pursuant to agreements that were not filed with the Commission.

For example, in Docket No. 15-03, the Commission issued an Order of Investigation and Hearing to determine whether respondent John Barbour (doing business as Barbour Expressway Shipping Inc.), was violating sections 19(a) and (b) of the Shipping Act by operating as an NVOCC without obtaining a license from the Commission and without providing proof of financial responsibility in the form of a surety bond. In a collateral action, the Commission's Office of General Counsel filed for an injunction in Federal District Court in Massachusetts to enjoin Barbour's continuing unlawful activities, which relief was granted on July 27, 2015. On January 20, 2016, the Administrative Law Judge issued an Initial Decision finding violations by Respondent, assessing penalties of \$666,074 and issuing certain other relief against future activities or violations by Mr. Barbour. The decision became administratively final on February 23, 2016. Prior to the Commission's investigation, Barbour had operated for years without a license, bond or tariff, thereby subjecting the owners of more than a thousand vehicles being shipped to points in the Middle East to the consequences associated with dealing with unlicensed OTIs.

In Docket No. 15-10, the Commission instituted a proceeding ordering Washington Movers Inc. to show cause why its OTI license should not be revoked based on the felony conviction and incarceration of its owner, Sam Ghanem, for attempting to illegally smuggle weapons to Lebanon. BOE filed evidence and arguments opposing Respondent's contention that it should be permitted to retain its OTI license. On February 16, 2016, the Commission assigned the case to be heard by an Administrative Law Judge in order to address certain issues disputed by Respondent. The ALJ issued Preliminary Findings of Fact on March 25, 2016, and has established a procedural schedule to govern subsequent proceedings in the matter.

During FY 2016, the Bureau of Enforcement completed notable compromise agreements with several of the major NVOCCs serving the inbound Far East-US trades, addressing a variety of service contracting malpractices. The Commission also continued ongoing investigations relating to unfiled carrier agreements in the U.S.-foreign trades, both inbound and outbound. The Commission collected penalties against several carriers for operating under unfiled space charter agreements affecting their RO/RO operations. Further settlements with vessel-operating carriers are expected.

The Commission's compliance audit program continued as a major focus in FY 2016. This program, conducted from headquarters primarily by mail, e-mail and telephone, reviews the operations of licensed OTIs to assist them in complying with the statutory requirements and the Commission's rules and regulations. The audit program also reviews entities holding themselves out as VOCCs, where there is no indication of actual vessel operations. During the year, 223 audits were commenced, 208 audits were completed, and 15 remained pending on September 30, 2016.

During the fiscal year, 22 investigative matters were referred for enforcement action or informal compromise; 24 were compromised and settled, administratively closed, or referred for formal proceedings; and 12 enforcement cases were pending resolution at fiscal year's end. Also, 2 formal proceedings were initiated; 1 formal proceeding was completed, and 2 were pending at the end of the fiscal year. The Bureau has 15 additional pending matters which it is monitoring or for which it is providing legal advice to other agency offices.

*Objective 2: Prevent public harm through licensing and financial responsibility requirements.*

As of the end of FY 2016, the Commission had received and processed 656 OTI license applications (new and amended), which is an increase over FY 2015. During FY 2016, 949 licensing transactions were processed – 422 new or amended OTI licenses were issued, and 293 licenses were revoked. Currently, 980 ocean freight forwarders (OFFs), 1,729 U.S. NVOCCs, 2,049 joint NVOCC/OFFs, and 80 foreign NVOCCs hold active OTI licenses. In addition, there are 1,419 registered foreign-based NVOCCs who must meet the Commission's bonding requirements. As of the end of FY 2016, 44 special bond riders have been received, providing optional proof of financial responsibility for NVOCCs serving the U.S.-China trade, and 32 riders have been terminated. The licensing process for OTIs has continued to be streamlined, and the time needed to process applications and reach a licensing decision was reduced with the goal of completing 75 percent of all OTI license applications within 60 days. During FY 2016, that goal was exceeded – 80 percent of all OTI license applications were completed within 60 days.

The Commission monitored 225 vessels and 47 passenger vessel operators in its passenger vessel program, with a total of \$594 million for non-performance financial responsibility and \$705 million for casualty financial responsibility. During FY 2016, the Commission received 16 Passenger Vessel Applications (Performance) and completed the processing of 13 applications. An additional 18 Passenger Vessel Applications (Casualty) were received, and 15 processed during the fiscal year. The Commission conducted one on-site audit of a PVO. In 2016, one PVO (Haimark) filed for bankruptcy, requiring the coordination of passenger refunds by the Commission, the escrow agent, and the respective cruise company.

*Objective 3: Enhance public awareness of agency resources, remedies, and regulatory requirements through education and outreach*

The Commission continued extensive efforts to educate both stakeholders and the public. In response to the many requests for assistance, several brochures were released online. The brochures cover such topics as the FMC's functions and regulatory oversight responsibilities, a description of CADRS free dispute resolution services, a consumer's guide for a successful overseas move, and a passengers guide for planning for a cruise vacation. Throughout the fiscal year, the Commission conducted presentations, meetings, and educational sessions with various shipper and industry trade associations as well as media interviews to educate the public and regulated entities regarding the availability of the Commission's CADRS ADR services to assist parties with resolving cruise and cargo-related disputes. The Commission initiated an informational Twitter campaign to provide the public with tips on moving overseas and finding a licensed and bonded mover.

In FY 2016, the Commission improved its online presence, launching a new website after a complete content migration to an open source platform. Commission information is now more easily accessible via mobile devices. The FMC also has made the agency's public meetings under the Sunshine Act available to be viewed in a live webcast on the FMC website. The Commission continues to monitor

public usage trends and leverage user feedback to implement ongoing improvements to [www.fmc.gov](http://www.fmc.gov). Improvements for FY 2016 include: improved visibility of important information as well as archiving and streamlining content to improve delivery and accuracy of information.

*Objective 4: Impartially resolve international shipping disputes through alternative dispute resolution and adjudication*

The FMC's office of Consumer Affairs and Dispute Resolution closed 641 ombuds matters during FY 2016. Of those, 331 involved commercial cargo-related disputes, 180 involved household goods shipment disputes, 126 involved cruise line concerns, and 4 others involved miscellaneous Shipping Act related matters. The Commission initiated 10 mediation matters during the fiscal year. The Commission responded to 5 Congressional requests for assistance on behalf of constituents requesting assistance with difficulties encountered involving cruise vacations.

The FMC collaborated with the Federal Motor Carrier Safety Administration (FMCSA) in FY 2016 under the auspices of the FMC – FMCSA MOU through participation in quarterly working group meetings and Moving Fraud task force meetings. The Commission also coordinated with FMCSA on a matter involving an FMC-licensed entity that refused to respond to inquiries involving the whereabouts of a container containing a critically ill child's medication. FMC staff coordinated with FMCSA to successfully locate the shipment in a New Jersey warehouse. With FMC assistance, the warehouse and the consumer were able to arrange for delivery of the medication to its destination.

In addition to its efforts with the FMCSA, the Commission continued to assist shippers with demurrage disputes. The FMC received congestion-related complaints totaling approximately \$505,810. The Commission also coordinated with state Attorney General Offices on international shipping problems. For example, the Attorney General for Illinois referred 22 matters to the FMC involving an unlicensed OTI that was arranging shipments to Poland. The unlicensed entity allegedly collected cargo and freight but failed to remit payment to other parties in the logistics chain.

The Office of Administrative Law Judges began FY 2016 with 9 pending formal proceedings and 1 pending informal proceeding. Thirteen new formal proceedings and 1 new informal proceeding were assigned during the year, and the Commission remanded 1 formal proceeding for hearing. OALJ issued 10 initial decisions or orders in formal proceedings subject to review by the Commission, and the Commission dismissed 1 formal proceeding based on stipulation of the parties. OALJ issued a dismissal in 1 informal proceeding that the Commission did not review. At the end of FY 2016, 13 formal proceedings and 1 informal proceeding were pending before OALJ.

## Additional 2016 Accomplishments



### Information Technology

The Commission has focused on completing major upgrades to its internal IT systems, in part through creation of an Enterprise Content Management (ECM) solution to improve data support for all Commission programs and research projects, as well as to simplify stakeholder interaction and filing processes and ensuring that the FMC's systems meet cybersecurity best practices. During FY 2016, the FMC made significant progress towards the planned identified goals and objectives, including:

- moving the Commission's disaster recovery server to a cloud based solution, assisting the FMC in effectively continuing operations in an emergency event and saving the Commission the operating costs of maintaining a physical disaster recovery location;
- made significant upgrades to the agency's IT infrastructure;
- migrating our ISP contract to a FEDRAMP-compliant ISP provider;
- enhancing the FMC's security posture by deploying various security tools, such as Xacta, Nessus, ManageEngine, and Varonis, in addition to the security services provided by Microsoft, the CDM program;
- offering the availability of all internal line of business applications in the cloud via Office 365;
- streamlining communication between FMC field offices and headquarters, no longer requiring field offices to connect via a VPN; and
- implementing an MOU with U.S. Customs and Border Protection to allow data from CBP's Automated Commercial Environment to be accessed directly by the FMC for use in fulfilling its statutory and regulatory duties and responsibilities, including accessing trade data that facilitates the Commission's oversight of carrier agreement filings. This direct transfer of data will conserve resources of both agencies and ensure greater trade compliance with the Security and Accountability for Every Port Act of 2006 (SAFE Port Act, Pub.L. 109-347).

### Representative Rulemakings, Adjudications, and Litigation

During FY 2016, the Commission sought public comment in considering revisions to its regulations via several advanced notices of proposed rulemaking, and then published several final rulemakings.

*Rulemakings*

- **Organization and Functions; Rules of Practice and Procedure; Attorney Fees [Docket No. 15-06]**

On March 1, 2016, the Commission issued a Final Rule amending its Rules of Practice and Procedure governing the award of attorney fees in Shipping Act complaint proceedings and revised its regulations related to Commissioner terms and vacancies. The regulatory changes implemented statutory amendments made by the Howard Coble Coast Guard and Maritime Transportation Act of 2014. The preamble to the rule also provides guidance on the Commission’s application of the new statutory provision governing attorney fees.

- **Ocean Common Carrier and Marine Terminal Operator Agreements Subject to the Shipping Act of 1984 [Docket No. 16-04]**

On August 12, 2016, the Commission issued a Notice of Proposed Rulemaking requesting comment on a number of substantive and technical amendments to the regulations governing the filing requirements for agreements. The Commission last made major changes to these regulations in 2004, and is now considering updating these requirements in order to reflect changes to the shipping industry and to reduce unnecessary burdens on regulated entities.

- **Service Contracts and NVOCC Arrangements [Docket No. 16-05]**

On August 18, 2016, the Commission issued a Notice of Proposed Rulemaking seeking public comment on the Commission’s service contract and Non-Vessel-Operating Common Carrier (NVOCC) service arrangement rules. The Commission is considering clarifying certain rules to leverage technology to relieve regulatory burdens. Possible amendments include the use of web services and greater flexibility in the filing of service contract amendments.

- **Update of Existing and Addition of New User Fees [Docket 16-06]**

On August 25, 2016, the Commission issued a Final Rule updating its user fees to reflect the current costs of services provided by the Commission, as directed by Office of Management and Budget Circular No. A-25. The rule contains a new methodology and increases certain fees while repealing or lowering other fees. The Commission sought public comment prior to issuing the Final Rule.

*Commission Decisions*

During FY 2016, the Commission resolved private international shipping disputes filed by complainants and enforced the Shipping Act and its regulations through adjudication before the Commission. In FY 2016, the Commission, including its ALJs and legal staff, issued numerous legal opinions, recommendations, case summaries, decisions and final orders. Settlement is explored in each pending litigation matter in an effort to ensure efficient and effective dispute resolution. The following case represents a matter that the Commission adjudicated, which involved a substantial amount of Commission resources.

- **Maher Terminals, LLC v. Port Authority of New York & New Jersey [Docket 12-02]**

Maher filed a complaint against the Port Authority of New York and New Jersey alleging fifteen Shipping Act violations regarding the Port’s marine terminal leases. The Port moved to dismiss the claim based on failure to state a claim, the statute of limitations, collateral estoppel, and lack of standing or ripeness. The ALJ granted the Port’s motion on January 30, 2015, and dismissed

Maher's claims without leave to amend. Maher filed exceptions to the ALJ's decision, and on December 17, 2015, the Commission affirmed the decision in part and dismissed 11 of Maher's claims without leave to amend. The Commission reversed the decision with respect to four claims and remanded them to the ALJ for further proceedings. In so doing, the Commission confirmed that motions to dismiss for failure to state a claim are governed by the standard used by the Federal courts.

## Appendices

Appendix A: Resource Allocation by Program

Appendix B: FTEs and Positions Allocation by Program

Appendix C: Obligations by Object Class

Appendix D: Relationship of Obligations to Outlays

Appendix E: Performance Measures by Strategic Goals

Appendix F: Workload Summary

Appendix G: Evidence Submission

Appendix H: OIG Certification

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Appendix A: Resource Allocation by Program

Resource Allocation by Program						
FY 2018						
Program/Office	FY 2016 Actual	FY 2017 Enacted	FY 2018 Request		FY 2018 Request	Difference From FY 2017 Estimate
			Strategic Goal # 1 Maintain an efficient and competitive international ocean transportation system	Strategic Goal # 2 Protect the public from unlawful, unfair and deceptive practices and resolve shipping disputes		
<b>Formal Proceedings</b>						
Office of the Chairman	\$1,069,497.88	\$1,067,032.31	\$234,412.36	\$937,649.45	\$1,172,061.82	\$105,029.51
Office of the Commissioners	\$1,607,771.34	\$1,805,749.75	\$329,317.81	\$1,317,271.22	\$1,646,589.03	(\$159,160.72)
Office of the Secretary	\$1,394,648.79	\$1,393,463.39	\$251,548.31	\$962,822.82	\$1,214,371.13	(\$179,092.26)
Library	\$98,086.77	\$91,904.51	\$12,294.82	\$49,179.30	\$61,474.12	(\$30,430.39)
Office of Consumer Affairs and Dispute Resolution Services	\$1,263,594.67	\$1,304,495.35	\$0.00	\$1,362,133.53	\$1,362,133.53	\$57,638.18
Office of the General Counsel	\$1,838,580.37	\$2,083,652.63	\$1,113,068.53	\$1,113,068.53	\$2,226,137.06	\$142,484.43
Ethics	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Office of Administrative Law Judges	\$831,630.34	\$917,858.07	\$464,251.69	\$464,251.69	\$928,503.37	\$10,645.30
<b>Formal Proceedings Total</b>	<b>\$8,103,810.16</b>	<b>\$8,664,156.01</b>	<b>\$2,404,893.51</b>	<b>\$6,206,376.55</b>	<b>\$8,611,270.06</b>	<b>(\$52,885.95)</b>
<b>Office of Equal Employment Opportunity</b>	<b>\$172,701.15</b>	<b>\$201,933.78</b>	<b>\$41,269.43</b>	<b>\$165,077.73</b>	<b>\$206,347.16</b>	<b>\$4,413.38</b>
<b>Office of the Inspector General</b>	<b>\$360,076.15</b>	<b>\$549,025.10</b>	<b>\$48,093.14</b>	<b>\$432,838.27</b>	<b>\$480,931.41</b>	<b>(\$68,093.69)</b>
<b>Operational and Administrative</b>						
Office of the Managing Director	\$1,832,447.01	\$2,400,750.55	\$503,355.11	\$1,653,881.07	\$2,157,236.18	(\$243,514.37)
Bureau of Trade Analysis	\$3,211,764.00	\$3,553,129.55	\$2,181,690.80	\$1,527,198.67	\$3,708,889.47	\$155,759.92
Bureau of Certification and Licensing	\$2,368,403.11	\$2,426,424.84	\$0.00	\$2,563,023.80	\$2,563,023.80	\$136,598.96
Bureau of Enforcement	\$2,058,768.80	\$1,831,739.66	\$0.00	\$1,932,854.61	\$1,932,854.61	\$101,114.95
Area Representatives	\$1,735,663.50	\$2,157,575.16	\$359,019.57	\$1,436,078.30	\$1,795,097.87	(\$362,477.29)
Office of Information Technology	\$3,401,350.40	\$3,280,911.87	\$457,783.30	\$1,831,133.18	\$2,288,916.48	(\$991,995.39)
Office of Human Resources	\$783,471.89	\$858,188.80	\$189,036.37	\$756,145.46	\$945,181.83	\$86,993.03
Office of Budget and Finance	\$780,797.46	\$803,669.74	\$172,617.45	\$690,469.81	\$863,087.26	\$59,417.52
Office of Management Services	\$765,021.76	\$762,494.94	\$119,232.78	\$476,931.10	\$596,163.88	(\$166,331.06)
<b>Operational and Administrative Total</b>	<b>\$16,937,687.93</b>	<b>\$18,074,885.11</b>	<b>\$3,982,735.37</b>	<b>\$12,867,716.00</b>	<b>\$16,850,451.38</b>	<b>(\$1,224,433.73)</b>
<b>Totals</b>	<b>\$25,574,275.39</b>	<b>\$27,490,000.00</b>	<b>\$6,476,991.46</b>	<b>\$19,672,008.54</b>	<b>\$26,149,000.00</b>	<b>(\$1,341,000.00)</b>

The Request by Strategic Goal and Program chart identifies the funding level requested for FY18 broken out by program office and strategic goal. The chart identifies FY18 changes over the FY17 estimated funding requirements.

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Appendix B: FTEs and Positions Allocation by Program

FTEs and Positions by Program								
FY 2016 - FY 2018								
Program/Office	FY 2016 Actual		FY 2017 Enacted		FY 2018 Request		Difference From FY 2017	
	FTEs	Positions*	FTEs	Positions	FTEs	Positions	FTEs	Positions
<b>Headquarters</b>	115.01	121.00	115.98	118.00	118.00	119.00	2.02	1.00
<b>Area Representatives</b>	7.51	11.00	8.50	9.00	9.00	9.00	0.50	0.00
<b>Agency Total</b>	<b>122.52</b>	<b>132.00</b>	<b>124.48</b>	<b>127.00</b>	<b>127.00</b>	<b>128.00</b>	<b>2.52</b>	<b>1.00</b>
<b>Formal Proceedings</b>								
Office of the Chairman	4.91	5.00	5.00	5.00	5.00	5.00	0.00	0.00
Office of the Commissioners	6.96	8.00	6.17	7.00	7.00	7.00	0.83	0.00
Office of the Secretary	7.42	8.00	7.15	8.00	7.00	7.00	(0.15)	(1.00)
Office of Consumer Affairs and Dispute Resolution Services	7.00	7.00	7.00	7.00	7.00	7.00	0.00	0.00
Office of the General Counsel	9.03	10.00	9.53	10.00	10.00	10.00	0.47	0.00
Office of Administrative Law Judges	4.00	4.00	4.00	4.00	4.00	4.00	0.00	0.00
<b>Formal Proceedings Total</b>	<b>39.33</b>	<b>42.00</b>	<b>38.85</b>	<b>41.00</b>	<b>40.00</b>	<b>40.00</b>	<b>1.15</b>	<b>(1.00)</b>
<b>Office of Equal Employment Opportunity</b>	<b>1.00</b>	<b>1.00</b>	<b>1.00</b>	<b>1.00</b>	<b>1.00</b>	<b>1.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Office of the Inspector General</b>	<b>1.00</b>	<b>1.00</b>	<b>1.00</b>	<b>1.00</b>	<b>1.75</b>	<b>2.00</b>	<b>0.75</b>	<b>1.00</b>
<b>Operational and Administrative</b>								
Office of the Managing Director	8.06	8.00	9.37	9.00	9.00	9.00	(0.37)	0.00
<i>Bureau of Trade Analysis</i>								
Office of the Director	3.00	3.00	2.25	2.00	2.00	2.00	(0.25)	0.00
Office of Service Contracts and Tariffs	4.00	4.00	4.00	4.00	4.00	4.00	0.00	0.00
Office of Economics and Competition Analysis	7.30	8.00	9.38	10.00	9.25	10.00	(0.13)	0.00
Office of Agreements	3.00	3.00	3.00	3.00	3.00	3.00	0.00	0.00
<i>Bureau of Certification and Licensing</i>								
Office of the Director	3.00	3.00	3.00	3.00	3.00	3.00	0.00	0.00
Office of Passenger Vessels and Information Processing	5.00	5.00	5.61	5.00	5.00	5.00	(0.61)	0.00
Office of Transportation Intermediaries	8.71	9.00	7.84	9.00	9.00	9.00	1.16	0.00
<i>Bureau of Enforcement</i>								
Area Representatives	7.51	11.00	8.50	9.00	9.00	9.00	0.50	0.00
Office of Information Technology	7.73	8.00	7.35	7.00	7.00	7.00	(0.35)	0.00
Office of Human Resources	4.83	5.00	5.00	5.00	5.00	5.00	0.00	0.00
Office of Budget and Finance	4.03	5.00	4.73	5.00	5.00	5.00	0.27	0.00
Office of Management Services	4.50	5.00	3.95	4.00	4.00	4.00	0.05	0.00
<b>Operational and Administrative Total</b>	<b>81.19</b>	<b>88.00</b>	<b>83.63</b>	<b>84.00</b>	<b>84.25</b>	<b>85.00</b>	<b>0.62</b>	<b>1.00</b>
<b>Total FTEs and Positions</b>	<b>122.52</b>	<b>132.00</b>	<b>124.48</b>	<b>127.00</b>	<b>127.00</b>	<b>128.00</b>	<b>2.52</b>	<b>1.00</b>

\* Denotes estimated positions on September 30 @ 9/30/2016.

*Appendix C: Obligations by Object Class*

<b>Obligations by Object Class</b>				
<b>FY 2016 - FY 2018</b>				
<b>Category</b>	<b>FY 2016 Actual</b>	<b>FY2017 Enacted</b>	<b>FY2018 Estimate</b>	<b>Difference From FY 2017</b>
<b>Personnel Compensation and Benefits</b>				
(11.1) Full-time Permanent Employees	\$14,087,035.46	\$15,582,000.00	\$15,163,329.00	(\$418,671.00)
(11.3) Part-time and Temporary Employees	\$91,214.67	\$91,000.00	\$0.00	(\$91,000.00)
(11.7) Performance Awards	\$0.00	\$0.00	\$0.00	\$0.00
(12.1) Personnel Benefits	\$4,191,380.00	\$4,654,000.00	\$4,629,775.00	(\$24,225.00)
<b>Total Personnel Compensation &amp; Benefits</b>	<b>\$18,369,630.13</b>	<b>\$20,327,000.00</b>	<b>\$19,793,104.00</b>	<b>(\$533,896.00)</b>
<b>Travel and Administrative Expenses</b>				
(21.0) Travel and Transportation of Personnel	\$155,177.89	\$200,000.00	\$130,000.00	(\$70,000.00)
(22.0) Transportation of Things (Express Mail)	\$24,206.99	\$22,000.00	\$10,000.00	(\$12,000.00)
<b>Rent, Communications and Utilities</b>				
(23.1) Rental Payments to GSA	\$3,217,399.71	\$3,517,000.00	\$3,430,200.00	(\$86,800.00)
(23.5) Telephones (Local, Long Distance and Cellular)	\$382,359.28	\$239,300.00	\$211,000.00	(\$28,300.00)
(23.8) Postage	\$6,672.48	\$5,700.00	\$2,500.00	(\$3,200.00)
(24.0) Printing	\$63,031.00	\$139,000.00	\$50,000.00	(\$89,000.00)
(25.1) Consulting	\$934,650.91	\$775,318.00	\$558,994.00	(\$216,324.00)
(25.2) Purchase of Goods and Services from Commercial Accounts	\$599,573.66	\$615,782.00	\$429,352.00	(\$186,430.00)
(25.3) Purchase of Goods and Services from Government Accounts	\$1,311,160.88	\$1,373,900.00	\$1,418,850.00	\$44,950.00
(25.7) Equipment Maintenance	\$29,705.22	\$22,000.00	\$20,000.00	(\$2,000.00)
(26.0) Supplies and Materials	\$116,863.48	\$135,000.00	\$45,000.00	(\$90,000.00)
(31.0) Hardware and Software	\$363,843.76	\$118,000.00	\$50,000.00	(\$68,000.00)
<b>Travel and Administrative Expenses</b>	<b>\$7,204,645.26</b>	<b>\$7,163,000.00</b>	<b>\$6,355,896.00</b>	<b>(\$807,104.00)</b>
<b>Total Budget Authority</b>	<b>\$25,574,275.39</b>	<b>\$27,490,000.00</b>	<b>\$26,149,000.00</b>	<b>(\$1,341,000.00)</b>
<p>The Obligations by Object Class chart identifies the Commission's actual funding expenses of 2016 and the estimated funding requirements for the FMC to complete its mission in FY17 and FY18. Costs are reported by object codes.</p>				

*Appendix D: Relationship of Obligations to Outlays*

<b>Relationship of Obligations to Outlays</b>			
<b>FY 2016 - FY 2018</b>			
<b>Program</b>	<b>FY 2016 Actual</b>	<b>FY 2017 Enacted</b>	<b>FY 2018 Request</b>
<b>Formal Proceedings</b>	\$8,103,810.15	\$8,664,000.00	\$8,611,000.00
<b>Equal Employment Opportunity</b>	\$172,701.15	\$202,000.00	\$206,000.00
<b>Inspector General</b>	\$360,076.15	\$549,000.00	\$481,000.00
<b>Operational and Administrative</b>	\$16,937,687.94	\$18,075,000.00	\$16,851,000.00
<b>Unobligated</b>	\$85,724.61	\$0.00	\$0.00
<b>Budget Authority</b>	<b>\$25,660,000.00</b>	<b>\$27,490,000.00</b>	<b>\$26,149,000.00</b>
<b>Obligations</b>	<b>\$25,660,000.00</b>	<b>\$27,490,000.00</b>	<b>\$26,149,000.00</b>
<b>Outlays*</b>	<b>\$23,189,756.78</b>	<b>\$24,843,585.89</b>	<b>\$23,631,681.61</b>
<b>Outlay Rate (Obligation to Outlay)**</b>	<b>90.37%</b>	<b>90.37%</b>	<b>90.37%</b>
<b>Obligation Rate</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>
<b>Gross Outlays for FY 2016</b>			
<b>Total outlays for fiscal year 2011 disbursed in fiscal year 2016</b>	\$0.00		
<b>Total outlays for fiscal year 2012 disbursed in fiscal year 2016</b>	\$0.00		
<b>Total outlays for fiscal year 2013 disbursed in fiscal year 2016</b>	\$8,148.34		
<b>Total outlays for fiscal year 2014 disbursed in fiscal year 2016</b>	\$52,015.17		
<b>Total outlays for fiscal year 2015 disbursed in fiscal year 2016</b>	\$2,963,212.34		
<b>Total outlays for fiscal year 2016</b>	\$23,189,756.78		
<b>Outlays</b>	<b>\$26,213,132.63</b>		
<p>* Represents Outlays for FY 2016 as of 09/30/16.</p> <p>** Represents the percentage of FY 2016 obligations that were disbursed during FY 2016.</p> <p>The Relationship of Obligations to Outlays identifies the actual outlay percentage for FY16. The chart also depicts the estimated outlay expenses for FY17 and FY18.</p>			

*Appendix E: Performance Measures by Strategic Goals*

Strategic Goals	Objective	Performance Measures	2013 Actual	2014 Actual	2015 Actual	2016 Actual	2017 Target	2018 Target
<b>STRATEGIC GOAL 1:</b> Maintain a competitive international ocean transportation supply system.	<b>OBJECTIVE 1:</b> Enhance efficiency in the trades through the use of asset sharing authority under the Shipping Act of 1984.	Percentage share of U.S. containerized cargo moving on other agreement parties' vessels in major U.S. trades.	19.5%	45.6%	49%	51%	41%	41.5%
<b>STRATEGIC GOAL 2:</b> Protect the public from unlawful, unfair, and deceptive ocean transportation practices.	<b>OBJECTIVE 1:</b> Identify and take action to end unlawful, unfair, and deceptive practices.	Percentage of enforcement actions taken under the 1984 Act successfully resolved through favorable judgment, settlement, issuance of default judgment, or compliance letter or notice.	78.9%	83.8%	83.4%	88.6%	77.5%	77.5%
	<b>OBJECTIVE 2:</b> Prevent public harm through licensing and financial responsibility requirements.	Percentage of decisions on completed OTI license applications rendered within 60 calendar days of receipt, facilitating lawful operation of OTIs with the appropriate character and experience.	87.6%	71.3%	72%	98%	75%	75%
		Percentage of cruise line operators examined during the year that have the full financial coverage required by regulation to protect against loss from non-performance or casualty.	100%	96.7%	96%	96%	95%	95%
	<b>OBJECTIVE 3:</b> Enhance public awareness of agency resources, remedies and regulatory requirements through education and outreach.	Percentage of key Commission issuances, orders and reports available through the Commission's website within 5 working days of receipt.	86%	93%	92%	90%	82%	84%
	<b>OBJECTIVE 4:</b> Impartially resolve international shipping disputes through alternative dispute resolution and adjudication.	Number of cases opened and closed each Fiscal Year using ombuds and ADR services assisting consumers to recover goods or funds.	800	994	882	778	N/A	N/A
		Percentage of ombuds and ADR matters closed within 6 months of request for assistance	N/A	N/A	N/A	NA	60%	60.5%
		Percentage of formal complaints or Commission-initiated orders of investigation completed within two years of filing or Commission initiation.	91%	88%	90%	86%	62%	64%

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*Appendix F: Workload Summary*

Workload Summary							
Workload Category	On Hand 9/30/2016	FY 2016 Actual		FY 2017 Actual		FY 2018 Estimate	
		Received	Output	Received	Output	Received	Output
Formal Proceedings (OALJ)	9	13	11*	10	10	10	10
Informal Proceedings (OALJ)	1	1	1**				
Decisions, Reports, in Docketed Proceedings Before the Commission	15	22	22	25	25	25	25
Federal Register Notices	0	85	85	100	100	100	100
FOIA Requests	12	30	35	30	35	28	30
Ombuds	148	538	641	600	600	650	650
ADR Matters	8	17	10	10	12	10	12
Legislation	0	55	55	130	130	135	135
Legal Opinions, Recommendations, Case Summaries, Decisions and Final Orders	5	180	180	190	190	195	195
Audits and Monitoring Activities	9	223	208	225	225	230	230
OTI Applicant and License Checks (BOE)	0	645	645	655	655	655	655
Formal Proceedings (BOE)	3	2	1	2	2	3	3
Civil Penalty Cases	15	22	24	24	22	25	25
Agreements Filed	11	251	250	260	266	255	255
Agreement Reports	104	1,522	1,554	1,520	1,560	1,520	1,542
Service Contracts	0	52,968	52,968	55,500	55,500	57,000	57,000
Service Contract Amendments	0	734,106	734,106	666,000	666,000	684,000	684,000
NVOCC Service Arrangements (NSA)	0	984	984	1,000	1,000	1,150	1,150
NSA Amendments	0	1,814	1,814	1,900	1,900	2,000	2,000
FMC-1 Form	0	1,431	1,431	1,450	1,450	1,475	1,475
OTI Applications – NEW	94	373	333	375	335	385	345
OTI Business Change Applications	58	283	113	358	188	433	263
OTI License Terminations	0	293	293	322	322	322	322
Passenger Vessel Applications (Performance)	0	16	13	17	17	18	18
Passenger Vessel Applications (Casualty)	4	18	15	17	17	18	18

\*OALJ issued 10 initial decisions or orders in formal proceedings subject to review by the Commission, and one formal proceeding was dismissed based on stipulation of the parties.

\*\*One informal proceeding was dismissed by OALJ, which the Commission did not review.

*Appendix G: Evidence Submission*

**FEDERAL MARITIME COMMISSION – FY 2018 EVIDENCE SUBMISSION**

**FMC Use of Evidence-based Decision-making**

Strategy to Advance the Use of Evidence in Decision-Making

The FMC's 2014-2018 Strategic Plan (Strategic Plan) and FMC 2014-2018 Information Resources Management Strategic Plan (IRM Plan) capture the Commission's methodology in improving the Commission's program performance and increasing its impact through the use of evidence. The Strategic Plan has created performance measures, shown in Appendix E, setting goals and objectives for its program areas in each fiscal year.

The Commission's senior leadership meets regularly to discuss challenges and ensure that the agency is collecting and reviewing data on its objectives and goals. The Commission is currently revising its Strategic Plan and IRM Plan based on a review of the data collected and the metrics utilized. The revised plans will be published in FY 2017. As part of its review, the Commission will determine whether alternate or additional data will best match the agency's strategic goals and objectives.

Recent Progress

As part of the FMC's program evaluation, the Commission has implemented a retrospective review plan to systematically examine and seek public input on its key regulations. In FY 2016, the Commission, through working groups staffed by members of its bureaus and offices, continued its systematic review of its Agreements and Service Contracts regulations. The review included seeking written comments from interested parties, analysis of comments received, meeting with various stakeholders, and consideration of industry and FMC practices. The Commission moved forward with Notices of Proposed Rulemakings or Advanced Notices of Proposed Rulemakings for each proposed regulatory change. The Commission also reviewed and updated its User Fees to reflect the current costs of rendered services.

The Commission is working to be a more efficient organization by making a concerted and focused effort to reduce regulatory burdens on its constituents. The Commission is aggressively looking for ways to make compliance with its statutory and regulatory requirements easier and more cost effective for shippers, carriers, and ocean transportation intermediaries. One example was the agency's approval of key changes to regulatory requirements for ocean carrier service contract filings and NVOCC service arrangement filings. The Commission will make it easier and more efficient for shippers and carriers to do business.

In addition to its own internal metrics, the Commission is working to implement Federal DATA Act requirements that will assist in better government-wide collection of metrics on government spending. The FMC, through its shared service provider, is updating its information collection parameters for contracting and fiscal oversight. The FMC's working group for DATA Act issues has been monitoring the progress made by the shared service provider and preparing for implementation in the upcoming fiscal year.

The Commission improves its internal program analysis through data collected by other agencies. Specifically, the FMC leverages data collection and analysis through an MOU with the U.S. Customs and

Border Protection to utilize existing systems and services. The FMC also has an active MOU with the Census Bureau, U.S. Department of Commerce, providing the FMC with access to the Census' Automated Export System (AES) database. The confidential export shipment data collected by the Census Bureau assists the FMC in its review of the trade, unlicensed entities and potential Shipping Act violations.

#### Current Barriers

The Commission remains dedicated to meeting the challenges for smart, effective government. The Commission's two primary barriers are a lack of funding and a lack of available staff resources to dedicate to evidence collection and analysis at a meta-level. The FMC does not have the resources to create a separate office or position to lead a high level coordination of evidence-based evaluation at this time. The FMC's staff works on evidence-based evaluation as a collateral duty.

*Appendix H: OIG Certification*



**FEDERAL MARITIME COMMISSION**  
Washington, DC 20573

June 22, 2017

*Office of Inspector General*

The Inspector General Reform Act (Pub. L. 110-149) was signed by the President on October 14, 2008. Section 6(f)(1) of the Inspector General Act of 1978, 5 U.S.C. app. 3, was amended to require certain specifications concerning Office of Inspector General (OIG) budget submissions each fiscal year (FY).

Each inspector general (IG) is required to transmit a budget request to the head of the establishment or designated Federal entity to which the IG reports specifying:

- the aggregate amount of funds requested for the operations of the OIG,
- the portion of this amount requested for OIG training, including a certification from the IG that the amount requested satisfies all OIG training requirements for the fiscal year, and
- the portion of this amount necessary to support the Council of the Inspectors General on Integrity and Efficiency (CIGIE).

The head of each establishment or designated Federal entity, in transmitting a proposed budget to the President for approval, shall include:

- an aggregate request for the OIG,
- the portion of this aggregate request for OIG training,
- the portion of this aggregate request for support of the CIGIE, and
- any comments of the affected IG with respect to the proposal.

The President shall include in each budget of the U.S. Government submitted to Congress:

- a separate statement of the budget estimate submitted by each IG,
- the amount requested by the President for each OIG,
- the amount requested by the President for training of OIGs,
- the amount requested by the President for support of the CIGIE, and
- any comments of the affected IG with respect to the proposal if the IG concludes that the budget submitted by the President would substantially inhibit the IG from performing duties of the OIG.

Following the requirements as specified above, the Federal Maritime Commission Inspector General submits the following information relating to the OIG's requested budget for FY 2018:

- the aggregate budget request for the operations of the OIG, to include overhead, is \$480,931
- the portion of this amount needed for OIG training is \$2,500, and
- the portion of this amount needed to support the CIGIE is \$1,000.

I certify as the Inspector General of the Federal Maritime Commission that the amount I have requested for training satisfies all OIG training needs for FY 2018.

A handwritten signature in black ink that reads "Jon Hatfield". The signature is written in a cursive, slightly slanted style.

Jon Hatfield, Inspector General  
Federal Maritime Commission