FEDERAL MARITIME COMMISSION

PERFORMANCE AND ACCOUNTABILITY REPORT

FISCAL YEAR

2009

MISSION

The FMC's Mission is:

To foster a fair, efficient and reliable international ocean transportation system and to protect the public from unfair and deceptive practices.

This Fiscal Year 2009 Performance and Accountability Report

is published by the

Federal Maritime Commission

An electronic version of this report can be found at

http://www.fmc.gov/home/performanceaccountabilityreports.asp

Please refer any questions concerning this report to the

Federal Maritime Commission at

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

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

http://www.whitehouse.gov/omb/financial/fmfia1982.html

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

http://www.gao.gov/special.pubs/af12194.pdf

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

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

The Inspector General Reform Act of 2008 amends the Inspector General Act of 1978 to enhance the independence of the Inspectors General, to create a Council of the Inspectors General on Integrity and Efficiency, and for other purposes. The Act can be found at the following URL:

https://www.oig.lsc.gov/legis/pl110-409.pdf

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

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

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

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

The Improper Payments Act of 2002 provides for estimates and reports of improper payments by Federal agencies. The Act can be found at the following URL:

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_public_laws&docid=f:publ300.107.pdf

GLOSSARY OF ACRONYMS

-#-

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

-A-

ADP	Automated Data Processing
ADR	Alternative Dispute Resolution
ALC	Agency Location Code
ALJ	Administrative Law Judge
AR	Area Representative

-B-

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

-C-

CADRS	Office of Consumer Affairs and Dispute Resolution Services
C&A	Certification and Accreditation
CFO	Chief Financial Officer
CFR	Code of Federal Regulations
CIO	Chief Information Officer
COTR	Contracting Officer's Technical Representative
CSRS	Civil Service Retirement System

-D-

DC	District of Columbia
DCIA	Debt Collection Improvement Act
DMS	Debt Management Service
DJHPM	Dembo, Jones, Healy, Pennington & Marshall, P.C.
DOL	Department of Labor

-E-

EEO	Equal Employment Opportunity
e-OPF	Electronic Official Personnel File

-F-

FACTS	Federal Agencies' Centralized Trial-Balance System
FASAB	Federal Accounting Standards Board
FDCC	Federal Desktop Core Configuration

-F-

FECA	Federal Employee's Compensation Act
FERS	Federal Employee's Retirement System
FISMA	Federal Information Security Management Act
FMC/Commission	Federal Maritime Commission
FMFIA	Federal Managers' Financial Integrity Act
FSPA	Foreign Shipping Practices Act of 1988
FTE	Full Time Equivalent
FY	Fiscal Year

-G-

GPRA	Government Performance and Results Act
GPEA	Government Paperwork Elimination Act
GRI	General Rate Increase
GS	General Schedule

-H-

HCP	Human Capital Plan

-I-

IPAC	Intergovernmental Payments and Collections
IT	Information Technology

-M-

MTO	Marine Terminal Operator

-N-

NFC	National Finance Center
NIST	National Institute of Standards and Technology
NSA	NVOCC Service Arrangements
NVOCC	Non-Vessel Operating Common Carrier

-O-

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

-O-

OPM	Office of Personnel Management
OPs	Office of Operations
OS	Office of the Secretary
OSRA	Ocean Shipping Reform Act of 1988
OTI	Ocean Transportation Intermediary

-P-

P.L.	Public Law
PAR	Performance and Accountability Report
PART	Performance Assessment Rating Tool
PII	Personally Identifiable Information
PMA	President's Management Agenda
PVO	Passenger Vessel Operator

-R-

RPI	Registered Persons Index

-S-

SBR	Statement of Budgetary Resources
SBREFA	Small Business Regulatory Enforcement Fairness Act of 1996
SES	Senior Executive Service
Shipping Act	Shipping Act of 1984
SOP	Standard Operating Procedures

-T-

TIN	Taxpayer Identification Number
TSP	Thrift Savings Plan

-V-

VOCC	Vessel-Operating Common Carrier

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A Message from the Chairman

I am very pleased to have been appointed Chairman of the Federal Maritime Commission (FMC) in September 2009. Having returned to where I first served thirty-five years ago, the expertise, dedication and commitment to excellence in public service is still there -- with many of the same employees who served with me -- representing historical continuity. The FMC's investment in its human capital has ensured that we attract and retain staff who possess strong technical skills and experience. Our agency may be small in size, personnel and budget, but we perform a vital function in the international economic life of our country. It is the role of the FMC, through its regulatory powers, to assist all segments of our waterborne commerce -- vessels, ports, support industries, labor both on board our ships and on our terminals, truckers and railroads -- in regaining their economic vitality and jobs when the economic upturn comes. To this end, we will soon announce a new "green" initiative to facilitate employment through environmental improvements in the industry. We strive to accomplish our goals even as the shipping industry and the shipping public grapple with the impact of the recent economic downturn, described recently as "the worst year in modern maritime history."

The FMC's Performance and Accountability Report (PAR) for fiscal year 2009 is hereby presented. Our PAR enables industry participants and the general public to become more aware of the Commission's ongoing efforts and successes in the regulation of the shipping industry. It provides the results of our program performance and successful financial activities over the past year that support our mission to foster a fair, efficient and reliable international ocean transportation system and to protect the public from unfair and deceptive practices. The agency's strategic goals regarding efficient regulatory process, compliance, balanced enforcement, technological efficiencies and management capabilities form the core of our mission.

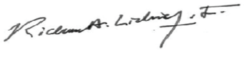
This Report covers the Commission's efforts in fiscal year 2009 to foster an equitable, secure, and market-driven ocean transportation industry. Fiscal year 2009 was the first year in which the FMC undertook quantitative measurement of performance goals, employing measures and targets. As such, these performance measures and targets stand alone and are not compared to past years. The Commission's actual performance in fiscal year 2009 is compared with the targeted levels of performance established in the agency's *Fiscal Year 2009 Final Annual Performance Plan*. During the fiscal year, the agency focused on twenty-one performance goals, while many of the Commission's resources were also dedicated to its various ongoing day-to-day activities.

The fiscal year 2009 independent financial audit resulted in the FMC's sixth consecutive unqualified opinion, the best audit opinion available. The independent auditors did not identify any material weaknesses, significant deficiencies, or instances of non-compliance with laws and regulations. In the Management Assurances section (see page 13), I provide my assurances that the FMC has no material weaknesses to report. I am also pleased to report that the FMC financial and performance data presented in this Report are complete, reliable, and accurate in keeping with the guidance from the Office of Management and Budget.

In fiscal year 2009, the FMC endeavored to make the most productive use of its resources and was commended for those efforts. We received the *2009 Most Improved Small Agency Award*, presented at a ceremony hosted by the Partnership for Public Service to recognize the *2009 Best Places to Work in the Federal Government*. The agency ranked first among 31 other small agencies in the Best-in-Class scored areas of *Strategic Management, Pay and Benefits, Performance Based Rewards and Advancement, Training and Development,* and *Support for Diversity*. The Commission is extremely proud of this accomplishment.

I look forward to working with agency staff, my fellow Commissioners and FMC stakeholders to continue providing high quality service to the American public.

Sincerely,



Richard A. Lidinsky, Jr.
Chairman
November 16, 2009

FEDERAL MARITIME COMMISSION



MANAGEMENT'S DISCUSSION and ANALYSIS



Fiscal Year 2009

Chapter One

MANAGEMENT'S DISCUSSION and ANALYSIS

Introduction

This Performance and Accountability Report (Report or PAR) represents the completion of the Federal Maritime Commission's program and financial management process for fiscal year (FY) 2009, which began with mission and program planning, continued with the formulation and justification of FMC's budget submission to the President and Congress, through budget execution, and ended with a report of our program performance and the use of resources. This report was prepared pursuant to the requirements of the Chief Financial Officers Act, as amended by the Reports Consolidation Act, and the Office of Management and Budget (OMB) Circular No. A-136, *Financial Reporting Requirements* (Revised 6/10/09), and covers the Commission's activities from October 1, 2008 through September 30, 2009.

Chapter One provides an overview of the FMC. It consists of eight sections: *Introduction* describes the agency, its mission and structure; *Regulatory Responsibility* describes its regulatory mandate; *Future Challenges* includes information about the changes in the maritime industry; *Program Performance Overview* reports on the FMC's success in achieving its strategic goals; *President's Management Agenda* describes activities related to the relevant initiatives; *Financial Performance Overview* discusses the FMC's financial position and audit results; *Financial Statement Highlights* gives an overview of the major financial statements; and *Systems, Controls, and Legal Compliance* discloses the FMC's compliance with certain legal and regulatory requirements.

About the FMC

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

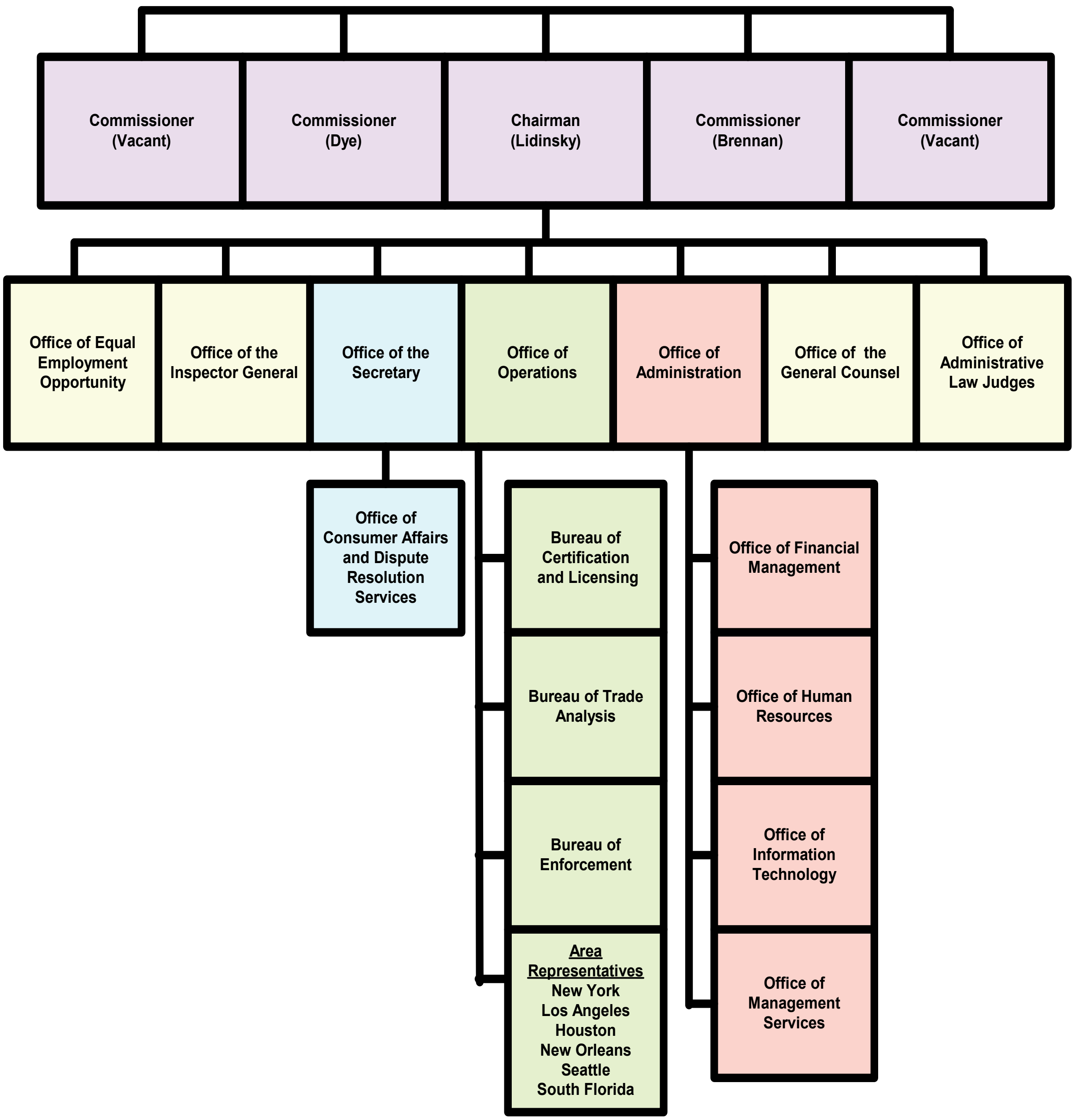
Organization

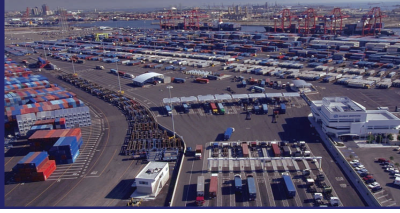
The FMC is composed of five Commissioners appointed for five-year terms by the President with the advice and consent of the Senate. No more than three members of the FMC may belong to the same political party. The President designates one of the Commissioners to serve as Chairman. The Chairman is the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

Chapter One

MANAGEMENT'S DISCUSSION and ANALYSIS

Organization Chart
(as of September 30, 2009)





Regulatory Responsibility

The Commission’s principal regulatory responsibilities include:

- Reviewing agreements among ocean common carriers and marine terminal operators (MTOs) relating to service in the U.S. foreign oceanborne trades, to ensure that they do not cause substantial increases in transportation costs or decreases in transportation services.

- Reviewing service contracts between ocean common carriers and shippers to guard against detrimental effects to shipping in the U.S. foreign trades.

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

- Regulating rates, charges, and rules of government-owned or -controlled carriers to ensure that they are just and reasonable.

- Issuing passenger vessel certificates evidencing financial responsibility of vessel owners or charterers to pay judgments for personal injury or death, or to refund passenger fares for the nonperformance of a voyage or cruise.

- Licensing OTIs in the U.S. to protect the public from unqualified, insolvent, or dishonest companies.

- Ensuring that OTIs maintain sufficient financial responsibility to protect the shipping public from financial loss.

- Protecting the shipping public against economic harm by investigating rates, charges, classifications, and practices of common carriers, MTOs, and OTIs operating in the foreign commerce of the U.S.

- Taking action to address unfavorable conditions arising out of foreign government or business practices in the U.S. foreign shipping trades.

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

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

Regulatory Responsibility (continued)

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

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

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

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

The FMC oversees approximately 6,000 regulated persons (passenger vessel operators, vessel-owning common carriers, marine terminal operators, conferences, OTIs, etc.).

Future Challenges

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

The Commission continues to review its regulatory initiatives to ensure that agency resources are maximized to accomplish statutory obligations with a minimum of government intervention and regulatory cost.

Cooperative working arrangements with front-line security agencies remain in place. Effective use of emerging information technologies continue to facilitate our efforts to allow greater collaboration both internally and with other government agencies, and to allow greater information transparency and accessibility to the public.

Program Performance Overview

The FMC, like other Federal agencies, provides an annual performance plan to Congress, pursuant to the Government Performance and Results Act (GPRA). The FMC has organized its performance goals to achieve its strategic goals. The FMC's final Annual Performance Plan for FY 2009 is available on the FMC's website. The complete FY 2009 Program Performance Report is contained in *Chapter 2, Program Performance*. In FY 2009, the Commission continued to refine the agency's business practices, specifically on revising and updating internal procedures in line with the amendment of Commission regulations. This includes facilitating the use and dissemination of filed material in order to improve analysis of required filings and responsiveness to inquiries, and implementation of procedural changes to enhance the effectiveness of agency operations. We broadened our efforts to implement the President's Management Agenda initiative to expand electronic government by increasing transparency and improving the management of information through the more effective use of available technologies. We also streamlined the delivery of services and information to regulated entities, other government agencies and the public, and further automated agency systems and enhanced the use of agency databases to allow staff to discharge program responsibilities more effectively.

Achieving Strategic Goal Results

The FMC has a distinct process for measuring performance. Performance goals are developed to promote each of the FMC's strategic goals, and the processes or activities required to achieve the goals are identified. The agency then specifies the outcomes it believes will result from accomplishing each stated goal, and agrees on performance indicators as the quantifiers of performance. Fiscal year 2009 was the first year in which the FMC undertook to quantitatively establish and measure performance goals. As such, these FY 2009 performance measures and targets stand alone and are not compared to past years. The Commission's actual performance in FY 2009 is compared with the targeted levels of performance established in the agency's FY 2009 Final Annual Performance Plan. Taken together, performance measures and targets under each strategic goal are designed to enhance and further those goals each fiscal year, bringing the agency closer to its ideal of full achievement of its strategic goals. Our experience in establishing 2009 targets enabled us to set more realistic targets for the FY 2010—2015 Strategic Plan.

President's Management Agenda

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

A brief overview of the agency's successes includes the following:

Strategic Management of Human Capital – The FMC continued to focus on workforce and succession planning during FY 2009. The Commission finalized its Human Capital Plan, Workforce Plan, and Accountability and Succession Management Plans in accordance with OPM's Human Capital Assessment and Accountability Framework.

Results from the 2008 Federal Human Capital Survey indicate that FMC employees like the work they do and believe the Commission does a good job in the areas of recruitment, employee development, and retention. The rate of positive responses by FMC employees exceeded the government-wide average in all but 3 of the 74 questions included in the survey. The FMC's highest scores were in the area of employee benefits and support for work/life balance.

To promote health and safety in the workplace, the Commission implemented an Automatic External Defibrillator Program during FY 2009. Training on the equipment was provided to 28 members of the agency's Emergency Response Team.

President's Management Agenda (continued)

Competitive Sourcing - The FMC submitted its FY 2009 Federal Activities Inventory Reform Act (FAIR Act) Inventory to OMB in June 2009. The Inventory identified 78 of the agency's 132 FTEs as commercial activity FTEs. No challenges to its commercial inventories have ever been received.

Improved Financial Performance - For the sixth straight year, the FMC received an unqualified opinion on its financial statements in FY 2009. The FMC will continue to strive to achieve unqualified audit opinions.

Expanded E-Government -The FMC continues to expand electronic government (e-government). During FY 2009, the FMC increased the number of key documents filed in formal docketed proceedings available to the public on the agency's website, as well as completed a large volume project. The entire collection of historical Commission decisions issued in its adjudicatory proceedings are now available on the agency's website. During FY 2009, the Commission continued to modernize and expand the Regulated Persons Index (RPI), a database containing up-to-date records of licensed OTIs, ocean common carriers and other entities, and an enterprise content management project was also initiated to integrate FMC databases, address business workflow and document and records management needs.

Work continued on automating the submission and application process for certain FMC forms used by regulated entities. The Commission met OMB's mandate to have desktop systems Federal Desktop Core Configuration (FDCC) compliant. The agency also provided additional content on its Intranet for the use of FMC staff.

Senior managers are aware of the requirements and benefits of e-government, and continue to plan and initiate program changes to expand the use of e-government in daily activities. Employees are required to complete on-line information technology security refresher training on an annual basis. The FMC continues to upgrade its network infrastructure and to provide a high-quality information technology program for its staff. The agency is committed to continuing its integration of information technology policies and procedures, and to expand opportunities for e-government activities. In FY 2009, the agency resolved several significant deficiencies related to its information technology program; the deficiencies were identified in earlier Federal Managers' Financial Integrity Act (FMFIA) Reports.

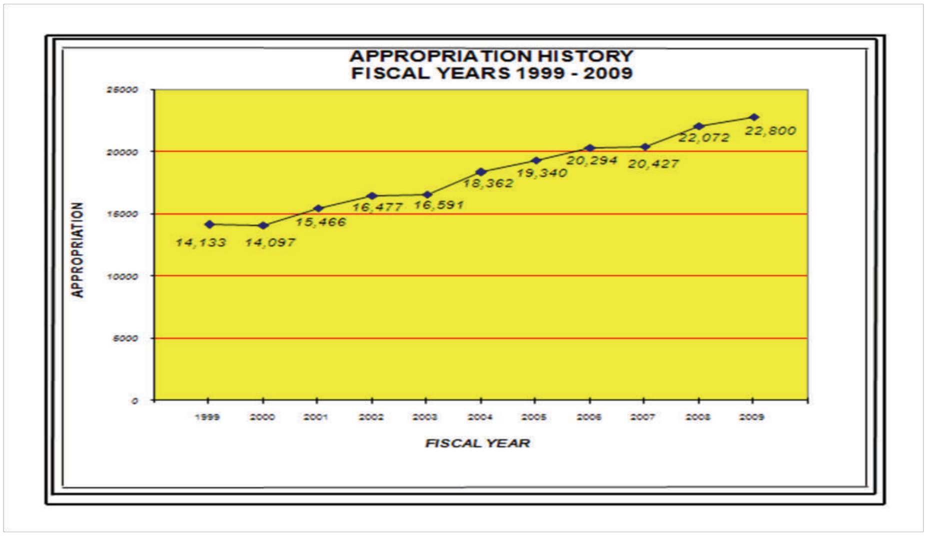
Budget and Performance Integration – The Strategic Plan and Annual Performance Plan continue to represent the fundamental framework for the agency's planning and budgeting activities. Funding and Full Time Equivalent (FTE) levels are integrated into the agency's performance planning document by strategic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

Financial Performance Overview

As of September 30, 2009, the financial condition of the FMC was sound with respect to having sufficient funds to meet program needs and adequate control of funds in place to ensure obligations did not exceed budget authority. The FMC's accounting services provider, the Bureau of the Public Debt (BPD), prepared the agency's financial statements in accordance with accounting standards codified in the Statements of Federal Financial Accounting Standards and OMB Circular A-136.

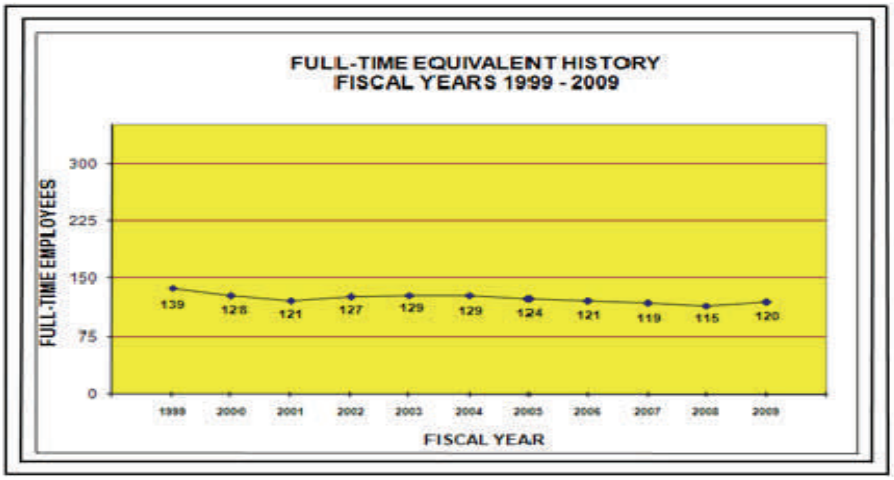
Source of Funds and Appropriation History

The FMC has a single source of funds, Salaries and Expenses, funded by an annual appropriation that is available for commitments and obligations incurred during the fiscal year in which the authority was granted. The FMC's total new budget authority for FY 2009 was $22,800,000. This represents a net increase in budget authority of $728,000 over FY 2008. Although the FMC collects remittances for user fees and penalties, the agency is not authorized to offset any of its budget authority by utilizing these funds. The collections are deposited directly into the Treasury General Fund, and captured in the Statement of Custodial Activity which can be found in *Chapter 3, Auditor's Reports and Financial Statements.*



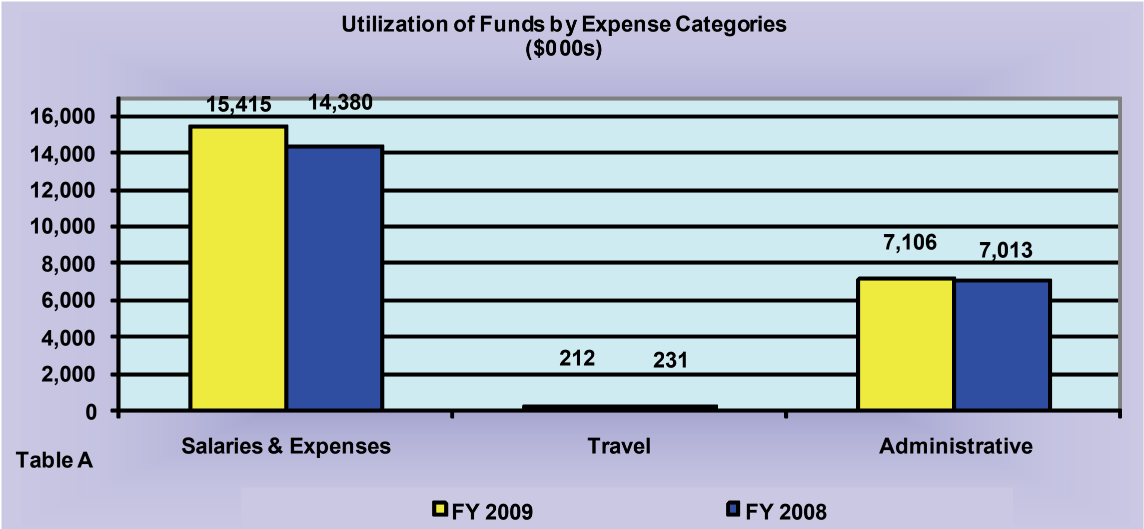
Full-time Equivalent History

The FMC's Full-time Equivalent (FTE) level is largely driven by our annual appropriation level and the actual FTE level has fluctuated since 1999. After a decline in 2001, the FMC experienced modest growth in its FTE level through 2004, followed by an annual decline through 2008. The level increased again in 2009. For the past several years, unanticipated vacancies in the Offices of the Commissioners have remained unfilled. The agency has endeavored to develop the appropriate mix of staffing and other available means to ensure the effective accomplishment of our mission.



Uses of Funds by Expense Category

In FY 2009, the FMC incurred new obligations of $22.8 million, which was a $1.1 million increase over FY 2008. FY 2009 obligations represent 99.7% of the budget authority. Of the total obligations, 67.8% was used for salaries and benefits, .9% was used for Commission travel expenses, and the remaining 31.3% was used for administrative expenses (e.g., rent, government and commercial contracts, furniture, printing, and equipment maintenance). The un-obligated authority balance of $66,284 will remain active for four years to service FMC-established requirements.



Audit Results

The FMC again received an unqualified opinion on its FY 2009 financial statements from the auditing firm of Dembo, Jones, Healy, Pennington & Marshall, P.C. under contract through the FMC's OIG. Comparative statements are located in *Chapter 3, Auditor's Reports and Financial Statements.*

Financial Statement Highlights

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

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

Analysis of the Balance Sheet

The FMC's assets in FY 2009 were $5,050,396 as of September 30, 2009. This represents an increase over FY 2008 of $921,571. The FMC's assets reported in the balance sheet are summarized in the accompanying table.

Summary of Assets as of September 30, 2009		
	FY 2009	**FY 2008**
Fund Balance with Treasury	$4,777,674	$4,062,134
Accounts Receivable	$70,222	$64,579
Capital Assets	$202,500	$2,112
Other	0	0
Total Assets	**$5,050,396**	**$4,128,825**

The Fund Balance with Treasury of $4,777,674 represents the FMC's largest asset as of September 30, 2009 and represents 94.6% of the agency's total assets. This is an increase of 17.6% over FY 2008. The Fund Balance with Treasury is comprised only of annual appropriations maintained by the Department of the Treasury to address current liabilities.

Accounts Receivable as of September 30, 2009 was $70,222 and accounts for 1.4% of the FMC's total assets. This is a 8.7% increase over FY 2008.

Capital Assets, also known as Property, Plant and Equipment, accounts for 4% of the FMC's total assets as of September 30, 2009. The Net value of $202,500 accounts for the depreciation of all assets and represents the current book value of those assets.

The FMC's Liabilities totaled $2,715,904 as of September 30, 2009. The accompanying table depicts an increase of $263,868 total liabilities over FY 2008. Accounts Payable represents the total goods and services received by the FMC as of September 30, 2009. The FMC has not yet received invoices from the numerous vendors as of the close of FY 2009. Federal Employee Benefits represents accrued salaries and liabilities that are not funded by budgetary resources. These liabilities represent future workers' compensation and accrued annual leave that remains on the books. The Federal budget process does not recognize future benefits for today's employees; however, these liabilities will be recognized in future budget cycles as they are paid.

Summary of Liabilities as of September 30, 2009		
	FY 2009	**FY 2008**
Accounts Payable	$541,102	$310,274
Payroll Taxes Payable	$156,036	$130,152
Federal Employee Benefits	$	$
Custodial Liability	$69,236	$63,593
Accrued Liabilities	$1,948,720	$1,947,207
Total Liabilities	**$2,715,094**	**$2,451,226**

Net Position is the difference between total assets and total liabilities. The total net position for FY 2009 is an increase of $657,703 from FY 2008. Unexpended Appropriations represents the total authority granted by Congress that the FMC has not expended as of September 30, 2009. Cumulative Results of Operations represents the net results of all operations of the FMC.

Net Position Summary as of September 30, 2009		
	FY 2009	**FY 2008**
Unexpended Appropriations	$3,214,566	$2,706,788
Cumulative Results	($879,264)	($1,029,189)
Total Net Position	**$2,335,302**	**$1,677,599**

Analysis of Net Cost

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

Summary of the Statement of Net Cost as of September 30, 2009		
	FY 2009	**FY 2008**
Office of Administration	$6,237,122	$6,088,432
Office of Operations	$10,304,424	$9,540,047
Formal Proceedings	$6,082,905	$5,627,251
Office of Inspector General	$529,935	$597,799
Office of Equal Employment Opportunity	$151,287	$161,903
Net Cost of Program Services	**$23,305,673**	**$22,015,432**

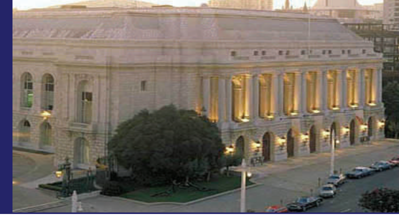
Analysis of the Statement of Changes in Net Position

The Statement of Changes in Net Position, found on page ten, reports the change in the agency's net position during the reporting period. The statement is a summary of two factors, Unexpended Appropriations and Cumulative Results in Operations. The increase of $657,703 from FY 2008 to FY 2009 is due principally to the net change in Cumulative Results of Operations due to further depreciation of Capital Assets and an increase in unexpended appropriations.

Analysis of the Statement of Budgetary Resources

The Statement of Budgetary Resources (SBR) shows the source of the agency's budgetary resources and the status of those resources at the end of the reporting period. The statement also shows the relationship between budgetary resources and the status of the resources. The total budgetary resources must be equal to the status of budgetary resources at all times. A more detailed SBR can be found in *Chapter 3, Auditor's Report and Financial Statements.* For FY 2009, the FMC had total budgetary resources available of $23,685,439. This represents a 5.6% increase over FY 2008 budgetary resources available of $22,438,514. For FY 2009, the FMC incurred obligations of $22,817,981, representing 96.3% of available funding. The majority of the unobligated balance of $66,284 represents funding for travel that was not utilized.

Summary of the Statement of Budgetary Resources as of September 30, 2009		
	FY 2009	**FY 2008**
Total Budgetary Resources	**$23,685,439**	**$22,438,514**
Obligations Incurred	$22,817,981	$21,690,849
Unobligated Balance Not Available	$801,174	$300,086
Unobligated Balance	$66,284	$447,579
Status of Budgetary Resources	**$23,685,439**	**$22,438,514**



Systems, Controls, and Legal Compliance

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

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

Federal Managers’ Financial Integrity Act

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

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

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

During the fiscal year, the IG identified no significant deficiencies and there were no significant management decisions made on which the IG disagreed. A significant deficiency concerning Certification and Accreditation (C&A) documentation identified in the information technology program during FY 2008 was resolved. Management and the OIG reached agreement on all recommendations made, although at the conclusion of the fiscal year, 25 recommendations remained open, i.e., management and the OIG agree as to the action that management needs to take, but management has not yet taken the action to close the recommendations.

Debt Collection Improvement Act

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

Prompt Payment Act

The Prompt Payment Act requires agencies to make timely payments to vendors for supplies and services, to pay interest penalties when payments are made after the due date, and to take cash discounts when they are economically justified. In FY 2009, the FMC maintained a percentage of on-time payments at 97.54%. The FMC paid eight invoices totaling $19,015.00 late due to certification delays from the COTRs. Interest payments totaling $27.11 were paid on three of the invoices. The FMC will continue to strive towards 100% on-time payments in future years. The FMC has maintained a 100% on-time electronic/credit-card payment to its vendors.

Biennial Review of User Fees

The Chief Financial Officers Act requires that agencies conduct a biennial review of fees and other charges imposed by agencies, and to make revisions to cover program and administrative costs incurred. During FY 2008, the Commission completed its biennial review of user fees, and the OIG subsequently conducted a review of the methodology used to calculate the updated user fees. During the review, the OIG determined that the agency followed a process which incorrectly set user fees for various mission-related services, resulting in user fees that understated the agency's costs to provide these services. The new fee structure was not implemented during FY 2009, and methodology for calculating new user fees remains under review.

Performance Measure Summary

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

Inspector General Act

The FMC continues to have a very good record in resolving and implementing audit recommendations presented in its OIG reports. Section 5(b) of the Inspector General Act requires agencies to report on final actions taken on OIG audit recommendations.

Briefly, during FY 2009, the Inspector General completed the following audits and reviews:

Audit of the FMC's FY 2008 Financial Statements
Management Letter to the FY 2008 Audited Financial Statements
Review of the Bureau of Enforcement's Time and Attendance Practices
Operational Review – Inspection of the Agency's Checkout Process
Review of the Office of the General Counsel Time and Attendance Practices
Review of the Bureau of Certification and Licensing Time and Attendance Practices
Review of the Office of the Secretary Time and Attendance Practices
Review of the Bureau of Trade Analysis Time and Attendance Practices
Review of the Office of Consumer Affairs and Dispute Resolution Services Time and Attendance Practices

The Inspector General's reviews disclosed no instances of questioned costs. The agency addressed a number of recommendations from these reviews, and it is expected that the remaining open recommendations will be resolved during FY 2010.

During FY 2009, no significant deficiencies were identified. The agency mitigated one significant deficiency which was identified in the FY 2008 FISMA Review regarding C&A documentation.

Federal Maritime Commission
Washington, D.C. 20573 – 0001

Office of the Chairman

CHAIRMAN'S FMFIA STATEMENT OF ASSURANCE

The Federal Maritime Commission's (FMC) management is responsible for establishing and maintaining effective internal control and financial management systems that meet the objectives of the Federal Managers' Financial Integrity Act of 1982 (FMFIA).

In accordance with the requirements of the Office of Management and Budget (OMB) Circular A-123, *Management's Responsibility for Internal Control*, the FMC conducted its annual assessment of the effectiveness of the organization's internal controls to support effective and efficient programmatic operations, reliable financial reporting, and compliance with applicable laws and regulations; and whether the financial management system conforms to applicable financial systems requirements.

Based on the results of this assessment, the FMC provides reasonable assurance, as of

A MESSAGE FROM THE CHAIRMAN

I am very pleased to have been appointed Chairman of the Federal Maritime Commission (FMC) in September 2009. Having returned to where I first served thirty-five years ago, the expertise, dedication and commitment to excellence in public service is still there -- with many of the same employees

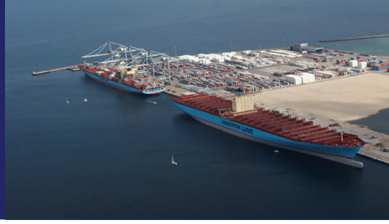
CHAPTER TWO

PROGRAM PERFORMANCE

Fiscal Year 2009

Chapter Two

PROGRAM PERFORMANCE



Annual Performance Report

Introduction

The FMC's performance management system includes both strategic goals and performance goals and measures. The strategic goals represent the FMC's mission and reflect the overall outcomes the agency is working to achieve.

For FY 2009, the FMC focused on the following strategic goals:

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

• Compliance:
Promote efficiency and fairness in U.S. foreign waterborne commerce through various means, including outreach and monitoring, to protect the public and assist stakeholders in achieving compliance with ocean transportation statutes administered by the FMC.

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

• Technological Efficiencies:
Employ technological enhancements to improve efficiency and to facilitate the exchange of information.

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

This progress report covers the Commission's efforts in FY 2009 to foster an equitable, secure, and market-driven ocean transportation industry. Fiscal year 2009 was the first year in which the FMC undertook quantitative measurement of performance goals, employing measures and targets. As such, these FY 2009 performance measures and targets stand alone and are not compared to past years. The Commission's actual performance in FY 2009 is compared with the targeted levels of performance established in the agency's FY 2009 Final Annual Performance Plan. In FY 2009, the agency focused on twenty-one performance goals, while many of the Commission's resources were also dedicated to its various day-to-day activities.

Because FY 2009 was the FMC's first year of measuring quantitative targets, the targets were set without historical benchmarks and in some instances proved to be overly aggressive. At the time the measures were developed, the FMC was anticipating gains in automation to be forthcoming in very short order. Those automation gains were not realized due to a variety of factors which have now lead the agency to embark on the development of a new enterprise content management system. The lag in automation of processes led in part to disappointments in some of the regulatory program areas.

As well, some of the targets in this report that carry over to 2010 were revised downwards for 2010 as it was recognized soon into FY 2009 that certain targets were unreachable, such as the target for the time taken in the OTI licensing process. The FY 2009 targets represented ballpark ideals which proved to be aggressive but not viable given current resources and established business processes. For 2010 and beyond, our measures and targets are more reflective of desired strategic outcomes, less reflective of strictly internal processes and more realistic.

Chapter Two

PROGRAM PERFORMANCE

During fiscal year 2008, the Commission drafted a new Strategic Plan for 2010-2015 and in that process changed the manner in which it measures performance, setting performance goals directly linked to new strategic goals. This new plan includes a set of performance measures that will facilitate the evaluation of the FMC's steady-state activities across several years. In updating the Strategic Plan and moving towards a new performance measurement system, the agency will increase its reporting of ongoing steady-state performance measures, and reduce its reporting of discrete performance measures designed to be completed in a year or less.

The agency has forwarded this report to the President, with a copy to the Director, OMB, and appropriate Congressional committees. Additionally, this report has been placed on the FMC's Internet web site to ensure that it is accessible to interested parties. All Commission employees have been advised to review it. Finally, it should be noted that the Commission does not participate in OMB's Program Assessment Rating Tool (PART) program. Accordingly, no PART program evaluations were conducted during FY 2009.

Chapter Two

PROGRAM PERFORMANCE

Performance Measure Summary Tables

Targeted performance compared to actual results.
Strategic Goal 1: **Efficient Regulatory Process**

Performance Measure	FY 2009 Target	FY 2009 Actual
Outcome Goal 1.1 Provide parties to proceedings with alternative means to resolve their disputes, including informal ADR, and encourage their use.		
Measure: Disputes resolved by Office of Consumer Affairs and Dispute Resolution Services	100	384
Outcome Goal 1.2 Conduct hearings in an expeditious and equitable manner, so that litigants and the industry can adjust their behavior accordingly.		
Measure: Percentage of complaints or investigations completed within two years of filing or Commission initiation beginning with cases filed or initiated in FY 2007. **Target Unmet:** A total of 9 such proceedings were initiated in 2007, 5 of those were completed within two years. The pace of complaints and investigations is impacted by the ALJ's and the Commission's caseload, and the timeliness of submissions from outside parties.	60%	55%
Outcome Goal 1.3 Permit and encourage the use of electronic filings and other processes that result in less expense and timely resolution of disputes.		
Measure: Percentage of Active Electronic Docket Logs updated within 72 hours of receipt of key documents issued or filed in Commission proceedings. **Target Unmet:** This process was not tracked prior to FY 2009. Through tracking, inefficiencies on the front end of the current process were discovered. Modifications are underway to expedite the process.	85%	55%
Outcome Goal 1.4 Update Commission rules as appropriate to adjust to changes in the regulatory and commercial environment.		
Measure: Number of rules pending in Unified Regulatory Agenda.	2	5

Strategic Goal 2: **Compliance**

Performance Measure	FY 2009 Target	FY 2009 Actual
Outcome Goal 2.1 Increase the rate of compliance under applicable U.S. shipping laws and regulations relating to tariffs, service contracts, unfair trade practices, antitrust immunity, discriminatory practices, carrier pricing and service, ocean transportation intermediary activities, and passenger vessel operations.		
Measure: Percentage of minutes and monitoring reports received within regulatory deadlines or formal extension. **Target Unmet:** Three different reporting requirements are encompassed in this measure and do not lend themselves to averaging as a collective unit. Of passenger vessel monitoring reports, 91% were filed on time. Follow-up with filers was impeded by staffing shortages in that office. For agreement minutes, 83% were received on time. 72% of quarterly monitoring reports for agreements were received timely. Increasing use of electronic submission rates should increase the rate of timeliness for minutes, as e-filed minutes were received more timely. However for quarterly monitoring reports, filers rely on a commercial data source that often publishes late.	95%	72-91%
Measure: Percentage of new and amended OTI applications that are processed with 45 days. **Target Unmet:** In FY 2009, 401 OTI licenses were issued by the Commission. The target of 45 days was an ambitious target based on program aspirations including anticipating the implementation of an automated application that would have significantly decreased processing time. Also, the target was set without historical benchmark data. In fact, in the agency's Strategic Plan for Fiscal Years 2010-2015, this target was revised from 45 days to 90 days. The 45 day target was also based on several assumptions including a modest increase in the number of applications received, completion of an automated license application form that would build efficiencies for the applicant and the staff analyst both, and minimal staff turn-over. While application growth was indeed modest from FY 2008 to 2009, the number of applications received each year has increased from about 520 in FY 2004 to 759 in FY 2009. Staffing obstacles in FY 2008 and 2009 were significant with turnover at the office chief level and departures of senior staff. Also significant, since FY 2005, the Bureau has incrementally modified its licensing review procedures, deepening the examination of the qualifications of license applicants. In FY 2009, difficulties encountered in implementing a new automated application process forced us to suspend its development in favor of developing a new agency-wide enterprise content management system. The licensing program is currently under review at the staff level with an aim of streamlining and reducing its back log.	80%	5%

Outcome Goal 2.2 Conduct educational programs and provide opportunity for informal exchanges between our stakeholders and the Commission.		
Measure: Number of industry entities invited to address Commission staff. **Measure:** Presentation, panel participation and attendance by staff at trade conferences.	3 invites 3 panels, attendance	9 invites 41
Outcome Goal 2.3 Maintain fair competition in U.S. ocean commerce.		
Measure: Achieve positive outcomes in matters for which formal request for additional information is made to parties of filed ocean common carrier or marine terminal operator agreements.	90%	100%
Outcome Goal 2.4 Protect the public and users of ocean transportation services from activities that violate the shipping statutes.		
Measure: Number of investigations opened to address alleged harm to the public as a result of Shipping Act violations. **Target Unmet:** 34 investigations were opened by the Commission's Area Representatives to investigate alleged violations. Often when a potential violation is alleged or discovered, the potential respondent is compelled to come into compliance with the law without the need to open an official investigation. The Bureau of Enforcement's audit program as well as the OTI licensing program has been successful in identifying potential violations and allowing entities to adjust their processes to come into compliance without the need for investigation.	50	34

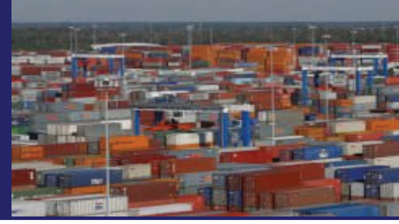
Strategic Goal 3: **Balanced Enforcement**

Performance Measure	FY 2009 Target	FY 2009 Actual
Outcome Goal 3.1 Assure carriers do not exercise their antitrust immunity in a manner that results in unreasonable practices, rate increases or service decreases.		
Measure: Percentage of rate agreements analyzed for 6(g) compliance. **Measure:** Number of memoranda, special reports or studies on significant competition related issues.	100% 3 major reports	100% 3 major reports
Outcome Goal 3.2 Ensure that Commission actions are taken with appropriate consideration of their impact on the industry and users of transportation services, including small business considerations, and are directed at market-distorting activities.		
Measure: Number of un-addressed comments received in rulemakings regarding SBREFA concerns.	0	0
Outcome Goal 3.3 Provide regulatory assistance and encourage voluntary compliance with shipping statutes and regulations through consistent industry outreach and education efforts.		
Measure: Number of compliance presentations by staff to industry and shipping public.	3	12
Outcome Goal 3.4 Neutralize, or affirmatively address, restrictive trade practices of foreign governments.		
Measure: Number of unresolved FSPA and Section 19 proceedings.	No more than 2	1
Outcome Goal 3.5 Improve maritime security by curtailing unlawful participation in the U.S. ocean transportation system.		
Measure: Identified unlicensed OTIs sent compliance warning letters.	95%	100%

Strategic Goal 4: **Technological Efficiencies**

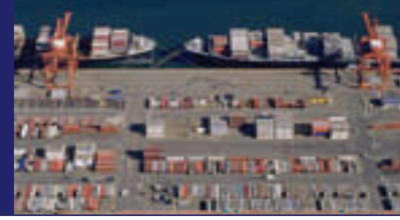
Performance Measure	FY 2009 Target	FY 2009 Actual
Outcome Goal 4.1 Streamline the Commission's work processes through effective utilization of information technology.		
Measure: The number of technology solutions that are designed and implemented and used by the Commission to facilitate process improvement through the use of databases and record keeping systems. **Target Unmet:** During FY 2009, the decision was made to change the technology underlying our application development. A contract was recently awarded for enterprise content management and three new applications under development to facilitate process improvements are anticipated in FY 2010, with others phased in over the coming years.	6	0
Measure: Cumulative number of technology solutions that are designed and implemented and used by the Commission to facilitate process improvement through the use of databases and record keeping systems since FY 2007 (including current fiscal year). **Target Unmet:** During FY 2009, the decision was made to change the technology underlying our application development. A contract was recently awarded for enterprise content management and three new applications under development to facilitate process improvements are anticipated in FY 2010, with others phased in over the coming years.	12	0
Outcome Goal 4.2 Use electronic technology for the receipt of documents filed with the Commission as envisioned by the Government Paperwork Elimination Act (GPEA).		
Measure: Percentage use of electronically submitted forms by regulated concerns versus receipt of traditional paper-driven applications and processes.	50%	95%

Outcome Goal 4.3 Safeguard programs and systems as required by the Federal Information Security Management Act of 2002 (FISMA).		
Measure: Number of technology-related programs and systems developed or implemented that achieve full compliance with Federal information security mandates. **Target Unmet:** Relationship with contractor awarded project severed after work requested was becoming costly and not helpful to the agency's target goal.	12	2
Outcome Goal 4.4 Disseminate Commission and staff issuances through the use of electronic technology.		
Measure: The total number of visits and downloads from agency website. Measured against previous year website traffic statistics, FY 2007 - 2009.	10% increase	29% increase



Strategic Goal 5: **Management Capabilities**

Performance Measure	**FY 2009 Target**	**FY 2009 Actual**
Outcome Goal 5.1 Organize and manage the agency's staff consistent with established priorities, with an emphasis on workforce planning, diversity, and effective internal communication.		
Measure: Percentage of agency employees who participated in required annual training during the fiscal year (e.g., ethics, IT security, No FEAR, etc.).	100%	100%
Measure: Number of awareness, recruitment, training, new-employee orientation, workforce development, and quality of life initiatives offered to agency employees. **Target Unmet:** Fewer offerings were made to employees than anticipated.	250	216
Outcome Goal 5.2 Clearly and accurately communicate the Commission program requirements, activities and decisions in a manner consistent with the Information Quality Guidelines for Federal Agencies.		
Measure: Percentage of internal Commission orders or SOPs reviewed, developed or updated by Office of Administration during the fiscal year.	33%	69%
Measure: Percentage of agency records which have been assessed with respect to records disposition requirements with respect to the current fiscal year.	33%	65%
Outcome Goal 5.3 Respond to changing industry conditions and business environment through use of state-of-the-art automated systems for internal and external processes and a flexible and well-trained workforce.		
Measure: Percentage of agency employees who participated in optional skill-building, management and other training during the current fiscal year.	25%	39%
Measure: Percent of payments (user fees, penalties, etc.) received electronically via Pay.gov versus older technologies (e.g., checks). **Target Unmet:** Pay.gov program was not implemented during FY 2009. The vendor representative was available to inform about the benefits of Pay.gov but the designers and builders of the project were unavailable due to a large volume of existing contracts with other agencies. FMC has been placed on the project waiting list.	25%	0



Performance Measure	FY 2009 Target	FY 2009 Actual
Outcome Goal 5.4 Enhance performance and accountability through linking planning, financial management and performance.		
Measure: Percentage of management officials undertaking reviews of internal controls and vulnerability assessments for their programs during the current fiscal year.	95%	100%
Measure: Number of material deficiencies found in most recent financial statement audit.	1 or fewer material deficiencies	0
Measure: Received unqualified opinion from financial statement auditors with respect to the current fiscal year.	Yes	Yes

CHAPTER THREE

AUDITOR'S REPORTS AND FINANCIAL STATEMENTS

Fiscal Year 2009

AUDITOR'S REPORTS AND FINANCIAL STATEMENTS

Message from the Chief Financial Officer

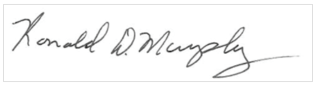
The FY 2009 PAR highlights for the President, the Congress and the American people the continuing commitment of the Federal Maritime Commission to maintain sound financial management of the resources entrusted to us. I am pleased to present the FMC's financial statements for FY 2009. Our independent auditor has rendered an unqualified opinion on our FY 2009 financial statements. The FMC now has received an unqualified opinion in each of the six years in which independent financial audits have been conducted, attesting to the FMC's commitment to high quality financial management.

The FMC's financial condition is sound, and the Commission has sufficient internal controls in place to ensure its budget authority is not exceeded and that funds are utilized efficiently and effectively.

During FY 2009, the FMC continued its focus on internal controls, as mandated by OMB Circular A-123. Our financial management staff is to be commended for consistently finding ways to provide budget information in concise, reliable, and understandable formats. In late 2008, the agency's goals and objectives were revised and a new Strategic Plan for Fiscal Years 2010-2015 was approved by the Commission in December 2008 following an opportunity for public comment. In addition, we completed corrective actions on a number of audit recommendations. Quarterly financial statements were issued 15 days after the end of each quarter, and our FY 2009 PAR is being published on November 16, 2009.

The FMC is committed to efficient and effective management of agency resources. We will focus in FY 2010 on maintaining an unqualified audit opinion and will continue to use timely, reliable, and comprehensive financial information when making agency decisions. I anticipate that in FY 2010 the FMC will continue its high level of quality financial management.

Sincerely,



Ronald D. Murphy
Chief Financial Officer

November 16, 2009

AUDITOR’S REPORTS AND FINANCIAL STATEMENTS

PRINCIPAL STATEMENTS

LIMITATIONS OF THE FINANCIAL STATEMENTS

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

The Federal Maritime Commission’s financial statements were audited by Dembo, Jones, Pennington, Healy & Marshall, P.C., under contract to the FMC’s Office of the Inspector General.

Chapter Three

AUDITOR'S REPORTS AND FINANCIAL STATEMENTS

Independent Auditor's Report

FEDERAL MARITIME COMMISSION
Office of Inspector General
Washington, DC 20573-0001

November 6, 2009

Office of Inspector General

The Honorable Richard A. Lidinsky, Jr.
Chairman
Federal Maritime Commission

I am pleased to provide you with the attached audit report required by the Chief Financial Officers (CFO) Act of 1990, as amended, which presents an unqualified opinion on the Federal Maritime Commission's (FMC) FY 2009 financial statements. The audit results indicate that FMC has established an internal control structure that facilitates the preparation of reliable financial and performance information. We commend FMC for the noteworthy accomplishment of attaining an unqualified (clean) opinion for the 6th consecutive year.

The independent public accounting firm of Dembo Jones Healy Pennington & Marshall, P.C. (DJHPM) performed the audit of FMC's financial statements for the fiscal year ended September 30, 2009. The contract required that the audit be done in accordance with U.S. generally accepted government auditing standards and OMB audit guidance.

In its audit of the Federal Maritime Commission, DJMPM found:

- the financial statements were fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles;

- the FMC had effective internal control over financial reporting (including safeguarding assets) and compliance with laws and regulations; and

- no reportable noncompliance with laws and regulations tested.

To fulfill our responsibilities under the CFO Act and related legislation for ensuring the quality of the audit work performed, we monitored DJHPM's audit of FMC's FY 2009 financial statements by:

- reviewing DJHPM's approach and planning of the audit;
- evaluating the qualifications and independence of its auditors;
- monitoring the progress of the audit at key points;

- examining its work papers related to planning the audit, assessing FMC's internal control, and substantive testing;
- reviewing DJHPM's audit report to ensure compliance with *Government Auditing Standards* and OMB Bulletin No. 07-04, as amended;
- coordinating the issuance of the audit report; and
- performing other procedures we deemed necessary.

Our review disclosed no instances where DJHPM did not comply, in all material respects, with U.S. generally accepted government auditing standards. However, our review cannot be construed as an audit in accordance with U.S. generally accepted government auditing standards. It was not intended to enable us to express, and we do not express, any opinion on FMC's financial statements, conclusions about the effectiveness of internal control, or conclusions on compliance with laws and regulations. DJHPM is solely responsible for the attached auditor's report dated November 6, 2009, and the conclusions expressed in the report.

We appreciate the cooperation and courtesies extended to both DJHPM and OIG staff during the audit.

Sincerely,

Adam R. Trzeciak
Inspector General

Attachment

cc: Ronald D. Murphy
Chief Financial Officer

AUDITOR'S REPORTS AND FINANCIAL STATEMENTS

DJHPM

Dembo, Jones, Healy, Pennington & Marshall, P.C.

Certified Public Accountants and Consultants

Chairman Lidinsky:

In accordance with the Office of Management and Budget (OMB) Bulletin No. 07-04, "Audit Requirements for Federal Financial Statements", we are responsible for conducting audits of the financial statements of the Federal Maritime Commission. In our audits of the Federal Maritime Commission for the fiscal years September 30, 2009 and 2008, we found

- the financial statements are presented fairly, in all material respects, in conformity with U.S. generally accepted accounting principles,
- no material weaknesses in internal control over financial reporting (including safeguarding assets) and compliance with laws and regulations,
- no reportable noncompliance with laws and regulations we tested.

The following sections discuss in more detail (1) these conclusions, (2) our conclusions on Management's Discussion and Analysis and other supplementary information, and (3) our audit objectives, scope, and methodology.

Opinion on Financial Statements

The financial statements including the accompanying notes present fairly, in all material respects, in conformity with U.S. generally accepted accounting principles, the Federal Maritime Commission's assets, liabilities, and net position as of September 30, 2009 and 2008; and net costs; changes in net position; budgetary resources; and custodial activity for the years then ended.

Consideration of Internal Control

In planning and performing our audit, we considered the Federal Maritime Commission's internal control over financial reporting and compliance. We did this to determine our procedures for auditing the financial statements and to comply with OMB audit guidance, not to express an opinion on internal control. Accordingly, we do not express an opinion on internal control over financial reporting and compliance or on management's assertion on internal control included in Management's Discussion and Analysis. However, for the controls we tested, we found no material weaknesses in internal control over financial reporting (including safeguarding assets) and compliance. A material weakness is a control deficiency that results in more than a remote likelihood that the design or operation of one or more internal controls will not allow management or employees, in the normal course of performing their duties, to promptly detect or prevent errors, fraud, or noncompliance in amounts that would be material to the financial statements. Our internal control work would not necessarily disclose all deficiencies in internal control that might be material weaknesses or other significant deficiencies.

6010 Executive Boulevard • Suite 900 • Rockville, Maryland 20852
301 770-5100 • 888 283-5472 • Fax 301 770-5202 • djhpm@djhpm.com
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Compliance With Laws and Regulations

Our tests of the compliance with selected provisions of laws and regulations for fiscal year 2009 disclosed no instances of noncompliance that would be reportable under U.S. generally accepted government auditing standards or OMB audit guidance. However, the objective of our audit was not to provide an opinion on overall compliance with laws and regulations. Accordingly, we do not express such an opinion.

Consistency of Other Information

The Federal Maritime Commission's Management's Discussion and Analysis, and other accompanying information contain a wide range of information, some of which is not directly related to the financial statements. We do not express an opinion on this information. However, we compared this information for consistency with the financial statements and discussed the methods of measurement and presentation with the Federal Maritime Commission's officials. Based on this limited work, we found no material inconsistencies with the financial statements, U.S. generally accepted accounting principles, or OMB guidance.

Objectives, Scope, and Methodology

The Federal Maritime Commission's management is responsible for (1) preparing the financial statements in conformity with U.S. generally accepted accounting principles, (2) establishing, maintaining, and assessing internal control to provide reasonable assurance that the broad control objectives of the Federal Managers' Financial Integrity Act are met, and (3) complying with applicable laws and regulations.

We are responsible for obtaining reasonable assurance about whether the financial statements are presented fairly, in all material respects, in conformity with U.S. generally accepted accounting principles. We are also responsible for (1) obtaining a sufficient understanding of internal control over financial reporting and compliance to plan the audit, (2) testing compliance with selected provisions of laws and regulations that have a direct and material effect on the financial statements and laws for which OMB audit guidance requires testing, and (3) performing limited procedures with respect to certain other information appearing in the Annual Financial Statement.

In order to fulfill these responsibilities, we

- examined, on a test basis, evidence supporting the amounts and disclosures in the financial statements;
- assessed the accounting principles used and significant estimates made by management;
- evaluated the overall presentation of the financial statements;
- obtained an understanding of the entity and its operations, including its internal control related to financial reporting (including safeguarding assets), and compliance with laws and regulations (including execution of transactions in accordance with budget authority);

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- tested relevant internal controls over financial reporting, and compliance, and evaluated the design and operating effectiveness of internal control;

- considered the design of the process for evaluating and reporting on internal control and financial management systems under the Federal Managers' Financial Integrity Act;

- tested compliance with selected provisions of laws and regulations.

ɔperating objectives as broadly defined by ı as those controls relevant to preparing We limited our internal control testing to 3ecause of inherent limitations in internal or noncompliance may nevertheless occur ur evaluation to future periods is subject to of changes in conditions or that the degree lition, we caution that our internal control We noted matters not considered to be ich will be reported to management of the

ations applicable to the Federal Maritime ;elected provisions of laws and regulations ıl statements and those required by OMB Federal Maritime Commission's financial)09. We caution that noncompliance may ch testing may not be sufficient for other

generally accepted government auditing

ington & Marshall, P.C.

We did not evaluate all internal controls relevant to (the Federal Managers' Financial Integrity Act, sucl statistical reports and ensuring efficient operations. controls over financial reporting and compliance. I control, misstatements due to error or fraud, losses, and not be detected. We also caution that projecting o the risk that controls may become inadequate because of compliance with controls may deteriorate. In adc testing may not be sufficient for other purposes. significant deficiencies involving internal control, wh Federal Maritime Commission in a separate letter.

We did not test compliance with all laws and regul Commission. We limited our tests of compliance to s that have a direct and material effect on the financia audit guidance that we deemed applicable to the I statements for the fiscal year ended September 30, 2(occur and not be detected by these tests and that su purposes.

We performed our audit in accordance with U.S. standards and OMB audit guidance.

Dembo, Jones, Healy, Penn

Rockville, Maryland
November 6, 2009

Dembo, Jones, Healy, Pennington & Marshall, P.C.
Certified Public Accountants and Consultants

FEDERAL MARITIME COMMISSION
BALANCE SHEET
AS OF SEPTEMBER 30, 2009 AND 2008
(In Dollars)

	2009	2008
Assets:		
Intragovernmental:		
Fund Balance With Treasury (Note 2)	$ 4,777,674	$ 4,062,134
Total Intragovernmental	4,777,674	4,062,134
Accounts Receivable (Note 3)	70,222	64,579
General Property, Plant and Equipment, Net (Note 4)	202,500	2,112
Total Assets	$ 5,050,396	$ 4,128,825
Liabilities (Note 5):		
Intragovernmental:		
Accounts Payable	$ 309,177	$ 36,647
Employer Contributions and Payroll Taxes Payable	138,468	118,028
Unfunded FECA Liability	1,968	1,968
Custodial Liability	69,236	63,593
Total Intragovernmental	518,849	220,236
Accounts Payable	231,925	273,627
Accrued Payroll and Leave	865,970	914,920
Employer Contributions and Payroll Taxes Payable	17,568	12,124
Unfunded Leave	1,075,533	1,030,319
Actuarial FECA Liability	5,249	-
Total Liabilities	$ 2,715,094	$ 2,451,226
Net Position:		
Unexpended Appropriations	$ 3,214,566	$ 2,706,788
Cumulative Results of Operations	(879,264)	(1,029,189)
Total Net Position	$ 2,335,302	$ 1,677,599
Total Liabilities and Net Position	$ 5,050,396	$ 4,128,825

FEDERAL MARITIME COMMISSION
STATEMENT OF NET COST
FOR THE FISCAL YEARS ENDED SEPTEMBER 30, 2009 AND 2008
(In Dollars)

	2009	2008
Program Costs:		
Office of Administration	$ 6,237,122	$ 6,088,432
Office of Operations	10,304,424	9,540,047
Formal Proceedings	6,082,905	5,627,251
Office of Inspector General	529,935	597,799
Office of EEO	151,287	161,903
Net Cost of Operations (Note 8)	$ 23,305,673	$ 22,015,432

FEDERAL MARITIME COMMISSION
STATEMENT OF CHANGES IN NET POSITION
FOR THE FISCAL YEARS ENDED SEPTEMBER 30, 2009 AND 2008
(In Dollars)

	2009	2008
Cumulative Results of Operations:		
Beginning Balances	$ (1,029,189)	$ (1,004,596)
Budgetary Financing Sources:		
Appropriations Used	22,258,507	20,906,472
Other Financing Sources (Non-Exchange):		
Imputed Financing Sources	1,197,091	1,084,367
Total Financing Sources	23,455,598	21,990,839
Net Cost of Operations	23,305,673	22,015,432
Net Change	149,925	(24,593)
Cumulative Results of Operations	$ (879,264)	$ (1,029,189)
Unexpended Appropriations:		
Beginning Balances	$ 2,706,788	$ 1,596,624
Budgetary Financing Sources:		
Appropriations Received	22,800,000	22,072,000
Other Adjustments	(33,715)	(55,364)
Appropriations Used	(22,258,507)	(20,906,472)
Total Budgetary Financing Sources	507,778	1,110,164
Total Unexpended Appropriations	$ 3,214,566	$ 2,706,788
Net Position	$ 2,335,302	$ 1,677,599

FEDERAL MARITIME COMMISSION
STATEMENT OF BUDGETARY RESOURCES
FOR THE FISCAL YEARS ENDED SEPTEMBER 30, 2009 AND 2008
(In Dollars)

		2009		2008
Budgetary Resources:				
Unobligated Balance Brought Forward, October 1	$	747,665	$	210,894
Recoveries of Prior Year Unpaid Obligations		171,489		210,984
Budget Authority				
Appropriation		22,800,000		22,072,000
Less: Permanently Not Available		33,715		55,364
Total Budgetary Resources	$	23,685,439	$	22,438,514
Status of Budgetary Resources:				
Obligations Incurred				
Direct	$	22,817,981	$	21,690,849
Unobligated Balance				
Apportioned		66,284		447,579
Unobligated Balance Not Available		801,174		300,086
Total Status of Budgetary Resources	$	23,685,439	$	22,438,514
Change in Obligated Balance:				
Obligated Balance, Net				
Unpaid Obligations, Brought Forward, October 1	$	3,314,469	$	2,632,375
Obligations Incurred Net		22,817,981		21,690,849
Less: Gross Outlays		22,050,745		20,797,771
Less: Recoveries of Prior Year Unpaid				
Obligations, Actual		171,489		210,984
Obligated Balance, Net, End of Period				
Unpaid obligations		3,910,216		3,314,469
Total, Unpaid Obligated Balance, Net, End of Period	$	3,910,216	$	3,314,469
Net Outlays:				
Gross Outlays	$	22,050,745	$	20,797,771
Net Outlays	$	22,050,745	$	20,797,771

AUDITOR'S REPORTS AND FINANCIAL STATEMENTS

FEDERAL MARITIME COMMISSION
STATEMENT OF CUSTODIAL ACTIVITY
FOR THE FISCAL YEARS ENDED SEPTEMBER 30, 2009 AND 2008
(In Dollars)

	2009	2008
Revenue Activity:		
Total Cash Collections	$ 1,115,241	$ 478,250
Accrual Adjustments	5,643	(1,728)
Total Custodial Revenue	1,120,884	476,522
Disposition of Collections:		
Transferred to Others (by Recipient)	1,115,241	478,250
Increase/(Decrease) in Amounts Yet to be Transferred	5,643	(1,728)
Total Disposition of Collections	1,120,884	476,522
Net Custodial Activity	$ -	$ -

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. Reporting Entity

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

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

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

Congress enacts appropriations to permit FMC to incur obligations for authorized purposes. In fiscal years 2009and 2008, FMC was accountable for General Fund appropriations. FMC recognizes budgetary resources as assets when cash (funds held by the U.S. Treasury) is made available through the Department of Treasury General Fund warrants.

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

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

FMC makes custodial collections and holds custodial receivables that are non-entity assets and are transferred to Treasury at fiscal year end.

B. Basis of Presentation

The financial statements have been prepared to report the financial position, net cost of operations, changes in net position, and the status and availability of budgetary resources of the FMC. The statements are a requirement of the Accountability of Tax Dollars Act of 2002. They have been prepared from, and are fully supported by, the books and records of FMC in accordance with the hierarchy of accounting principles generally accepted in the United States of America, standards approved by the principals of the Federal Accounting Standards Advisory Board (FASAB), OMB Circular A-136, *Financial Reporting Requirements* and FMC accounting policies which are summarized in this note. These statements, with the exception of the Statement of Budgetary Resources, are different from financial management reports, which are also prepared pursuant to OMB directives that are used to monitor and control FMC's use of budgetary resources.

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

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (cont)

C. Budgets and Budgetary Accounting

Congress usually enacts appropriations to permit FMC to incur obligations for specified purposes. In fiscal years 2009 and 2008, the FMC was accountable for General Fund appropriations. The agency recognizes budgetary resources as assets when cash (funds held by the U.S. Treasury) is made available through the Department of Treasury General Fund warrants.

D. Basis of Accounting

Transactions are recorded on both an accrual accounting basis and a budgetary basis. Under the accrual method, revenues are recognized when earned, and expenses are recognized when a liability is incurred, without regard to receipt or payment of cash. Budgetary accounting facilitates compliance with legal requirements on the use of federal funds. Balances on these statements may therefore differ from those on financial reports prepared pursuant to other OMB directives that are primarily used to monitor and control FMC's use of budgetary resources.

E. Revenues & Other Financing Sources

Congress enacts annual appropriations to be used, within statutory limits, for operating and capital expenditures. Additional revenues are obtained from service fees and reimbursements from other government entities and the public, but these revenues are not available to the agency to fund operating expenses.

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

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

F. Taxes

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

G. Fund Balance with Treasury

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

H. Accounts Receivable

Accounts receivable consists of amounts owed to FMC by other federal agencies, its employees and the general public. Accounts receivable in the Salaries and Expense Fund represent employee-related receivables. An allowance for uncollectible accounts receivable from the public is established when, based upon a review of outstanding accounts, management determines that collection is unlikely to occur considering the debtor's ability to pay. Debts six months or more past due are referred to the Department of Treasury for follow-up collection efforts in keeping with the Debt Collection Improvement Act of 1996 (DCIA). Treasury's Debt Management Services (DMS) administers the program and deducts 18 percent from amounts ultimately collected for its fee. Collections, net of fees, are returned to the FMC for remittance to the general fund of the Treasury.

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (cont)

I. Property, Equipment, and Software

Property, equipment and software represent furniture, fixtures, equipment, and information technology (IT) hardware and software which are recorded at original acquisition cost and are depreciated or amortized using the straight-line method over their estimated useful lives. Major alterations and renovations are capitalized, except wherein the tenant improvement allowance specified in lease agreements covers the costs of certain renovations. Maintenance and repair costs are expensed as incurred. FMC's capitalization threshold is $25,000 for individual purchases. Applicable standard governmental guidelines regulate the disposal and convertibility of agency property, equipment and software. The useful life classifications for capitalized assets are as follows:

Description	Useful Life (years)
Leasehold Improvements	5
Office Furniture	5
Computer Equipment	5
Office Equipment	5
IT Software	5

J. Advances and Prepaid Charges

Advance payments are generally prohibited by law. There are exceptions, such as some reimbursable agreements, subscriptions, and payments to contractors and employees. Payments made in advance of the receipt of goods and services are recorded as advances or prepaid charges at the time of prepayment and recognized as expenses when the related goods and services are received.

K. Liabilities

Liabilities represent the amount of monies or other resources likely to be paid by the FMC as a result of transactions or events that have already occurred. No liability can be paid, however, absent an appropriation or other funding.

Liabilities covered by budgetary or other resources are those liabilities for which Congress has appropriated funds or funding is otherwise available to pay amounts due. Liabilities for which an appropriation has not been enacted or other funds received are, therefore, classified as not covered by budgetary resources. The liquidation of liabilities not covered by budgetary or other resources is dependent on future congressional appropriations or other funding. There is no certainty that the appropriation will be enacted. Intragovernmental liabilities are claims against FMC by other federal agencies. Liabilities not covered by budgetary resources on the Balance Sheet are equivalent to amounts reported as components requiring or generating resources on the Reconciliation of Net Cost to Budget. Additionally, the government, acting in its sovereign capacity, can abrogate liabilities.

L. Accounts Payable

Accounts payable consists primarily of amounts owed to other federal agencies and the public for contracts for goods or services, such as leases, utilities, telecommunications and consulting and support services.

M. Annual, Sick, and Other Leave

Annual leave is accrued as it is earned, and the accrual is reduced as leave is taken. The balance in the accrued leave account is adjusted to reflect current pay rates. Liabilities associated with other types of vested leave, including compensatory, restored leave, and sick leave in certain circumstances, are accrued at year-end, based on latest pay rates and unused hours of leave. Funding will be obtained from future financing sources to the extent that current or prior year appropriations are not available to fund annual and other types of vested leave earned but not taken. Nonvested leave is expensed when used.

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (cont)

Any liability for unused sick leave that is accrued but not taken by a Civil Service Retirement System (CSRS)-covered employee is transferred to the Office of Personnel Management upon the retirement of that individual. No credit is given for sick leave balances upon the retirement of Federal Employee's Retirement System (FERS)-covered employees.

N. Accrued and Actuarial Workers' Compensation

The Federal Employees' Compensation Act (FECA) administered by the U.S. Department of Labor (DOL) addresses all claims brought by FMC employees for on-the-job injuries. A liability is recorded for actual and estimated future payments to be made for workers' compensation pursuant to the FECA. The DOL bills each agency annually as its claims are paid, and the actual costs incurred are reflected as a liability to the agency. Payment of these bills is deferred for two years to allow for funding through the budget process. Similarly, employees that the FMC terminates without cause may receive unemployment compensation benefits under the unemployment insurance program also administered by the DOL, which bills each agency quarterly for paid claims. Future appropriations will be used for the reimbursement to DOL. The liability consists of (1) the net present value of estimated future payments calculated by the DOL, and (2) the unreimbursed cost paid by DOL for compensation to recipients under the FECA.

O. Retirement Plans

FMC employees participate in either the Civil Service Retirement System (CSRS) or the Federal Employees' Retirement System (FERS). The employees who participate in CSRS are beneficiaries of FMC's contribution, equal to seven percent of pay, distributed to their annuity account in the Civil Service Retirement and Disability Fund.

FERS went into effect on January 1, 1987. FERS and Social Security automatically cover most employees hired after December 31, 1983. Employees hired prior to January 1, 1984 elected to join either FERS and Social Security, or remain in CSRS. All employees are eligible to contribute to the Thrift Savings Plan (TSP). For those employees participating in the FERS, a TSP account is automatically established and FMC makes a mandatory one percent contribution to this account. In addition, FMC makes matching contributions, ranging from one to four percent, for FERS eligible employees who contribute to their TSP accounts. Matching contributions are not made to the TSP accounts established by CSRS employees. For FERS participants, FMC also remits the employer's share of the required contribution.

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

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

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

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (cont)

P. Use of Estimates

The preparation of the accompanying financial statements in accordance with generally accepted accounting principles requires management to make certain estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Q. Net Position

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

R. Imputed Costs/Financing Sources

Federal Government entities often receive goods and services from other Federal Government entities without reimbursing the providing entity for all the related costs. In addition, Federal Government entities also incur costs that are paid in total or in part by other entities. An imputed financing source is recognized by the receiving entity for costs that are paid by other entities. FMC recognized imputed costs and financing sources in fiscal years 2009 and 2008 to the extent directed by OMB.

S. Contingencies

Liabilities are deemed contingent when the existence or amount of the liability cannot be determined with certainty pending the outcome of future events. FMC recognizes contingent liabilities, in the accompanying balance sheet and statement of net cost, when it is both probable and can be reasonably estimated. FMC discloses contingent liabilities in the notes to the financial statements when the conditions for liability recognition are not met or when a loss from the outcome of future events is more than remote. In some cases, once losses are certain, payments may be made from the Judgment Fund maintained by the U.S. Treasury rather than from the amounts appropriated to FMC for agency operations. Payments from the Judgment Fund are recorded as an "Other Financing Source" when made.

T. Expired Accounts and Cancelled Authority

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

NOTE 2. FUND BALANCE WITH TREASURY

Fund balance with Treasury account balances as of September 30, 2009 and 2008 were as follows:

Fund Balances:

	2009	2008
Appropriated Funds	$ 4,777,674	$ 4,062,134
Total	$ 4,777,674	$ 4,062,134

Status of Fund Balance with Treasury:

	2009	2008
Unobligated Balance		
Available	$ 66,284	$ 447,579
Unavailable	801,174	300,086
Obligated Balance Not Yet Disbursed	3,910,216	3,314,469
Total	$ 4,777,674	$ 4,062,134

The available unobligated fund balances represent the current-period amount available for obligation or commitment. At the start of the next fiscal year, this amount will become part of the unavailable balance as described in the following paragraph.

The unavailable unobligated fund balances represent the amount of appropriations for which the period of availability for obligation has expired. These balances are available for upward adjustments of obligations incurred only during the period for which the appropriation was available for obligation or for paying claims attributable to the appropriations.

The obligated balance not yet disbursed includes accounts payable/accrued expenses and undelivered orders that have reduced unexpended appropriations but have not yet decreased the cash balance on hand. (see also Note 13)

NOTE 3. ACCOUNTS RECEIVABLE

Accounts receivable balances as of September 30, 2009 and 2008 were as follows:

		2009		2008
With the Public				
Contractor/Vendor Related Receivables	$	56,515	$	56,421
Interest Receivable		5,085		2,796
Penalties, Fines, and Administrative Fees Receivable		7,636		4,204
Employee-Related Receivable(s)		986		1,158
Total Accounts Receivable	$	70,222	$	64,579

The accounts receivable is primarily made up of a balance from one non-federal vendor for $56,421 that represents an amount due from a contractor for unsupported claims that were paid by the agency.

NOTE 4. PROPERTY, EQUIPMENT, AND SOFTWARE

Property, equipment, and software account balances as of September 30, 2009 and 2008 were as follows:

Schedule of Property, Equipment, and Software as of September 30, 2009

Major Class		Acquisition Cost		Accumulated Amortization/ Depreciation		Net Book Value
Leasehold Improvements	$	225,000	$	22,500	$	202,500
Furniture & Equipment		291,938		291,938		-
Total	$	516,938	$	314,438	$	202,500

Schedule of Property, Equipment, and Software as of September 30, 2008

Major Class		Acquisition Cost		Accumulated Amortization/ Depreciation		Net Book Value
Furniture & Equipment	$	291,938	$	289,826	$	2,112
Total	$	291,938	$	289,826	$	2,112

NOTE 5. LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

The liabilities on the FMC's Balance Sheet as of September 30, 2009 and 2008, include liabilities not covered by budgetary resources. Congressional action is needed before budgetary resources can be provided. Although future appropriations to fund these liabilities are likely and anticipated, it is not certain that appropriations will be enacted to fund these liabilities.

	2009	2008
Intragovernmental – FECA	$ 1,968	$ 1,968
Unfunded Leave	1,075,533	1,030,319
Actuarial FECA	5,249	-
Total Liabilities Not Covered by Budgetary Resources	$ 1,082,750	$ 1,032,287

The Federal Maritime Commission records a liability for future worker's compensation claims based on data provided from the Department of Labor. The FMC also records a liability for actual claims paid on its behalf by the DOL.

NOTE 6. ACCOUNTS PAYABLE

Liabilities include both Intragovernmental Accounts Payable and Other Accounts Payable. Intragovernmental payables are owed to other federal entities for rent, printing costs, and services of other agencies. In FY09, approximately $225,000 of the Intragovernmental payable of $309,177 was owed to the General Services Administration for leasehold improvements made to FMC offices. Other Payables (formerly categorized as "With the Public") are owed to non-federal sources or to the general public, and include liabilities for general supplies, training, studies, analysis, and/or evaluations, miscellaneous services, and operation and maintenance of ADP equipment. For fiscal year ending September 30, 2009, the non-federal accounts payable totals to $231,925.

NOTE 7. LEASES

Operating Leases

FMC occupies office space in seven locations, of which only six of the lease agreements are required to be accounted for as operating leases. Lease payments are increased annually based on the adjustments for operating cost and real estate tax escalations. The lease locations and terms are listed below:

Location	Term	Lease Expiration Date
Hollywood, FL	23 months	5/31/2010
San Pedro, CA	5 years	9/30/2011
Washington DC	10 years	10/31/2012
Jamaica, NY	5 years	7/1/2013
Houston, TX	10 years	9/14/2018
Seattle, WA	10 years	6/30/2019

The lease amounts vary from year to year depending on the specific lease. The schedule of future payments for the term of the leases is as follows:

Fiscal Year	Totals
2010	$ 2,905,584
2011	2,910,491
2012	2,925,935
2013	302,768
2014	25,933
Thereafter	114,638
Total Future Payments	$ 9,185,349

The operating lease amount does not include estimated payments for leases with annual renewal options.

NOTE 8. CONTINGENCIES

There are legal actions pending against FMC in which claims have been asserted that may be based on action taken by FMC. Management intends to vigorously contest all such claims. Management believes, based on information provided by legal counsel, that losses, if any, for these cases would not have a material impact on the Financial Statements. No loss accrual has been made for these cases outstanding at September 30, 2009.

NOTE 9. INTRAGOVERNMENTAL COSTS

Intragovernmental costs represent goods and services exchange transactions made between two reporting entities within the Federal government, and are in contrast to those with non-federal entities (the public). Intragovernmental costs include payments to federal vendors for personnel benefits, rent, utilities, and other services. Payments made to non-federal entities (the public) are comprised primarily of employee salaries and other services. Such costs are summarized as follows:

	2009	2008
Office of Administration		
Intragovernmental Costs	$ 3,050,365	$ 2,844,453
Public Costs	3,186,757	3,243,979
Total Program Costs	6,237,122	6,088,432
Office of Operations		
Intragovernmental Costs	3,329,302	3,005,774
Public Costs	6,975,122	6,534,273
Total Program Costs	10,304,424	9,540,047
Formal Proceedings		
Intragovernmental Costs	1,961,167	1,785,954
Public Costs	4,121,738	3,841,297
Total Program Costs	6,082,905	5,627,251
Office of Inspector General		
Intragovernmental Costs	150,600	165,737
Public Costs	379,335	432,062
Total Program Costs	529,935	597,799
Office of Equal Employment Opportunity		
Intragovernmental Costs	43,579	71,152
Public Costs	107,708	90,751
Total Program Costs	151,287	161,903
Total Intragovernmental costs	8,535,013	7,873,070
Total Public costs	14,770,660	14,142,362
Total Costs	23,305,673	22,015,432
Total Net Cost	$ 23,305,673	$ 22,015,432

NOTE 10. IMPUTED FINANCING SOURCES

Imputed financing recognizes the costs of future benefits which include health benefits, life insurance, pension and post-retirement benefit expenses for current employees. The assets and liabilities associated with such benefits are the responsibility of the administering agency, the Office of Personnel Management (OPM). For the fiscal years ended September 30, 2009 and 2008, respectively, imputed financing was as follows.

	2009	2008
Office of Personnel Management	$ 1,197,091	$ 1,084,367
Total Imputed Financing Sources	$ 1,197,091	$ 1,084,367

NOTE 11. BUDGETARY RESOURCE COMPARISONS TO THE BUDGET OF THE UNITED STATES GOVERNMENT

The President's Budget that will include FY09 actual budgetary execution information has not yet been published. The President's Budget is scheduled for publication in February 2010 and can be found at the OMB Web site: http://www.whitehouse.gov/omb/. The 2010 Budget of the United States Government, with the "Actual" column completed for 2008, has been reconciled to the Statement of Budgetary Resources and there were no material differences.

NOTE 12. APPORTIONMENT CATEGORIES OF OBLIGATIONS INCURRED

Obligations incurred and reported in the Statement of Budgetary Resources as of September 30, 2009 and 2008 consisted of the following:

	2009	2008
Direct Obligations, Category A	$ 22,817,981	$ 21,690,849
Total Obligations Incurred	$ 22,817,981	$ 21,690,849

Category A apportionments distribute budgetary resources by fiscal quarters.

NOTE 13. UNDELIVERED ORDERS AT THE END OF THE PERIOD

Statement of Federal Financial Accounting Standards No. 7, Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting, states that the amount of budgetary resources obligated for undelivered orders at the end of the period should be disclosed. For the fiscal years ended September 30, 2009 and 2008, respectively, undelivered orders amounted to the following:

	2009	2008
Undelivered Orders	$ 2,347,107	$ 1,959,123
Total Undelivered Orders	$ 2,347,107	$ 1,959,123

NOTE 14. CUSTODIAL ACTIVITY

FMC is an administrative agency collecting for the General Fund. As a collecting entity, FMC measures and reports cash collections and refunds as custodial activity on the Statement of Custodial Activity. Cash collections result primarily from FMC regulatory activities to include the assessment of fines and penalties and the payment of license fees by qualified ocean transportation intermediaries (OTIs) in the U.S. A small portion of amounts collected is for interest on past due fines, petitions, status changes and special permission fees.

Custodial receipts are broken out in the following general receipt funds:

Fund	2009	2008
Fines, Penalties and Forfeitures	$ 843,000	$ 182,513
General Fund Proprietary Receipts (license fees)	273,218	299,947
Refund of Moneys Erroneously Received and Covered	(977)	(4,210)
Total Custodial Collections	$ 1,115,241	$ 478,250

NOTE 15. RECONCILIATION OF NET COST OF OPERATIONS TO BUDGET

FMC has reconciled its budgetary obligations and non-budgetary resources available to its net cost of operations.

	2009	2008
Resources Used to Finance Activities:		
Budgetary Resources Obligated		
Obligations Incurred	$ 22,817,981	$21,690,849
Less: Spending Authority From Offsetting Collections and Recoveries	171,489	210,984
Obligations Net of Offsetting Collections and Recoveries	22,646,492	21,479,865
Other Resources		
Imputed Financing From Costs Absorbed By Others	1,197,091	1,084,367
Net Other Resources Used to Finance Activities	1,197,091	1,084,367
Total Resources Used to Finance Activities	23,843,583	22,564,232
Resources Used to Finance Items Not Part of the Net Cost of Operations		
Change In Budgetary Resources Obligated For Goods, Services and Benefits Ordered But Not Yet Provided	387,985	573,393
Resources That Finance the Acquisition of Assets	225,000	-
Total Resources Used to Finance Items Not Part of Net Cost of Operations	612,985	573,393
Total Resources Used to Finance the Net Cost of Operations	23,230,598	21,990,839
Components of the Net Cost of Operations That Will Not Require or Generate Resources in the Current Period		
Components Requiring or Generating Resources in Future Periods		
Increase In Annual Leave Liability	45,214	17,799
Other	5,249	1,968
Total Components of Net Cost of Operations That Will Require or Generate Resources In Future Periods	50,463	19,767
Components Not Requiring or Generating Resources:		
Depreciation and Amortization	24,612	4,989
Other	-	(163)
Total Components of Net Cost of Operations That Will Not Require or Generate Resources	24,612	4,826
Total Components of Net Cost of Operations That Will Not Require or Generate Resources In The Current Period	75,075	24,593
Net Cost of Operations	$ 23,305,673	$22,015,432

CHAPTER FOUR


OTHER ACCOMPANYING INFORMATION



Fiscal Year 2009

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

October 28, 2009

Office of Inspector General

TO: Richard A. Lidinsky, Jr.
Chairman

FROM: Adam R. Trzeciak
Inspector General

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

On November 22, 2000, the President signed the Reports Consolidation Act of 2000 (Public Law 106-531), an amendment to the Chief Financial Officers (CFO) Act of 1990. The Reports Consolidation Act requires inspectors general to provide a summary and assessment of the most serious management and performance challenges facing federal agencies and their progress in addressing these challenges. The attached document responds to the requirements and provides the annual statement on Commission challenges to be included in the Federal Maritime Commission's (FMC) Performance and Accountability Report (PAR) for Fiscal Year 2009.

This year, the Office of Inspector General (OIG) has identified three management and performance challenges for inclusion in the FMC's FY 2009 PAR. These assessments are based on information derived from a combination of sources, including OIG audit and inspection work, Commission reports, and a general knowledge of the Commission's programs. I am glad to report that the FMC has already devoted significant efforts to address the challenges and progress is being made on these important areas.

The Reports Consolidation Act of 2000 permits agency comment on the inspector general's statements. Agency comments, if applicable, are to be included in the final version of the PAR that is due on November 16, 2009.

Attachment

2009 Management Challenges

Management and Performance Challenge:
To understand and implement internal control to help prevent waste, fraud, abuse or mismanagement in Commission programs.

Agency Progress in Addressing the Challenge:
The Office of Management and Budget (OMB) provides guidance to federal managers under OMB Circular A-123 *Revisions to OMB Circular A-123, Management's Responsibility for Internal Control*, dated December 21, 2004. This policy states that management is responsible for establishing and maintaining internal control to achieve the objectives of effective and efficient operations, reliable financial reporting and compliance with applicable laws and regulations.

The objectives of the Federal Maritime Commission (FMC) system of management accountability and internal control are to provide reasonable assurance that:

Programs achieve their intended results;
Resources are used consistent with the agency mission;
Programs and resources are protected from waste, fraud, and mismanagement;
Laws and regulations are followed; and
Reliable and timely information is obtained, maintained, reported, and used for decision-making.

The concept of reasonable assurance recognizes that the cost of internal controls should not exceed the expected benefits, and that the benefits consist of reductions in the risks of failing to achieve the stated objectives. Estimates and judgments are required to assess the expected benefits and related costs of control procedures.

Annually, FMC managers respond to an internal control questionnaire focusing on various aspects of programs they oversee. When preparing the questionnaires, managers are required to solicit input from staff while emphasizing "the importance of the evaluation." To ensure all staff participates in the process, managers must provide the date (s) that such discussions occurred. Questionnaire responses are reviewed by the OIG to help it identify risks that could impact agency operations and financial reporting. Questionnaires are also collectively submitted to the Chairman, who then provides an annual assurance statement (in the Performance and Accountability Report) certifying that internal control over financial reporting is operating effectively and that no material weaknesses were found in its design or operation.

While management has gone to great lengths to comply with OMB requirements, we are concerned that many managers do not understand related concepts of risk and vulnerabilities when applied to agency programs and operations. For example, in the OIG's FY 2009 review of FMC's time and attendance practices, we found that the time and attendance system did not have adequate controls (separation of duties) in place that would prevent or deter timekeepers from altering leave records, including their own. We also identified a lack of uniformity across bureaus / offices in the administration of employee leave, including inconsistent requirements for requesting and recording leave. Although the finding cut across many FMC bureaus and offices, these weaknesses were not identified on any of the questionnaires submitted by the program offices.

The Challenge Ahead:
While the FMC management collectively participates in the internal control self assessment, it must take a closer look at its control activities when responding to the annual questionnaire, to include policies and procedures, management objectives, segregation of duties, safeguarding of records, and physical and access controls to assess their risks in the program areas.

Management and Performance Challenge:
Develop and implement a succession plan to address future workforce and skills needed to continue the agency's mission.

Agency Progress in Addressing the Challenge:
Similar to the workforce status of other federal government agencies, a large portion of the 130 FMC employees have reached or will reach retirement age in the next few years. Consequently, it is imperative that management identifies the critical skills that will be needed to continue to provide oversight of the international ocean shipping industry and formulate a strategic plan to cultivate its workforce, accordingly. Such a plan should include recruitment for the identified critical skills as well as employee retention, which plays a key role when considering the status of the workforce.

The Challenge Ahead:
In recent years, the agency has been criticized for problems it was experiencing with low employee morale and employee development. However, the President recently appointed a new FMC Chairman and a recent workforce survey administered by the Office of Personnel Management suggests that morale has improved. As the agency moves forward under new leadership, this would be the time to identify and develop new leaders from within, in addition to infusing the agency with fresh ideas from outside. To avoid falling into false sense of comfort that can occur when people have become assimilated to one environment or method of operation, new employees should be recruited at all levels, from low GS levels up through the ranks of the SES.

Management and Performance Challenge: Securing agency information systems from data loss, destruction or compromise.

Agency Progress in Addressing the Challenge:
The FMC relies heavily on information technology (IT) to accomplish its mission. Further, the President has placed a high priority on securing the Federal government's operations and assets. Protecting the information and information systems on which the federal government depends requires agencies to identify and resolve current security weaknesses and risks and to protect against future vulnerabilities and threats.

The OIG reviews the agency's IT security program annually. The Federal Information Security Management Act evaluations have identified both strengths and weaknesses in the agency's security program and recommendations in these reports serve as a blueprint for management to move the agency into compliance with the myriad regulations that have appeared in response to real and perceived threats to federal information systems. Each year, the agency has made steady improvements in its overall security posture. For example, the agency has certified and accredited two of four information systems that serve both agency staff and the public. The security training it provides to agency staff not only contains sections on common IT vulnerabilities, but was attended by all agency staff in FY 2009. The agency has documented back-up procedures and stores backups at various off-site locations and has also established a hot site that should keep critical systems functioning in the event the primary data center is destroyed or damaged.

The FMC has also taken steps to ensure privacy and protection of personally identifiable information. The FMC appointed a Privacy Officer and has posted its privacy policy on its website. Recently the agency completed a thorough review of employee-initiated forms for PII (personally identifiable information).

On the other hand, we note that two systems are in production that have not been certified and accredited. Management hired a contractor to perform testing and certification of all systems but decided to scrap the uncertified systems and rebuild them. Looking back, the decision to place these two systems into production without accreditation put the agency at risk. However, a new contractor has already been selected to redesign and accredit these systems.

We are also concerned that the agency has not fully assessed the risk to its systems as a foundation to assess controls in place and to identify controls that need to be implemented or strengthened. Accreditation officials must have information on risks to make credible decisions on whether to place applications into production. Further, the agency does not monitor IT activity by users; especially troublesome are the accounts of network administrators that, in effect, can view activity on any agency computer whether or not a work-related need exists. Further, the agency still lacks documented information security policies in many critical areas.

The Challenge Ahead:
No federal agency, including the FMC, can rest on its security accomplishments made in response to yesterday's threats. Agencies must be proactive and continually evaluate their risks and take concrete steps to mitigate those risks – essentially keeping one step ahead of those who threaten agency data and IT operations. The agency must focus its resources on certifying and accrediting its two remaining systems. While funds have been set aside for this purpose in the budget, contractors must be held accountable for performing this task timely and to OMB specifications. Moving forward, security must be build into system design, i.e., the system lifecycle. It is not something added on at design completion.

Comments on the IG-identified Management and Performance Challenges

The Inspector General identifies three management challenges facing the FMC, as outlined below:

I. To understand and implement internal control to help prevent waste, fraud, abuse or mismanagement in Commission programs.

The IG recognizes that Commission management has gone to great lengths to meet OMB requirements. He also adeptly explains the concept of reasonable assurance, which requires balancing of benefits and costs of control procedures to reduce risks. Yet, he also expresses a concern about whether managers throughout the Commission understand the risks and vulnerabilities of Commission programs. To address this concern, the Commission will re-emphasize its focus on internal controls in the upcoming year.

II. Develop and implement a succession plan to address future workforce and skills needed to continue the agency's mission.

This challenge has been met with our recently finalized comprehensive Human Capital Plan (HCP) which directly supports the agency's strategic plan and objectives. The HCP is structured around the five elements found in the Human Capital Assessment and Accountability Framework: strategic alignment, leadership and knowledge management, performance culture, talent management and accountability. These elements all support the FMC's human capital focus upon identifying and alleviating current and future skills gaps; refining performance plans and measures to ensure alignment with FMC organizational goals and to establish baselines against which future performance can be assessed; assuring recruitment and retention of skilled employees; and increasing efficiency by utilizing technology to enhance the productivity of the workforce. All of these elements are necessarily interrelated in that they all serve a common purpose of producing and supporting a workforce that effectively meets the Commission's mission. The HCP includes our Workforce Plan, which analyzes our workforce in detail, our Succession Management Plan to ensure continuity of leadership and mission-critical occupations, as well as current and future needs.

III. Commission's Information Technology Security Program

The FMC made significant progress during FY 2009 to comply fully with the Federal Information Security Management Act of 2002 (FISMA). The Commission designed and built a standardized, comprehensive and on-going monitoring program with upgraded security procedures and policies and built-in monitoring tools. Personnel performing significant information security duties have been re-aligned under the agency's Information Systems Security Officer. The agency established and enforced certification and accreditation package documentation for its major systems to ensure consistency with guidance and mandates from both OMB and the National Institute of Standards and Technology (NIST).

Through its certification and accreditation process, the Commission has fully assessed and identified risks to its IT systems and implemented controls to strengthen information systems security. The FMC routinely conducts security inspections on its information systems. A new enterprise content management system, currently under construction, is using FISMA guidelines to ensure OMB and NIST requirements will be met.

Improper Payments Information Act

Narrative Summary of Implementation Efforts for FY 2009
And
Agency Plans for FY 2009—FY 2012

I. The Federal Maritime Commission has not identified any program that in and of itself constitutes a high-risk for improper payments. Therefore, the FMC considers all of its payments to fall within the realm of high-risk. As such, the FMC has instituted a separation of duties concerning payments that has been very successful in curtailing any improper payments. The National Finance Center (NFC) became the agency's payroll provider in 2002 and is responsible for monitoring and reporting on any payroll-related payments. Any overpayments made to an FMC employee by the NFC on behalf of the FMC are offset by NFC. In FY 2009, the FMC had no overpayments. The FMC did not identify any improper collections through Intergovernmental Payments and Collections (IPAC) collections.

II. The FMC did not use a statistical sample to conduct its improper payment rate. The sample contains one hundred percent of all disbursements made by the FMC. This was the case for all programs.

III. The FMC will continue to monitor all payments to maintain a zero dollar improper payment figure. To this end, the FMC will ensure that there are sufficient segregation of duties pertaining to payments concomitantly with closer scrutiny of all IPAC collections made against the Commission. The FMC will continue to monitor all disbursements made on its behalf to ensure payments are valid and proper.

IV. The table below represents the improper payments made by the FMC in FY 2009 with percentage forecasts through FY 2012.

Improper Payments Information Act Reduction Outlook FY 2009 - 2012

(millions)

Program	FY 09 Outlays	FY09 IP %	FY09 IP $	FY10 %	FY11 %	FY12 %
Formal Proceedings	$0.00	0.00	$0.00	0.00	0.00	0.00
Inspector General	$0.00	0.00	$0.00	0.00	0.00	0.00
Equal Employment Opportunity	$0.00	0.00	$0.00	0.00	0.00	0.00
Operations	$0.00	0.00	$0.00	0.00	0.00	0.00
Administration	$0.00	0.00	$0.00	0.00	0.00	0.00
Totals	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**

Improper Payments Information Act (continued)

V. The FMC has in place a segregation of duties to ensure that all invoices processed for payment are legitimate expenses of the agency. As of October 1, 2006, original accounts payable invoices have been received by BPD and forwarded to OFM via electronic media. BPD forwards a copy of the invoice to OFM for internal processing and payment authorization. When an invoice is received, it is first verified as a valid invoice belonging to the agency. OFM matches the invoice to documentation provided by the COTR indicating that goods/services have been received by the Commission and approves the invoice for payment. BPD is advised of the purchase order the invoice is being paid against and the dollar amount of the payment. OFM also ensures that sufficient funds have been obligated to make the payment and provides BPD with the period of performance. Once the payment authorization has been processed by OFM, the payment information is verified by a second member of OFM. At that point, the invoice is electronically returned to BPD for processing. When the payment is loaded into the Oracle database, a final funds availability check is made by the financial system against the fund controls set for the FMC and a third OFM individual audits the payment information posted in the financial system.

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

VI. The Chairman, as the Chief Administrative Officer of the FMC, is ultimately responsible for the efficient and effective utilization of the authority granted the agency by Congress. The Chairman has delegated financial responsibility to the Director, OFM. The Director of OFM has the responsibility to ensure that all disbursements made by BPD on behalf of the FMC are legitimate expenses of the agency and that there are sufficient funds available to pay the agency's expenses. The OFM is responsible for reducing and recovering improper payments, and keeps senior agency officials appraised of all relevant activities.

VII. a. The FMC does not have an in-house information system to help reduce improper payments. The agency utilizes the infrastructure and financial system maintained in Parkersburg, WV by BPD.

b. In FY 2009, the FMC requested funding to maintain the contract between the FMC and BPD for financial support and platform access to the Oracle database through Oracle's Discoverer portal.

VIII. There are no statutory or regulatory barriers that limit the agency's ability to take corrective actions to address any improper payments.

IX. The current IPAC system does not allow an agency to refuse a collection against its ALC through the General Fund it deems improper. The end result is a requirement to make the payments during the accounting period in which the collection was made and reverse the collection at a later date. The ability to challenge the collection would reduce the number of improper collections made against the agency.

Summary of Financial Statement Audit and Management Assurances

Table 1.				
Summary of Financial Statement Audit				
Audit opinion	Unqualified			
Restatement	No			
Material Weakness	Beginning Balance	New	Resolved	Consolidated
None	$0.00			

Table 2.						
Summary of Management Assurances						
Effectiveness of Internal Control over Financial Reporting (FMFIA § 2)						
Statement of Assurances	Unqualified					
Material Weakness	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
None	$0.00					$0.00
Total Material Weaknesses	$0.00	0	0	0	0	$0.00
Effectiveness of Internal Control over Financial Operations (FMFIA § 2)						
Statement of Assurances	Unqualified					
Material Weakness	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
None	$0.00					$0.00
Total Material Weaknesses	$0.00	0	0	0	0	$0.00
Conformance with financial management system requirements (FMFIA § 4)						
Statement of Assurances	Conform					
Material Weakness	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
None	$0.00					$0.00
Total Material Weaknesses	$0.00	0	0	0	0	$0.00
Compliance with Federal Financial Management Improvement Act (FMFIA)						
	Agency			**Auditor**		
Overall Substantial Compliance	Yes			Yes		
1. System Requirements	Yes					
2. Accounting Standards	Yes					
3. USSGL at Transaction Level	Yes					

FEDERAL MARITIME COMMISSION

FINAL ANNUAL PERFORMANCE PLAN FOR FY 2009

February 2008

LIST OF ACRONYMS

1984	*Act Shipping Act of 1984*
AR	*Area Representative*
BCL	*Bureau of Certification and Licensing*
BOE	*Bureau of Enforcement*
BTA	*Bureau of Trade Analysis*
CADRS	*Office of Consumer Affairs and Dispute Resolution Services*
COOP	*Continuity of Operations Plan*
EHR1	*Enterprise Human Resources Integration*
e-OPF	*Electronic Official Personnel Folder*
FMC/Commission	*Federal Maritime Commission*
FR	*Final Rule*
FRB	*Federal Reserve Bank*
FTE	*Full Time Equivalent Employee*
FY	*Fiscal Year*
GPEA	*Government Paperwork Elimination Act*
GPRA	*Government Performance and Results Act*
IAA	*Inter-agency Agreement*
IT	*Information Technology*
NARA	*National Archives and Records Administration*
NPR	*Notice of Proposed Rulemaking*
NVOCC	*Non-Vessel-Operating Common Carrier*
OIT	*Office of Information Technology*

OMB	*Office of Management and Budget*
OPF	*Official Personnel Folder*
OPM	*Office of Personnel Management*
OPS	*Office of Operations*
OSRA	*Ocean Shipping Reform Act of 1998*
OTI	*Ocean Transportation Intermediary*
PVO	*Passenger Vessel Operator*
SAHRC	*Small Agency Human Resources Consortium*
SC	*Service Contract*
SOW	*Statement of Work*
U.S.	*United States*
VOCC	*Vessel-Operating Common Carrier*

INTRODUCTION

This document comprises the FMC's Final Annual Performance Plan for FY 2009. As set forth in GPRA and general guidelines published by OMB, the Commission has prepared a single Performance Plan so as to present a comprehensive picture of performance across the agency. This plan is closely linked to the agency's Strategic Plan.

This plan differs from the FMC's Initial Annual Performance Plan for FY 2009 submitted in September 2007. In this final plan, the FMC has developed performance measures and targets that are directly linked to the Outcome Goals set forth in the agency's Strategic Plan. This final plan introduces measures that will evaluate the success over time of the Outcome Goals established in the FMC's Strategic Plan, unlike the initial plan which was confined to annual performance goals encompassing particular, current objectives. It is envisioned that further and more comprehensive performance measures will be developed when the Strategic Plan is next updated. That update is scheduled to commence in February, 2008.

For FY 2009, we have continued the modified approach for our annual planning first implemented with our Revised Annual Performance Plan for FY 2005. Agency performance goals are tied directly to Strategic Goals instead of our budget program activities. This has resulted in the development of performance goals better suited to the achievement of agency-wide objectives, as opposed to more narrowly focused goals tailored to the responsibilities of individual units. It also facilitates our aim of utilizing a more inclusive, collaborative approach in conducting our ongoing activities, which we believe both enhances decision-making and improves ultimate results. Addressing our performance goals in this fashion has enabled us to link planning, budgeting and performance more effectively.

The Commission used its existing consultation process in developing this Plan. We continued our ad hoc meetings and visits with industry officials to discuss the state of U.S. ocean shipping and the FMC's oversight responsibilities. In coordination with the various sectors of the maritime industry, we have held periodic briefings by industry experts designed to provide Commission staff with valuable information on industry services, operations, business practices, and regulatory concerns. The information and opinions we received via these various efforts have assisted us in developing our performance goals and implementing approaches. It is clear that those involved in the various sectors of U.S. ocean shipping understand the Commission's major program activities and, at the same time, the Commission is cognizant of the views of all parties with whom it interacts.

In line with OMB guidance, the Commission has reflected the resources needed to accomplish its various functions. We have provided FTE and funding figures for each Strategic Goal, which reflect what we believe will be required to accomplish the performance goals and steady state functions under each respective Strategic Goal. Accordingly, all Commission resources are accounted for in this Plan, i.e., the figures under each Strategic Goal, when summed, reflect the full FTE and funding levels of our FY 2009 budget.

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

. FMC VISION AND MISSION

The FMCs vision is:

Fairness and Efficiency in U.S. Maritime Commerce.

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

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

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

FMC STRATEGIC GOALS

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

2. *Compliance:* Promote efficiency and fairness in U.S. foreign waterborne commerce through various means, including outreach and monitoring, to protect the public and assist stakeholders in achieving compliance with ocean transportation statutes administered by the FMC.

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

4. *Technological Efficiencies:* Employ technological enhancements to improve efficiency and to facilitate the exchange of information.

5. *Management Capabilities:* Ensure the FMC has the appropriate organizational framework and management systems to carry out its statutory mandates.

LINKAGE BETWEEN MISSION STATEMENT AND STRATEGIC GOALS

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

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

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

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

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

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

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

Strategic Goal No. 1: Efficient Regulatory Process

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

43 FTEs and $8,500,000.00 will be required to accomplish this goal.

A. Steady State Activities:

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

B. Outcome Goals

Outcome Goal 1.1: Provide parties to proceedings with alternative means to resolve their disputes, including informal ADR, and encourage their use.

Measure: Disputes resolved by Office of Consumer Affairs and Dispute Resolution Services
Target: 100

Outcome Goal 1.2: Conduct hearings in an expeditious and equitable manner, so that litigants and the industry can adjust their behavior accordingly.

Measure: Percentage of complaints or investigations completed within two years of filing or Commission initiation beginning with cases filed or initiated in FY 2007.
Target: 60%

Outcome Goal 1.3: Permit and encourage the use of electronic filings and other processes that result in less expense and timely resolution of disputes.

Measure: Percentage of Active Electronic Docket Logs updated within 72 hours of receipt of key documents issued or filed in Commission proceedings.
Target: 85%

Outcome Goal 1.4: Update Commission rules as appropriate to adjust to changes in the regulatory and commercial environment.

Measure: Number of rules pending in Unified Regulatory Agenda.
Target: 2

Strategic Goal No. 2: Compliance

Promote efficiency and fairness in U.S. foreign waterborne commerce through various means, including outreach and monitoring, to protect the public and assist stakeholders in achieving compliance with ocean transportation statutes administered by the FMC.

31 FTEs and $5,388,000.00 will be required to accomplish this goal.

A. 2009 Steady State Activities:

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

B. Outcome Goals

Outcome Goal 2.1: Increase the rate of compliance under applicable U.S. shipping laws and regulations relating to tariffs, service contracts, unfair trade practices, antitrust immunity, discriminatory practices, carrier pricing and service, ocean transportation intermediary activities, and passenger vessel operations.

Measure: Percentage of minutes and monitoring reports received within regulatory deadlines or formal extension.
Target: 95%

Measure: Percentage of new and amended OTI applications that are processed within 45 days.
Target: 80%

Outcome Goal 2.2: Conduct educational programs and provide opportunity for informal exchanges between our stakeholders and the Commission.

Measure: Number of industry entities invited to address Commission staff.
Target: 3

Measure: Presentation, panel participation and attendance by staff at trade conferences.
Target: 3

Outcome Goal 2.3: Maintain fair competition in U.S. ocean commerce.

Measure: Achieve positive outcomes in matters for which formal request for additional information is made to parties of filed ocean common carrier or marine terminal operator agreements.
Target: 90 %

Outcome Goal 2.4: Protect the public and users of ocean transportation services from activities that violate the shipping statutes.

Measure: Number of investigations opened to address alleged harm to the public as a result of Shipping Act violations.
Target: 50

Strategic Goal No. 3: Balanced Enforcement

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

16 FTEs and $2,861,000.00 will be required to accomplish this goal.

A. 2009 Steady State Activities:

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

B. Outcome Goals

Outcome Goal 3.1: Assure carriers do not exercise their antitrust immunity in a manner that results in unreasonable practices, rate increases or service decreases.

Measure: Percentage of rate agreements analyzed for 6(g) compliance.
Target: 100%

Measure: Number of memoranda, special reports or studies on significant competition related issues.
Target: 3

Outcome Goal 3.2: Ensure that Commission actions are taken with appropriate consideration of their impact on the industry and users of transportation services, including small business considerations, and are directed at market-distorting activities.

Measure: Number of unaddressed comments received in rulemakings regarding SBREFA concerns.
Target: 0

Outcome Goal 3.3: Provide regulatory assistance and encourage voluntary compliance with shipping statutes and regulations through consistent industry outreach and education efforts.

Measure: Number of compliance presentations by staff to industry and shipping public.
Target: 3

Outcome Goal 3.4: Neutralize, or affirmatively address, restrictive trade practices of foreign governments.

Measure: Number of unresolved FSPA and Section 19 proceedings.
Target: No more than 2

Outcome Goal 3.5: Improve maritime security by curtailing unlawful participation in the U.S. ocean transportation system.

Measure: Percentage of identified unlicensed OTIs sent compliance warning letters.
Target: 95%

Strategic Goal No. 4: Technological Efficiencies

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

17 FTEs and $2,987,000.00 will be required to accomplish this goal.

A. 2009 Steady State Activities:

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

B. Outcome Goals

Outcome Goal 4.1: Streamline the Commission's work processes through effective utilization of information technology.

Measure: The number of technology solutions that are designed and implemented and used by the Commission to facilitate process improvement through the use of databases and recordkeeping systems.
Target: 6

Measure: Cumulative number of technology solutions that are designed and implemented and used by the Commission to facilitate process improvement through the use of databases and recordkeeping systems since FY 2007 (including current fiscal year).
Target: 12

Outcome Goal 4.2: Use electronic technology for the receipt of documents filed with the Commission as envisioned by the Government Paperwork Elimination Act ("GPEA").

Measure: Percentage use of electronically submitted forms by regulated concerns versus receipt of traditional paper-driven applications and processes.
Target: 50%

Outcome Goal 4.3: Safeguard programs and systems as required by the Federal Information Security Management Act of 2002 ("FISMA").

Measure: Number of technology-related programs and systems developed or implemented that achieve full compliance with Federal information security mandates.
Target: 12

Outcome Goal 4.4: Disseminate Commission and staff issuances through the use of electronic technology.

Measure: The total number of visits and downloads from agency website.
Target: 10 percent increase measured against previous year website traffic statistics, FY 2007 - 2009.

Strategic Goal No. 5: Management Capabilities

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

24 FTEs and $4,217,000.00 will be required to accomplish this goal.

A. 2009 Steady State Activities:

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

B. Outcome Goals

Outcome Goal 5.1: Organize and manage the agency's staff consistent with established priorities, with an emphasis on workforce planning, diversity, and effective internal communication.

Measure: Percentage of agency employees who participated in required annual training during the fiscal year (e.g., ethics, IT security, No FEAR, etc.).
Target: 100%

Measure: Number of awareness, recruitment, training, new-employee orientation, workforce development, and quality of life initiatives offered to agency employees.
Target: 250

Outcome Goal 5.2: Clearly and accurately communicate the Commission's program requirements, activities and decisions in a manner consistent with the Information Quality Guidelines for Federal Agencies.

Measure: Percentage of internal Commission orders or SOPs reviewed, developed or updated by Office of Administration during the fiscal year.
Target: 33%

Measure: Percentage of agency records which have been assessed with respect to records disposition requirements with respect to the current fiscal year.
Target: 33%

Outcome Goal 5.3: Respond to changing industry conditions and business environment through use of state-of-the-art automated systems for internal and external processes and a flexible and well-trained workforce.

Measure: Percentage of agency employees who participated in optional skill-building, management and other training during the current fiscal year.
Target: 25%

Measure: Percent of payments (user fees, penalties, etc.) received electronically via Pay.gov versus older technologies (e.g., checks).
Target: 25%

Outcome Goal 5. 4: Enhance performance and accountability through linking planning, financial management and performance.

Measure: Percentage of management officials undertaking reviews of internal controls and vulnerability assessments for their programs during the current fiscal year.
Target: 95%

Measure: Number of material deficiencies found in most recent financial statement audit.
Target: 1 or fewer

Measure: Received “unqualified opinion” from financial statement auditors with respect to the current fiscal year.
Target: Yes