

# Office of Inspector General

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**Federal Maritime Commission  
Controls Over the Procurement, Lease and  
Use of the Agency's Vehicle**

**OR12-02**



**July 2012**

**FEDERAL MARITIME COMMISSION**

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**FEDERAL MARITIME COMMISSION**

Office of Inspector General  
Washington, DC 20573-0001

July 17, 2012

*Office of Inspector General*

Dear Mr. Chairman and Commissioners,

The Office of Inspector General (OIG) transmits its review of the agency's vehicle. The objectives of this review were to assess compliance with Federal regulations pertaining to the procurement and use of the leased vehicle by FMC staff, and to determine whether controls are in place to provide reasonable assurances that the vehicle is properly used.

In late February 2011, the agency took possession of a 2011 Chevrolet Tahoe sport utility vehicle. Annual lease costs total \$12,896, including a service warranty, maintenance plan and vehicle registration; annual parking for the vehicle in the headquarters building garage was \$4,704; gasoline expense was \$1,100 per year. Our estimate of the total annual cost to operate the agency vehicle is \$18,700 or \$1,558 per month.

We found that the agency did not comply with General Service Administration requirements regarding vehicle size and fuel efficiency when procuring the vehicle, work to home regulations and website reporting requirements. The OIG estimates that local travel savings resulting from the lease of the vehicle, which were used to justify the lease, were modest; the agency saves about \$100 per month in taxi and subway fare. Importantly, our analysis was based on incomplete records. The log used to record trips was missing approximately half of the vehicle miles appearing on the vehicle's odometer.

The OIG made four recommendations to address the noted deficiencies.

We wish to thank OMS staff for its assistance in helping us to meet our review objectives. Management's comments to our findings and recommendations are appended to the report.

Respectfully submitted,

/S/

Adam R. Trzeciak  
Inspector General

**Office of Inspector General**  
**Review of the Federal Maritime Commission's**  
**Controls over the Procurement, Lease and Use of the Agency Vehicle**

The Office of Inspector General (OIG) has completed its review of the procurement and use of the agency vehicle at the Federal Maritime Commission's (FMC), Washington D.C. headquarters. The objectives of the review were to assess compliance with Federal regulations pertaining to the procurement of the agency's leased vehicle by FMC staff and determine whether controls are in place to provide reasonable assurances that the vehicle is being properly used.

**Background**

The Federal Maritime Commission was established in 1961 as an independent Government agency, responsible for the regulation of shipping in the foreign commerce of the United States. The principal shipping statutes administered by the FMC are the Shipping Act of 1984 (46 USC app. 1710 et seq), the Foreign Shipping Practices Act of 1988 (46 USC app. 1701 et seq), and section 19 of the Merchant Marine Act, 1920 (46 USC app. 876). The FMC is headquartered in Washington D.C., with six area offices located in port cities around the contiguous United States, each staffed by one or two area representatives.

The Commission is composed of five Commissioners appointed for five-year terms by the President with the advice and consent of the Senate. Not more than three members of the Commission may belong to the same political party. The President designates one of the Commissioners to serve as Chairman. The Chairman is the agency's chief executive and administrative officer.

As with most federal agencies, the FMC uses vehicle transportation to help perform its mission. For example, the agency's area representatives rely on motor vehicles to travel within their assigned geographic areas to carry out enforcement and outreach activities on behalf of the Commission. Washington D.C. staff uses one vehicle to travel to meetings and other official functions, and for pick-up / delivery of supplies and documents. The FMC headquarters was without an agency vehicle from mid-1990s through February 2011, relying on public transportation to attend mission-oriented and outreach activities.<sup>1</sup>

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<sup>1</sup> The agency leased two vehicles until the late 1970s when staff size was over twice the size that it is today. The vehicle fleet was cut in half by the end of the decade, and one vehicle was maintained until the mid 1990s when the agency experienced budget reductions.

## Objectives, Scope and Methodology

The objectives of this review were to assess compliance with Federal regulations pertaining to the procurement and use of the agency's leased vehicle by FMC staff, and determine whether controls are in place to provide reasonable assurances that the vehicle is properly used.

To meet our objectives, we reviewed Federal Management Regulation (FMR) 41 C.F.R. §102-34, that governs the management and control of motor vehicles the Government owns, leases commercially or leases through General Services Administration (GSA) Fleet; FMR 41 C.F.R. §102.5, that provides guidance on the use of Government passenger carriers to transport employees between their homes and places of work; and other GSA guidance to federal agencies concerning various aspects of fleet and commercial leasing activities.

We reviewed Presidential Memorandum – *Federal Fleet Performance*, issued on May 24, 2011. Section 1(b) of the Presidential Memorandum requires executive vehicles to achieve maximum fuel efficiency, be limited in motor vehicle body size, engine size and optional equipment to what is essential to meet agency mission; and be midsize or smaller sedans, except where larger vehicles are essential to the agency mission.<sup>2</sup> The memorandum also provides guidance on agency website reporting requirements and expands on Executive Order 13514, *Federal Leadership in Environmental, Energy and Economic Performance*, issued October 5, 2009, and Executive Order 13423, *Strengthening Federal Environmental Energy and Transportation Management*, issued on January 24, 2007, which together identify energy reduction and environmental performance requirements issued by the Department of Energy. We also reviewed Executive Order 12375, *Motor Vehicles*, that requires passenger automobiles acquired by all Executive agencies in each fiscal year to achieve an average fuel economy standard that is not less than the average fuel economy standard for automobiles manufactured for the model year, which includes January 1 of each fiscal year.

We reviewed General Records Schedule 10, *Motor Vehicle and Aircraft Maintenance and Operation Records* to assess compliance with Federal archiving requirements. Finally, we reviewed the Environmental Protection Agency's Green Vehicle Guide that provides implementation guidance on acquiring low greenhouse gas (GHG) emitting vehicles. Section 141 of the 2007 Energy Independence and Security Act requires federal agencies to acquire low GHG emitting vehicles.

We reviewed mileage logs and records that were maintained to determine whether they were complete and appropriately designed to collect data necessary to support proper internal control and reporting and reviewed those records for reasonableness and potentially inappropriate vehicle use. We collected lease cost information from the contract file and local travel expense

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<sup>2</sup> 41 C.F.R. 102-34.50

information from the FMC Office of Budget and Finance (OBF) to assess the impact on local travel expenses resulting from the acquisition of the agency vehicle.

We reviewed the vehicle procurement for adherence to Federal Acquisition Regulation requirements and justifications for ordering the vehicle through commercial sources. We documented optional equipment to determine whether these automotive options supported the achievement of agency mission as required by Federal Management Regulations. We also assessed whether the vehicle was available to all agency staff for official business purposes.

We spoke with procurement staff in the Office of Management Services (OMS) about the vehicle procurement process and interviewed three OMS staff who were identified as drivers of the vehicle. We also held multiple discussions with a motor vehicle policy analyst at the GSA, Office of Asset and Transportation Management, Office of Government-wide Policy, for clarification on regulations and their applicability to the FMC. We also spoke with the FMC Chairman and three FMC Commissioners regarding their use of the vehicle.<sup>3</sup>

The review was performed from May 10, 2012 through June 8, 2012.

### **The Lease Procurement**

Planning for the procurement of the agency vehicle began in late fall/early winter of 2010. According to the contracting officer, the Chairman expressed interest in a vehicle for agency staff to use for local business-related travel. The Chairman believed that an agency vehicle could be justified, in part, through reduced local travel costs spent on taxis and public transportation. The contracting officer concluded that a large vehicle, such as a sport utility vehicle (SUV), would be more versatile than a sedan and could be used for picking up and delivering supplies.

The procurement requirement, as explained to the OIG by OMS staff, was for a vehicle that could seat six or seven adults comfortably, including leather seating for easy care, and the color black, as black is a “standard and uniform color of government vehicles.” The seating justification, according to procurement staff, was to enable Commissioners and/or staff to travel together when attending hearings or meetings.

Procurement staff started its search with GSA Fleet services. According to GSA’s website, the GSA Fleet includes automobiles, passenger vans, trucks, buses and ambulances. The fleet does not, according to GSA, include full size SUVs. GSA Fleet is not, however, a mandatory source of supply, and vehicles may be leased from commercial sources without approval or permission from GSA. Once the agency determined that an SUV was not immediately available through GSA, it turned to the GSA’s schedule library of commercial vendors and obtained quotes from two leasing companies. According to procurement staff, quotes were requested from only two

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<sup>3</sup> One FMC Commissioner and counsel have not used the vehicle.

vendors because delivery times for other vendors were longer or the schedule vendors did not meet the agency's requirement; the Tahoe with all required specifications and options.

The selected 2011 Chevy Tahoe, 4x4, included a V-8 engine and automatic transmission. EPA fuel economy estimates for this vehicle range from 15 miles per gallon (mpg) in the city to 21 mpg highway. Regular unleaded fuel is recommended although the vehicle is a flex fuel vehicle.<sup>4</sup> The lease term is two years at \$969 per month. A comparison was made with other executive-class vehicles: a 2011 Cadillac DTS (factory order and dealer stock) and a 2011 Lincoln Town Car Signature, (factory order and dealer stock) monthly least costs were between \$1,517 and \$1,695, although costs went down by 50 percent in the second year. The agency also received quotes on three other full size SUVs from a second vendor. Prices offered were between \$134 and \$354 higher than prices from the vendor selected. We found no documentation in the file to indicate that minivans and non-luxury sedans were considered in the price comparison.

After adding full maintenance and vehicle registration, the annual cost of the agency vehicle came to \$12,896 or \$1,075 per month.<sup>5</sup> The purchase requisition was dated December 9, 2010 and a purchase order was signed one week later on December 16, 2010. The order was modified on February 25, 2011 to amend the period of performance to February 24, 2011 to February 23, 2012. This corrected for the actual receipt date of the vehicle, which had to be ordered. A requisition to fund year two of the lease in the amount of \$12,896 was signed on March 15, 2012, and a purchase order was signed one day later on March 16, 2012, 21 days after the prior order expired, requiring a contract ratification to, essentially, back-fund the lease for the gap.

According to discussions with the agency's Chairman, the purpose of the vehicle was to make it easier for agency staff to travel without the inconvenience and uncertainty of public transportation while reducing local travel costs. The OMS Director also stated that arriving at meetings or other official functions in an agency vehicle added stature to the agency (as opposed to exiting from a cab or subway). The OIG inquired about the amenities, including the leather seating, back up camera and global positioning system (GPS). The OMS Director said that, for reason stated above, he wanted to lease a vehicle for the agency that was "top of the line."

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<sup>4</sup> A flexible-fuel vehicle is an alternative fuel vehicle with an internal combustion engine designed to run on more than one fuel, usually gasoline blended with either ethanol or methanol fuel, and both fuels are stored in the same common tank. Flex-fuel engines are capable of burning any proportion of the resulting blend.

<sup>5</sup> Total cost, to include gasoline costs and monthly parking, is discussed in Finding #2.

## Findings

### ***Finding 1: Agency Vehicle does not Comply with GSA Guidelines on Size, Fuel Efficiency and Optional Equipment***

According to Federal Management Regulation 41 C.F.R. §102-34.50, pertaining to motor vehicle size, Federal agencies may only obtain the minimum size of motor vehicle necessary to fulfill the agency's mission in accordance with the following considerations:

- The vehicle obtained must achieve maximum fuel efficiency;
- Vehicle body size, engine size and optional equipment should be limited to what is essential to meet agency mission; and
- With the exception of motor vehicles used by the President, Vice President and motor vehicles for security and highly essential needs, agencies must obtain midsized or smaller sedans.

The OIG reviewed each requirement in light of the agency's lease procurement.

- (1) Maximum fuel efficiency -- Although the Department of Energy issues fuel efficiency standards for motor vehicles, we chose to use the EPA Fuel Economy Estimates displayed with the vehicle "sticker price" as a best estimate of the fuel efficiency of the Chevy Tahoe as it compares to other SUVs. According to combined gasoline fuel economy estimates, the Tahoe averages 17 mpg combined city / highway driving. The EPA places the Chevy Tahoe 4X4 in the lower half of combined mileage for all SUVs, which range from 10 mpg. to 32 mpg. Using this criterion, we concluded that the Chevy Tahoe does not achieve maximum fuel efficiency among SUVs. We did not compare Tahoe with smaller (midsize) vehicles.
- (2) Body size, engine size and optional equipment – The OIG found no documentation in the procurement file to justify the size of the vehicle ordered nor for the equipment, both of which require the agency to spend hundreds of additional dollars monthly. While the agency did not have usage data available when the requirement was identified, nor did it estimate local travel cost savings resulting from the lease of the vehicle, it is clear now that a requirement to seat seven passengers cannot be supported by actual usage of the vehicle.<sup>6</sup> As we show below, 91 percent of trips included three or less passengers. Nor could we explain or defend the V-8 engine size, 4x4 drive train or leather seating as being required to meet the FMC mission.
- (3) Security and highly essential needs – In discussions with procurement staff, the security of FMC employees was not provided as a reason for the procurement of the SUV. The

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<sup>6</sup> Agency staff did consult with the agency's budget director who confirmed that the purchase would result in lower local travel expenses via public transportation. But, as noted later in the report, no specific sized-vehicle was discussed with her.

contracting officer wanted a multiuse vehicle and when looking at pricing of other executive vehicles, found the Chevy Tahoe cost less than select Cadillacs or Lincoln Town Cars in year one of the lease. Examples of midsized sedans include the Ford Taurus, Chevy Malibu and Chevy Impala which lease for just over half the lease cost of the Chevy Tahoe. The OIG could not document any security or “highly essential needs” requiring a full size SUV.

While the requirements are clearly identified in the Federal Management Regulation, procurement staff told the OIG that it was not familiar with these requirements and were not told of any limitations on vehicle size, options, etc., by GSA. Unless vehicles are obtained through GSA Fleet services, agencies are left to self monitor the use of agency-procured vehicles.

### ***Finding 2. The SUV Lease Resulted in Modest Local Travel Savings***

In February 2011, the OMS leased the SUV for the purposes of (i) picking up supplies and other office needs; and (ii) transporting agency staff to and from business meetings and other Commission-related events. Annual lease costs total \$12,896, which includes a service warranty, maintenance plan, and, vehicle registration. The agency pays an annual parking fee of \$4,704 for reserved parking in the garage below the headquarters building. Based on receipts we reviewed, gasoline added another \$1,100 per year to the operating cost of the vehicle. Our estimate of the total annual cost to operate the agency vehicle is \$18,700; the average monthly cost is \$1,558.

The Director, OMS, and the agency’s managing director discussed the lease with the director of the agency’s Office of Budget and Finance. The purpose of this discussion was to determine whether the purchase was warranted, i.e., was it something the agency could move forward on given budget constraints. According to the managing director, he was told the lease “made sense” in light of the projected savings in local transportation costs. The Director, OBF, told the OIG that the size of the vehicle was not discussed with her when this coordination occurred.

The OIG compared total operating costs to amounts spent by the agency on local travel for the period preceding and following the lease of the agency vehicle. Our purpose was to identify the extent to which savings to local travel offset leasing costs. We did not factor in a dollar estimate of staff’s time to use public transportation (e.g., to “catch a cab” or walk three blocks to the subway); nor did we factor in OMS staff time required to drive agency officials. Three OMS staff at GS-6, GS-13 and GS-15 drive the vehicle to transport agency staff. Although we could not identify with any certainty the time required to drive the vehicle on any of the trips,<sup>7</sup> nor was

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<sup>7</sup> In Washington D.C. traffic and congestion, a one mile trip can take 20 minutes or more.



such information recorded in the vehicle-usage log (see below) we note the unloaded pay rate of the drivers below for information only:

- GS-15 Hourly Rate -- \$74.50
- GS-13 Hourly Rate -- \$48.34
- GS-6 Hourly Rate -- \$18.19

In fiscal years 2008 and 2009, the agency spent \$3,314 and \$2,645, respectively, on local travel. In fiscal year 2010, the amount increased to \$5,092, but \$1,030 of this total includes a three-month contract with an executive limousine service. We included the amount here as the service was used for local travel. For the three fiscal year period, the agency's monthly local travel expenses averaged \$307.

The agency took possession of the SUV approximately five months into Fiscal Year 2011. For the seven month period March through September 2011, local travel totaled \$1,391, or \$199 per month. Comparing this average (after lease purchase) to the three-year average above (pre-lease), the agency realized just over \$100 savings in monthly local travel expenses resulting from the lease of the SUV.

### ***Finding 3: Vehicle Log did not Account for 50 percent of Miles Driven***

The Federal Management Regulation requires that agencies develop adequate accounting and reporting procedures to ensure accurate reporting of inventory, cost and operation data needed to manage and control motor vehicles.

The OIG reviewed the log maintained by OMS drivers of the agency vehicle. The log captures the following information: date, destination, purpose of trip, driver, number of passengers and estimated mileage. As a first step, the OIG totaled the miles accounted for on the log and compared this to the vehicle's odometer mileage. We determined that 50 percent of the vehicle's miles were not accounted for on the log. Specifically, the log documented 1,371 miles during the period February 2011 through May 15, 2012. However, the odometer showed 2,711 miles for the same period. Based on information available to us, we could not determine the disposition of the missing entries. The failure to maintain a log is a lapse in basic accountability required of a government agency.

Based on our review of the entries identified on the log, we were able to make some generalizations regarding how the vehicle is used. One relates to the number of passengers that use the vehicle per trip. During discussions with procurement staff, we were told that one requirement for the vehicle was that it seat seven passengers comfortably. We identified 282 trips on the log accounting for 1,371 miles. Of the 282 trips, 21 trips were made with no

passengers. Often, these trips are made to pick up supplies or drop off documents. Of the remaining 261 trips recorded, 214 (82 percent) were made with between one and two passengers. Another 24 trips (9.2 percent) in the log recorded transportation for three passengers. Conversely, five trips included six passengers (2 percent). We identified no trips on the log with seven passengers.<sup>8</sup>

Another area we reviewed was the Chairman's use of the vehicle to transport him to and from Washington's Union Station as part of his daily commute. This issue is treated separately below in Finding 5, but we note here that 105 of the 261 trips (40 percent) accounted for in the log were made for this purpose.

All three drivers told the OIG that driving duties are not in their position description. The primary driver learned that driving the SUV would become part of his official responsibilities one month after beginning employment at the FMC. The Director, OMS, discussed the expanded duties and asked this individual if he was comfortable with this added responsibility. This individual drove for over half of the trips recorded on the log: 156 of the 282 recorded trips (55 percent). The GS-13 analyst drove the vehicle on 77 trips (28 percent) as the official "back up" driver. The GS-15 Office Director, accounting for 17 percent of the trips taken and documented in the log.

When inquired of the three drivers about the missing entries, and whether entries may have been intentionally omitted, all stated that the omissions were not intended to mask any trips. All blamed the missing entries on "sloppy accounting." The OIG found nothing to suggest otherwise.

The OIG believes that usage records, albeit incomplete, make it difficult to justify a seven passenger vehicle. However management told the OIG that the needs of agency staff warrant a larger size vehicle rather than a midsize sedan. Management has the discretion to obtain a full-size vehicle if it can justify that one is essential to the agency's mission.

#### ***Finding 4. The Vehicle is Used by few Staff for Numerous Purposes***

On March 7, 2011, the Director, OMS, sent an email to all agency staff identifying the reservation procedures to be used for "transportation services via the agency vehicle." The email describes who to contact (OMS), who may drive the vehicle (OMS employees), and recommends that requests be made in advance to help OMS ensure coverage in the office when drivers are away. The email concludes by saying that there will be times when this service will not be

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<sup>8</sup> We emphasize that the analysis was performed using the log that was missing documentation for half of the miles traveled.

available and alternative plans will have to be made. We understood this to mean that OMS may not be available to drive the vehicle. Drivers told us that the Chairman always has first priority.

In reviewing documentation to spot potential, unofficial uses of the vehicle, we found that the log was often completed in vague terms and entries. For example, there were several “meetings” attended and luncheons. We did follow up with staff when identified to discuss unclear “destination” or “purpose” entries, but, often, staff was not specifically identified, making follow up impossible. Drivers would be in the best position to know if the vehicle was being abused, and all three drivers told the OIG that they were not aware of abuse occurring. Rather than drawing conclusions based on incomplete information or conjecture, we simply identify, by category, how the vehicle was used, according to the log, for the nine-month period from September 1, 2011 to May 14, 2012:

<u>Purpose of Trip</u>	<u>Number of Trips</u>
Chair to/from Union Station	72
Attend Meeting	42
Supplies/Delivery	12
Congressional Business	8
Business Luncheon	8
Car Maintenance/Gasoline	6
Appointment (no explanation)	5
White House	4
Pick-up (no explanation)	4
Store Vehicle Off-site	4
Airport	1
Training for Two Staff	1
<b>TOTAL</b>	<b>165</b>

The agency has procedures for requesting use of the vehicle. When the OIG sought access to the requests to fill in some of the gaps, we were told that staff did not routinely follow the reservation procedure (using the “OMS Maritime” email account) and, instead, emailed requests directly to individual OMS staff members or made verbal requests. Documentation of these requests was not routinely maintained and, thus, could not be relied upon by the OIG.

***Finding 5: Use of the Vehicle for Trips to Washington Union Station***

Based on our review of the agency log, the OIG determined that the agency’s Chairman uses the vehicle for pick up and drop off at Washington Union Station, in effect, as a shuttle to assist in his daily commute. The question that we sought to answer is whether such accommodation is

permitted under GSA regulations, specifically Title 41: Public Contracts and Property Management, Part 102-34, *Motor Vehicle Management*.

Based on our review of the log, we determined that the Chairman made 105 such trips between the March 30, 2011 and May 11, 2012. Drivers of the agency's vehicle told the OIG that the rides were routine by the fall of 2011. Prior to that time, the Chair walked from Union Station – a walk of approximately three city blocks, and/or received rides from his Chief of Staff, but this latter arrangement evaporated when the Chief of Staff began using public transportation.

Federal Management Regulation §102-34.210 provides guidance on using a Government motor vehicle for transportation between places of employment and mass transit facilities. According to this guidance, a Government motor vehicle may be used for transportation between places of employment and mass transit facilities under the following conditions:

- The head of the agency makes a determination, in writing, that such use is appropriate and consistent with sound budget policy;
- There is no safe and reliable commercial or duplicative Federal mass transportation service that serves the same route on a regular basis;
- This transportation is made available, space provided, to other Federal employees; and
- Motor vehicle ridership levels must be frequently monitored to ensure cost/benefit of providing and maintaining this transportation.

Although the guidance implies the possibility of an employee shuttle service, the term is not used, leading to some confusion when applying the regulation. However, the OIG received confirmation from GSA vehicle policy staff that the guidance does, in fact, refer to shuttle services.

Clearer guidelines covering use of a government vehicle for trips to and from an employee residence are provided in Federal Management Regulation §102-34.205. This guidance makes it clear that a Government motor vehicle may not be used for transportation between the employee's residence and place of employment. Obtaining a ride on the first leg of the trip home, or the last leg of the trip to work, is considered by GSA vehicle policy, as extensions of trips to a personal residence, making these trips outside the official use limits of the vehicle. Unless security concerns are present, the vehicle should not be used for commuting purposes.

In discussions with the Chair, he indicated that he received rides to Union Station due to a painful medical condition exacerbated by walking and carrying heavy objects, including briefcases. The Chair provided the OIG with a letter from his attending physician to verify that he continues to be under treatment for the condition and has been under treatment since 2006. More recently, the Chair suffered a foot injury that made it difficult to walk without severe pain.

That injury lasted from January 2012 through May 2012. A physician's note was also provided to the OIG.

Section 102-5.95 of the Federal Management Regulation states that the comfort and convenience of an employee is not considered sufficient justification to authorize home to work transportation. However, the head of each department, agency or other entity of each branch of the Government may prescribe, by rule, appropriate conditions for the incidental use, for other than official business, of vehicles owned or leased by the government.<sup>9</sup> According to GSA Vehicle Policy staff, the Chairman, as agency head, may make a determination authorizing home-to-work transportation for him or any other employee. However, such a determination must be reported outside the agency. Section 102-5.110 requires the agency head to submit his determination to the following Congressional Committees:

- (a) Chairman, Committee on Governmental Affairs, United States Senate; and
- (b) Chairman, Committee on Oversight & Government Reform, United States House of Representatives.

Both the Director of OMS and the Chair indicated that they were unaware of any prohibition against using the SUV for daily commuting. The Chairman did not make the determination required by GSA.

#### ***Finding 6: Vehicle Website Reporting not Performed***

Presidential Memorandum – Federal Fleet Performance, issued May 24, 2011, requires agencies, within 180 days of the memorandum issuance, to disclose on the agency's website, any executive vehicle that is larger than a midsize sedan or does not comply with alternative fueled vehicle requirements. If either criterion is not met, the vehicle must be disclosed.

The FMC lease of the 2011 Chevy Tahoe clearly puts the agency out of compliance with this Presidential Memorandum, as the vehicle is larger than midsize. The agency did not comply with the disclosure. Agency procurement staff told the OIG that it was unaware of this reporting requirement but has taken steps to post the necessary information on the website. A draft compliance report has been prepared.

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<sup>9</sup> Pub. L. 101-194, title V, Sec. 503, Nov. 30, 1989, 103 Stat. 1755, as amended by Pub. L. 101-280, Sec. 6(b), May 4, 1990, 104 Stat. 160

## *Summary*

The agency set out to lease a vehicle that would assist staff to attend meetings and other official functions in the local Washington DC area. Agency procurement staff was not aware of regulations and guidelines that must be followed pertaining to vehicle size, mileage and gas emissions. Consequently, a full size SUV was leased without justification for deviating from size requirements. The OIG found no documents in the file to explain the requirement for the size, seating capacity and other options required by the agency, although the requirement was explained to the OIG, as documented in this report. The agency had a responsibility to perform research into these requirements before moving forward with the procurement action.

Once the “requirement” for an SUV was determined, agency procurement staff contacted GSA but learned that a vehicle of the size with specified options was not in the fleet. The agency then turned to commercial vendors, on GSA schedule, to meet the requirement. This is permissible, although the agency should have sought quotes from at least three vendors instead of the two vendors asked to provide quotes. The agency estimated that the number of riders and the cost savings over local travel would help justify the lease. These two factors argue just the opposite. Monthly local travel cost has been reduced by just over \$100 compared to fully loaded monthly lease costs of about \$1,500. Further, 91 percent of the recorded trips were made with three or less employees.

Before the lease expires in 2013, the agency should assess whether an eight passenger SUV is needed to accomplish the agency’s mission, given usage records and budgetary limitations. There are advantages to the agency and its staff to have access to a vehicle. And it can save time, enabling staff to be at work for longer periods before traveling. But the costs to such conveniences must be factored in. If a vehicle is considered necessary to perform the agency’s mission, the data we reviewed suggests that a midsize sedan could address the need.

Finally, the vehicle manager should work with the Chairman and General Counsel to make a determination about use of the vehicle for the purpose of driving the chairman to and from Union Station. As occurring now, the regulations do not permit these trips. If the Chairman wishes to justify the use of the SUV as a commuting shuttle, he should follow the GSA procedure for the authorization of home-to-work transportation. Again, the agency’s General Counsel should research the consequences of any determination made regarding the use of the vehicle outside of official business.

***Recommendations:***

1. At lease end, OMS should reconsider the requirement for an SUV using applicable regulations, Presidential Memoranda and Executive Orders as guidance.
2. OMS should revise log mileage recording procedures to include odometer beginning and ending readings (not mileage estimate), and complete the log after each trip.
3. In consultation with the General Counsel, the agency should make a determination on acceptable unofficial uses of the agency vehicle and fulfill applicable reporting requirements.
4. OMS should post the required Fleet Management Compliance Report to the agency's webpage.

# Memorandum

**TO** : Inspector General

**DATE:** July 16, 2012

**FROM** : Managing Director

**SUBJECT:** Review of the FMC's Controls over the Procurement, Lease and Use of the Agency Vehicle

I have reviewed the recommendations contained in the subject Review, and agree with the four recommendations made. We will move expeditiously to implement the recommendations.

However, some information contained in the report is not complete, possibly leading to findings that do not fully reflect the Commission's needs and the reasons for the vehicle's procurement. Accordingly, I am taking this opportunity to clarify some of the information.

As your report indicates, the Chairman determined late in calendar year 2010 that the Commission could benefit from having a multi-purpose vehicle to use at headquarters for the purpose of transporting agency personnel to meetings and conferences at a variety of locations in and around Washington, as well as picking up and delivering equipment and supplies as necessary. The Commission had been without such a vehicle for a number of years, having decided to forego such a vehicle during a severe budget crunch in the mid-1990s, in order to prevent the need for furloughing personnel. There were a number of meetings that the Chairman and other agency staff attended, often with a number of staff attending at the same time. Something not mentioned in your report is that, on several occasions, staff had voluntarily driven their own SUVs to accommodate transportation of staff to meetings. The number of staff attending a meeting had necessitated bringing in an SUV to transport the personnel. On other occasions, staff drove their own non-SUV vehicles when just a few staff were attending. Frequently, staff did not request mileage reimbursement for such transportation.

Your report questions the need for a vehicle that seats up to seven, citing records showing few trips with more than three passengers. At the same time, you indicate that the vehicle log had not been maintained accurately and only accounted for 50% of vehicle miles. I can unequivocally state from recollection that the majority of times I traveled in the vehicle, at least five, and often seven passengers, were transported. I agree that the logs were not properly maintained, and we will take action to remedy that, but I take issue with the credibility of your conclusion that the vast majority of the vehicle's usage involved transporting three passengers or less, especially since it is based on inadequate records.

The Commission's Office of Management Services (OMS) was tasked to explore obtaining a vehicle that was appropriate for agency needs, including the need to transport several Commission staff at one time, of suitable size that some of our physically larger personnel could fit in the vehicle (sufficient headroom, etc) and could transport materials and supplies. At the time that OMS was tasked to do so, I did verbally check with another agency of comparable size



(with fewer Commissioners) and was informed that agency had two vehicles it used for those purposes.

You question choice of an SUV. The OMS Director recommended leasing an SUV instead of a sedan because of the greater versatility and additional seating capacity (including for taller than average personnel). The standard sedan seats three (3) comfortably, while an SUV seats five (5) and can seat individuals over six feet tall comfortably. The SUV's fold-down seats are useful in transporting oversized boxes, equipment or luggage, while the trunk space of standard sedans has very limited space.

You also question the choice of vehicle and options. A GPS system was considered important to assist with navigating through the city, especially considering there is no designated driver. The GPS function was intended to save time and money by reducing or eliminating additional mileage and fuel in the attempt to find address locations unfamiliar to any driver of the vehicle. Once that determination is made, packages almost dictate other features. OMS determined it was more cost effective to lease a model with safety and operational equipment included rather than purchase options at market price. Although one can easily question advantages of leather seating, OMS believed it to be more durable and would minimize the daily upkeep and damage to the interior, considering the vehicle was available for use by the entire agency staff. OMS reviewed all the SUVs available through GSA FSS. After informal discussions with several FPS contacts, who recommended the Tahoe over other vehicles, OMS felt a Chevrolet Tahoe provided the best operating efficiency, security and safety.

Below are our comments regarding corrective actions which will be effected to address the recommendations.

**Recommendation 1:** The IG recommends that, at lease end, OMS reconsider the requirement for an SUV using applicable regulations, Presidential Memoranda and Executive Orders as guidance.

**Response:** At lease end, management will evaluate the need for an SUV, considering guidance in applicable regulations, Presidential Memoranda and Executive Orders, as well as the agency's requirements. We note, however, that the primary Presidential Memorandum cited, *Federal Fleet Performance* issued on May 24, 2011, was issued three months after the present SUV was leased.

**Recommendation 2:** The OIG recommends that OMS revise their log recording procedures to include odometer beginning and ending readings (not mileage estimates), and that drivers complete the log after each trip.

**Response:** Management will revise its vehicle log and recording procedures, to completely account for all vehicle use. The revised log and procedures will be fully implemented by July 31, 2012. Currently, drivers are recording odometer beginning and ending readings at the beginning and ending of each trip.

**Recommendation 3:** The OIG recommends that the agency, in consultation with the General Counsel, make a determination of acceptable unofficial uses of the agency vehicle and fulfill applicable reporting requirements.

**Response:** Management will consult with the General Counsel as recommended. It does not appear that any unofficial uses of the vehicle are warranted, but a determination regarding that issue will be made, and applicable reporting requirements complied with. This will be completed by September 30, 2012.

**Recommendation 4:** The OIG recommends that OMS post the required Fleet Management Compliance Report on the agency's webpage.

**Response:** OMS will have the Fleet Management Compliance Report posted on the Commission's webpage. This will be completed by July 31, 2012.

/Ronald D. Murphy/