

Office of Inspector General

**Semiannual Report to Congress
Covering the Period**

October 1, 2012 – March 31, 2013



FEDERAL MARITIME COMMISSION



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

Inspector General

MEMORANDUM

DATE: April 18, 2013

TO: Chairman Mario Cordero
Commissioner William P. Doyle
Commissioner Rebecca F. Dye
Commissioner Michael A. Khouri
Commissioner Richard A. Lidinsky, Jr.

FROM: /Dana Rooney-Fisher/
Interim Inspector General

SUBJECT: Semiannual Report of the Federal Maritime Commission
Inspector General

I am pleased to enclose the Office of Inspector General's (OIG) Semiannual Report to Congress prepared in accordance with the requirements of the Inspector General Act of 1978, as amended (hereafter referred to as the IG Act). This report covers audits, investigations and other reviews conducted by the OIG from October 1, 2012 through March 31, 2013.

Please note that §5(b) of the IG Act provides that the semiannual report must be transmitted by the establishment head to the appropriate committees or subcommittee of the Congress within 30 days after receipt of the report, together with a report by the establishment head set forth in §5(b)(1-4). Further, pursuant to §5(c) of the IG Act, the semiannual report of the Inspector General and the report of the establishment head shall be made available to the public within

60 days upon request and at a reasonable cost. This requirement can be satisfied by posting the reports to the Agency's internet website.

If you have questions, please let me know.

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EXECUTIVE SUMMARY

This Semiannual Report summarizes the activities and accomplishments of the Federal Maritime Commission (FMC or Commission), Office of Inspector General (OIG) for the period October 1, 2012 through March 31, 2013. The most significant activities of the OIG during the first half of Fiscal Year (FY) 2013 are noted below. Additional details pertaining to each activity can be found in subsequent sections of this report.

On January 11, 2013, Adam R. Trzeciak resigned from the FMC OIG after serving as Inspector General since 2006. On January 22, 2013, the Commission named Dana Rooney-Fisher to serve as Interim Inspector General while a search for a permanent Inspector General (IG) is conducted. Ms. Rooney-Fisher is concurrently serving as the Inspector General of the Federal Labor Relations Authority (FLRA).

During this reporting period the OIG issued four reports, the Audit of FMC's Transit Benefit Program (A13-01); Evaluation of the FMC's FY 2012 Privacy and Data Protection (A13-02); Evaluation of FMC's Compliance with the Federal Information Security Management Act FY 2012 (A13-03); and the Independent Auditor's Report of FMC's FY 2012 Financial Statements, (A-13-04) Also, the OIG issued a Management Letter (A-13-04A) in connection with the FY 2012 financial statement audit.

The OIG determined that the Commission is compliant with the Improper Payments Elimination and Recovery Act of 2010.

During this reporting period, the OIG received eight complaints, two of which reported the same allegations. We responded to one of the complaints and forwarded five complaints to the appropriate FMC program areas for disposition or to other agency OIGs or programs with jurisdiction over the subject matter of the complaint. Because two of the allegations reported the same misconduct, the OIG combined the allegations, began a preliminary investigation and consulted with prosecutorial authorities.

In addition to these audit and investigative activities and outcomes, the OIG continued to work with the agency's Office of the General Counsel to update and issue Commission Order

113 pertaining to IG reporting requirements as required by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203).

FEDERAL MARITIME COMMISSION

The FMC is an independent agency responsible for the regulation of ocean borne transportation in the foreign commerce of the United States. The principal statutes or statutory provisions administered by the Commission are: the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998; the Foreign Shipping Practices Act of 1988; and Section 19 of the Merchant Marine Act of 1920.

The FMC is headed by five commissioners nominated by the President and confirmed by the Senate, each serving five-year terms. Although the majority of FMC personnel are located in Washington, D.C., the Commission also maintains a presence in Los Angeles, Seattle, New York, New Orleans, Houston, and South Florida through area representatives who serve the major ports and transportation centers within their respective geographic areas. In addition, one at-large area representative operates from Washington, D.C.

OFFICE OF INSPECTOR GENERAL

The OIG was established in 1989 by the Inspector General Act of 1978, as amended (5 U.S.C. app.). The OIG is an independent audit and investigative unit headed by an IG who reports to the FMC Commissioners. To aid the FMC in accomplishing its mission in FY 2013, the OIG is provided three full-time staff.

The OIG is responsible for conducting audits and investigations relating to the programs and operations of the FMC. Audits are conducted for the purpose of finding and preventing fraud, waste and abuse, and promoting economy, efficiency and effectiveness within the agency. The OIG investigations seek out facts related to allegations of wrongdoing on the part of FMC employees and individuals, or entities contracting with, or obtaining benefits from, the agency. The Inspector General Act provides that the OIG shall have access to all agency records and may subpoena records from entities outside of the agency in connection with an audit or investigation.

The IG is required by law to prepare a report summarizing OIG audits and investigations during the immediately preceding six-month period. The report is sent to the FMC Commissioners, the President of the Senate, the Speaker of the House and FMC's appropriating and authorizing committees. This dual reporting requirement helps to ensure the independence of the OIG.

OFFICE OF INSPECTOR GENERAL ACTIVITIES

Completed Audits and Evaluations

Audit of FMC's Transit Benefit Program, A13-01. The objectives of the audit were to determine whether there are controls in place to monitor the Transit Benefit Program and whether employees are adhering to Commission policy and program guidelines.

The OIG found that the Commission has internal controls in place for the Transit Benefit Program. The application and corresponding review processes were complete and thorough. Benefit subsidies are based on home addresses, computed by program participants and verified by the Transit Benefit Coordinator before subsidies are provided. The application is reviewed and signed by the program participant, his/her supervisor, the Transit Benefit Manager and the Managing Director.

Although controls are in place, we identified areas where improvements in Program administration and oversight are possible. Currently, the transit benefits are computed based on an 8-hour day, 5 day week, as it has been since program inception. However, this formula does not match the numerous work-life benefits employees enjoy, including alternative work scheduling and telework. As a result, many employees work or commute less than 20 days per month. The OIG believes that the "one size fits all" standard for computing transit costs should be revisited.

Additionally, we identified duplicate payments to program participants from our review of the monthly reports for 2 months of our review period that should have been identified and challenged. We also identified weak controls in the employee clearance process regarding transit

benefits. The OIG identified one program participant who continued to receive benefits for 3 months after leaving the agency.

The OIG identified five findings and made recommendations to address the weaknesses identified. Management agreed with the recommendations and has taken action to close them.

Evaluation of the FMC's FY 2012 Privacy and Data Protection, A13-02. The OIG oversaw an independent third-party review of agency use of personally identifiable information (PII) and its privacy and data protection policies and procedures. PII is information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, etc., alone, or when combined with other personal or identifying information, which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc. This evaluation satisfies the required third-party review.

The agency has improved its privacy program since our last review in 2010. For example, it closed two of four deficiencies and has created policies and procedures to log, verify and reassess data extracts from databases holding sensitive information for longer than 90 days. Also, the agency removed the Privacy Impact Assessment (PIA) for the FMC-18, Automated Application for a License as an Ocean Transportation Intermediary, from its website because it is a component of another system, the FMC Database, and, therefore, does not require a PIA.

We also identified areas where controls in select areas can be improved. The FMC's Senior Agency Official for Privacy, the Privacy Act Officer, the Chief Information Officer and senior managers have responsibility for agency systems and compliance with Federal laws, regulations, and policies relating to information privacy. Although there is interaction and communication between these individuals, communication and coordination on information privacy, including review of systems and determinations for PIAs, could be improved. Many subsidiary systems have not had an analysis performed to identify if a PIA is required for completion. We also identified concerns with System of Records Notices postings and "routine uses" for systems. Three existing PIAs are outdated and the agency has not informed the public about some systems containing PII.

The OIG has closed two of four previously made recommendations based on management's response and OIG follow up. However, the OIG made five new recommendations to address these needed improvements.

Evaluation of FMC's Compliance with the Federal Information Security Management Act FY 2012, A13-03. The objectives of the independent evaluation of the FMC's information security program were to evaluate its security posture by assessing compliance with the Federal Information Security Management Act and related information security policies, procedures, standards, and guidelines. The scope of this task included the FMC Network, and applications housing service contracts, tariff location filings and FMC license applications. The OIG also performed a network scan to identify potential system vulnerabilities and assessed management actions to implement prior-year recommendations.

The FY 2012 report contains two new subject matter findings and two recommendations for corrective action. Scan results were provided to Office of Information Technology (OIT) network staff as soon as results were known to enable them to make needed adjustments. No serious vulnerabilities were found.

The report also includes a follow up of 21 prior year issues. Of those 21 recommendations 11 have been closed and 10 remain open.

Independent Auditor's Report of FMC's FY 2012 Financial Statements, A13-04. The audit objectives were to opine on whether the FMC's FY 2012 financial statements follow U.S. Generally Accepted Accounting Principles (GAAP) and present fairly the financial position of the agency. The OIG also reviewed internal controls over financial reporting and agency compliance with laws and regulations. The statements to be audited are the Balance Sheets as of September 30, 2012 and 2011, and the related Statements of Net Cost, Statements of Changes in Net Position, Statements of Budgetary Resources and Statements of Custodial Activity.

This was the 9th consecutive year that the FMC prepared financial statements for audit. The independent auditor opined that the Federal Maritime Commission's financial statements were fairly presented, in all material respects, in conformity with GAAP; there were no material

weaknesses in internal control over financial reporting (including safeguarding assets) and compliance with laws and regulations; and no reportable noncompliance with laws and regulations tested.

Management Letter for Fiscal Year 2012 Audit of the Federal Maritime Commission Financial Statements, A13-04A. The independent auditor, under contract with the OIG, reviewed FMC's internal controls over financial reporting and, for FY 2012, did not find any matters that were considered a material weakness in the systems and processes tested. This year's management letter contains a follow-up on seven findings and recommendations from previous years. Of the seven outstanding recommendations, one remains open, ***Formal Procedures Needed to Track Civil Penalties.*** Previously, OIG recommended that the Office of the General Counsel (OGC) should maintain a database of all civil monetary penalties assessed by the agency. This database should identify the date of the penalty, the defendant's name, the monetary penalty amount, payment amount and payment date(s). The spreadsheet should be provided to the Office of Budget and Finance (OBF) with each modification to enable it to record collections against the judgment and timely refer past due amounts to Treasury for collection in accordance with the Debt Collection Improvement Act. All payment activity should be noted on the spreadsheet and shared between OGC and OBF. We noted that the draft Managing Directive that addresses debt collection agency wide, including civil penalties, transfers to Treasury, and maintenance of an accounts receivable report has not been put in operation. We will monitor management's progress and we will opine on the effectiveness of the new system in our FY 2013 Management Letter.

Federal Maritime Commission Compliance with the Improper Payments Elimination and Recovery Act of 2010. The OIG made a determination that FMC is compliant with applicable provisions of the Improper Payments Elimination and Recovery Act of 2012, in accordance with Sec. 3(b) of Public Law 11-204, Improper Payments Elimination and Recovery Act of 2010.

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. On October 18, 2012, we provided the Commission the most serious management and performance challenges facing the FMC, along with a brief assessment of management's progress in addressing them. These ongoing challenges included resource shortages and information technology security. Although the agency has made some improvement managing its resources, the information technology security deficiencies remain unacceptably high.

Planned Audits and Evaluations

The OIG plans to initiate the following audit and evaluations during the second half of FY 2013:

- 1) Audit of Expenditures for Furnishing, Redecorating or Making Improvements to the Offices for Commissioner's of the Federal Maritime Commission;
- 2) Financial Statement Audit of the Federal Maritime Commission for Fiscal Year 2013; and
- 3) Evaluation of the Federal Maritime Commission Compliance with the Federal Information Security Management Act Fiscal Year 2013.

Investigations

The Inspector General Act of 1978, as amended, provides that the IG may receive and investigate complaints or information concerning possible allegations of fraud, waste and abuse occurring within FMC programs and operations. Matters of possible wrongdoing are referred to the OIG in the form of allegations or complaints from a variety of sources, including FMC employees, other government agencies and the general public.

During this reporting period, the OIG received eight complaints, two of which reported the same allegations. The hotline complaints were received through the following methods: 3 anonymous contacts, 4 emails, and 1 facsimile. We responded to one of the complaints and forwarded five complaints to the appropriate FMC program areas for disposition or to other

agency OIGs or programs with jurisdiction over the subject matter of the complaint. The OIG began a preliminary investigation on the duplicate complaint and consulted with the Department of Justice regarding the allegations. Currently, this matter remains open. The OIG reported in our previous semiannual report to Congress (April 1, 2012-September 30, 2012), that an investigation was opened. This investigation remains open during this reporting period.

Other Activities

Peer Review

Federal offices of Inspector General are required by the IG Act to have a peer review performed once every 3 years. These reviews are to be performed only by Federal auditors. A committee of the CIGIE schedules the review to ensure that resources are available to perform them and that OIGs do not conduct reciprocal reviews.

The objectives of a peer review are to determine, for the audit function, whether an effective quality control system has been established in the office and if policies, procedures and applicable government auditing standards are being followed.

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Public Law 111-203, requires federal offices of inspectors general to include in their semiannual reports to Congress an appendix containing the results of any peer review conducted by another OIG during the reporting period, or, if no peer review was conducted within that reporting period, a statement identifying the date of the last peer review conducted by another OIG.

The Postal Rate Commission, OIG Completed a peer review of the FMC OIG and issued a report on March 28, 2013. The peer review was conducted for the period October 1, 2009 through September 30, 2012. The report has a rating of pass, and it is available on the FMC OIG website.

Memorandum of Understanding

The Federal Labor Relations Authority signed a Memorandum of Understanding with the Commission under which the FLRA's Inspector General acts as the Commission's Interim Inspector General while the Commission conducts a search for a permanent IG.

Review of Legislation

As required by the Inspector General Act of 1978, as amended, the OIG routinely reviews proposed legislation and regulations. The purpose of these reviews is to assess whether the proposed legislation or regulation: (1) impacts the economy and efficiency of FMC programs and operations; and (2) contains adequate internal controls to prevent and detect fraud and abuse. During this reporting period, the OIG did not review any legislation and regulations relating to FMC.

Review of FMC Policies

During this semiannual period, the OIG is working with the agency's Office of the General Counsel to revise Commission Order 113 pertaining to OIG reporting responsibilities. The revised policy is currently being reviewed by the OIG counsel.

Council of Inspectors General on Integrity and Efficiency Activities

The Council of Inspectors General on Integrity and Efficiency (CIGIE) was established by law as an independent entity by the Inspector General Reform Act of 2008 (P.L. 110-409) to:

- address integrity, economy and effectiveness issues that transcend individual government agencies; and
- increase the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and highly skilled workforce in the Office of Inspectors General.

The CIGIE is comprised of all inspectors general that are Presidentially-appointed / Senate confirmed and those that are appointed by agency heads (designated federal entities). The OIG remains active in CIGIE operations. Specifically, the Interim Inspector General is a member of the Inspection and Evaluation Committee. The Assistant Inspector General participates in Federal Audit Executive Council (FAEC) activities. The FAEC is comprised of senior audit staff from agency OIGs that discuss and coordinate issues affecting the federal audit community -- with special emphasis on audit policy and operations of common interest to FAEC members. The Counsel to the Inspector General participates in the Council of Counsels to the Inspector General (CCIG) activities. The CCIG consists of senior counsel from agency OIGs who discuss various legal issues that affect the OIG community.

**SUMMARY OF INSPECTOR GENERAL
REPORTING REQUIREMENTS**

IG Act Reference	Reporting Requirement	Pages
Section 4(a)(2)	Review of legislation and regulations	9
Section 5(a)(1)	Significant problems, abuses and deficiencies	None
Section 5(a)(2)	Recommendations with respect to significant problems, abuses, or deficiencies	None
Section 5(a)(3)	Prior significant recommendations on which corrective actions have not been completed	12
Section 5(a)(4)	Matter referred to prosecutive authorities	7
Section 5(a)(5)	Summary of instances where information was refused	None
Section 5(a)(6)	List of audit reports by subject matter	13
Section 5(a)(7)	Summary of each particularly significant report	None
Section 5(a)(8)	Statistical table Reports with questioned costs	14
Section 5(a)(9)	Statistical table recommendations that funds be put to better use	15
Section 5(a)(10)	Summary of each audit issued before this reporting period for which no management decision was made by the end of the reporting period	None
Section 5(a)(11)	Description and explanation of significant revised management decisions	None
Section 5(a)(12)	Significant management decisions with which the inspector general disagrees	None
Section 5(a)(13)	Information under Section 5(b) of the Federal Management Improvement Act (FFMIA) of 1996	None
Section 5(a)(14)	Peer Review Activity	8

**TABLE I – Summary of Audit Reports with
Corrective Actions Outstanding for More than 1 Year**

Report Title	Report Number	Issue Date	Recommendations		
			Number	Open	Closed
FMC's FY 2011 Implementation of FISMA	A12-02	1/17/12	20	9	11
FY 2010 Management Letter	A11-02A	1/31/11	6	1	5
Review of FMC's User Fee Calculations	OR10-03	5/27/10	1	1	0
FY 2009 Implementation of FISMA	A10-02	1/28/10	19	1	18
Review of BCL T&A Practices	A09-04	6/30/09	6	1	5
Audit of Accuracy of BOE's Tracking System	A06-01	3/30/06	3	1	2

TABLE II- Listing of Audit Reports Issued

Report Number	Issue Date	Report Title	Questioned Costs	Unsupported Costs	Funds Put to Better Use
A13-01	11/6/12	Audit of FMC's Transit Benefit Program	\$0	\$0	\$0
A13-02	12/6/12	Evaluation of the FMC's FY 2012 Privacy and Data Protection	\$0	\$0	\$0
A13-03	12/21/12	Evaluation of the FMC's Compliance with the Federal Information Security Management Act FY 2012	\$0	\$0	\$0
A13-04	11/14/12	Independent Auditor's Report of FMC's FY 2012 Financial Statements	\$0	\$0	\$0
A13-04A	3/15/13	FY 2012 Financial Statement Management Letter	\$0	\$0	\$0

TABLE III
Reports with Questioned Costs

	Number of Reports	Questioned Costs	Unsupported Costs
A. For which no management decision has been made by the commencement of the reporting period.	0	\$0	\$0
B. Which were issued during the reporting period.	0	\$0	\$0
Subtotal (A + B)	0	\$0	\$0
C. For which a management decision was made during the reporting period.	0	\$0	\$0
(i) dollar value of disallowed costs; and	0	\$0	\$0
(ii) dollar value of costs not disallowed	0	\$0	\$0
D. For which no management decision has been made by the end of the reporting period.	0	\$0	\$0
E. Reports for which no management decision was made within six months of issuance.	0	\$0	\$0

TABLE IV
Recommendations That Funds Be Put To Better Use

	Number of Reports	Dollar Value
A. For which no management decision has been made by the commencement of the reporting period.	0	\$0
B. Which were issued during the reporting period.	0	\$0
Subtotal (A + B)	0	\$0
C. For which a management decision was made during the reporting period.	0	\$0
(i) dollar value of recommendations that were agreed to by management; and	0	\$0
(ii) dollar value of recommendations that were not agreed to by management	0	\$0
D. For which no management decision has been made by the end of the reporting period.	0	\$0
E. Reports for which no management decision was made within six months of issuance	0	\$0

APPENDIX A – Acronyms and Abbreviations

CFO	Chief Financial Officers Act of 1990
CIGIE	Council of Inspectors General on Integrity and Efficiency
CCIG	Council of Counsels to the Inspector General
DC	District of Columbia
FAEC	Federal Audit Executive Council
FFMIA	Federal Financial Management Improvement Act
FLRA	Federal Labor Relations Authority
FISMA	Federal Information Security Management Act
FMC	Federal Maritime Commission or Commission
FY	Fiscal Year
GAAP	Generally Accepted Accounting Principles
IG	Inspector General
IT	Information Technology
OBF	Office of Budget and Finance
OGC	Office of General Counsel
OIG	Office of Inspector General
PIA	Privacy Impact Assessment
PII	Personally Identifiable Information

Contacting the Office of Inspector General

Employees and the public are encouraged to contact the OIG regarding any incidents of possible waste, fraud or abuse occurring within FMC programs and operations. The OIG telephone number is **(202) 523-5863**. To report suspected wrongdoing, employees or the public may call the OIG Hotline on **(202) 523-5865**. A confidential or anonymous message can be left 24 hours a day. Complaints or allegations of fraud, waste or abuse can also be emailed to oig@fmc.gov or to <https://www2.fmc.gov/oigcomplaints/> (if the complainant wishes to remain anonymous).

HOTLINE COMPLAINTS

The success of the OIG mission to prevent fraud, waste and abuse depends on the cooperation of FMC employees and the public.

A COMPLAINT CAN BE REPORTED BY CALLING OUR 24-HR DIRECT LINE

(202) 523-5865

E-MAIL ADDRESS:

<https://www2.fmc.gov/oigcomplaints/>

TO PLACE A COMPLAINT IN WRITING PLEASE MAIL TO:

**Federal Maritime Commission
Office of Inspector General
Room 1054
800 North Capitol Street, NW
Washington, DC 20573**

To Be Opened By the IG Only

THE INFORMATION YOU PROVIDE IS CONFIDENTIAL AND YOU CAN BE ANONYMOUS

**HOWEVER, CALLERS ARE ENCOURAGED TO ASSIST THE INSPECTOR GENERAL BY
SUPPLYING INFORMATION AS TO HOW THEY MAY BE CONTACTED FOR ADDITIONAL INFORMATION**