

# Office of Inspector General

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**Semiannual Report to Congress  
Covering the Period**

**April 1, 2020 – September 30, 2020**



**FEDERAL MARITIME COMMISSION**

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**FEDERAL MARITIME COMMISSION**  
Washington, DC 20573

October 29, 2020

*Office of Inspector General*

Dear Chairman Khouri and Commissioners Dye, Maffei, Sola and Bentzel:

The following report is submitted in accordance with Section 5 of the Inspector General Act of 1978, as amended. This report summarizes the activities of the Federal Maritime Commission (FMC) Office of Inspector General (OIG) for the period April 1, 2020 to September 30, 2020. During this reporting period, the OIG completed several program reviews, and initiated two required annual audits. All of these assignments are discussed in more detail in this report.

The OIG continues to appreciate the cooperation and courtesies provided by the FMC's leadership and staff.

Respectfully submitted,

Jon Hatfield  
Inspector General

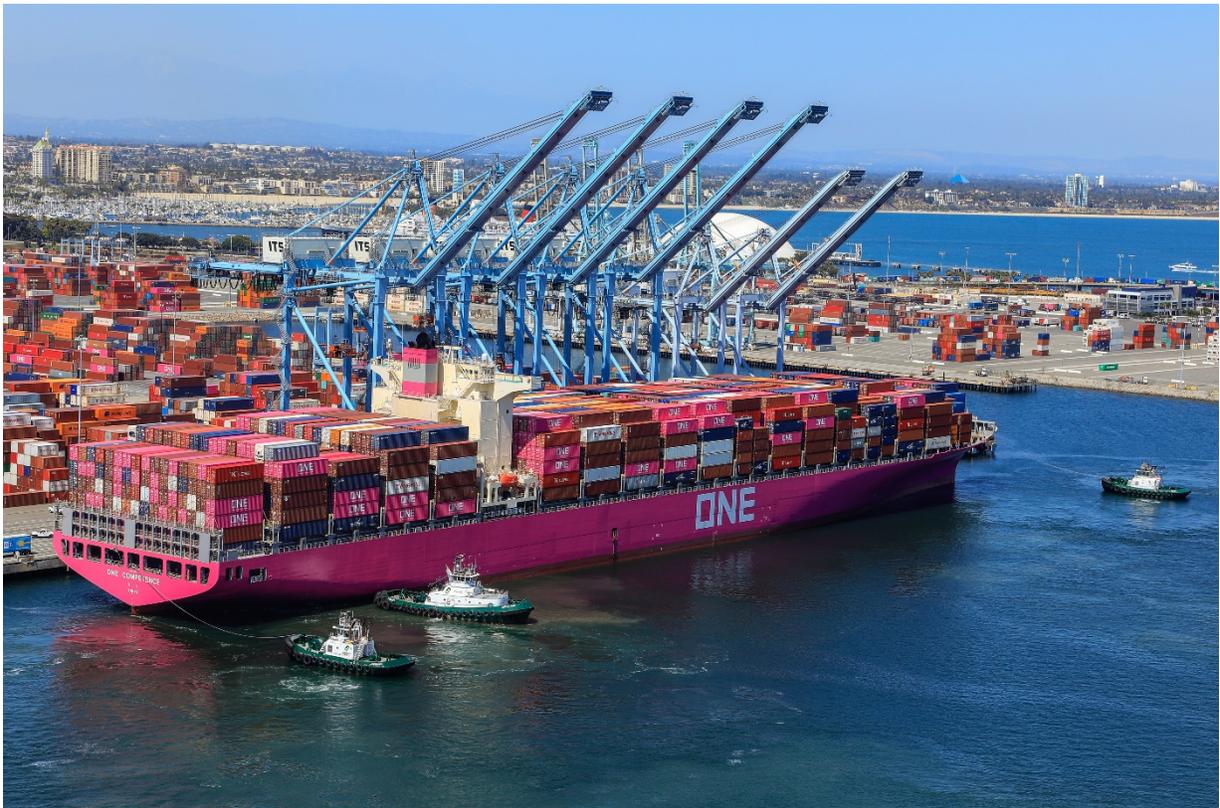
Enclosure

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**Pictured: Port of Long Beach, CA: Long Beach Container Terminal, Pier G.**



*Picture source: Courtesy of the Port of Long Beach.*

## **EXECUTIVE SUMMARY**

This semiannual report summarizes the activities and accomplishments of the Federal Maritime Commission (FMC), Office of Inspector General (OIG) for the six-month reporting period April 1, 2020 through September 30, 2020. During this reporting period, the OIG completed several program reviews, and initiated two annual audits. Additional details on these assignments can be found in subsequent sections of this report.

During the period, the OIG received one hotline complaint, and one hotline complaint was closed during the period. There was one hotline complaint open at the end of the reporting period. There were no investigations or matters referred to prosecutorial authorities during this period.

## **FEDERAL MARITIME COMMISSION**

The FMC is an independent Federal agency responsible for ensuring a competitive and reliable ocean transportation supply system that supports the U.S. economy and protects the public from unfair and deceptive practices. 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 U.S. Senate, each serving five-year terms. The majority of FMC personnel are located in Washington, D.C., however, the FMC also maintains a presence in Los Angeles, Seattle, New York, New Orleans, Houston, and South Florida through Area Representatives. These Area Representatives serve the major ports and transportation centers within their respective geographic areas, and provide information, liaison, and investigatory services on behalf of the FMC.

## **OFFICE OF INSPECTOR GENERAL**

The OIG was established in 1989 by the Inspector General (IG) Act of 1978, as amended (5 U.S.C. app.). The OIG is an independent audit and investigative unit headed by an Inspector General (IG) who reports to the FMC Commissioners and Congress. 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 IG 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 this 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 Congressional appropriating and authorizing committees. This dual reporting requirement helps to ensure the independence of the OIG.

## **OFFICE OF INSPECTOR GENERAL ACTIVITIES**

### **Completed Assignments**

*OIG Review of FMC's Lease, Change, and Construction Management Support Services Contract.* The OIG completed a review of the FMC's lease, change, and construction management support services contract (lease consulting contract). The FMC's headquarters lease will expire in September 2022, but the planning process for a new lease begins years prior to the lease expiration. In September 2019, the FMC awarded a contract for expert advice, guidance, and assistance with space requirements, space design, and organizational change associated with the re-competition of the agency's headquarters lease. The OIG reviewed the solicitation and award of the lease consulting contract to assess compliance with the Federal Acquisition Regulation (FAR).

Based on our review, the OIG concluded the agency adhered to the FAR for the solicitation and award of the lease consulting contract. However, our review identified a weakness in the agency's security program for the acquisition process. Specifically, the OIG determined the contractor personnel for the lease consulting contract had not been cleared by the agency's personnel security officer (PSO) prior to commencing work on the contract. Upon further examination, the OIG identified two additional contracts with similar issues.

After the OIG's review, FMC management reported the required security requirements had been performed. In addition, management agreed to enhance policies by creating a Managing Directive to provide guidance on security requirements for service contracts to all FMC employees, including the personnel security officer (PSO), contracting officer (CO), and

contracting officer's representatives (CORs). The guidance will include direction that the PSO continue to maintain a real-time inventory for all agency contractor personnel, including the status of background investigations and whether they have been cleared to work at the Commission, and instruction for the CO and CORs to consult with the PSO throughout the contract solicitation and award process to ensure that security requirements are met.

***Risk Assessment of the FMC's Purchase Card Program.*** Executive agencies, including the FMC, use purchase cards to purchase needed goods and services for the agency. In accordance with the *Government Charge Card Abuse Prevention Act of 2012* (Charge Card Act), Public Law 112-194, Federal agencies are required to establish and maintain safeguards and internal controls for purchase cards. The Charge Card Act requires the Inspector General (IG) of each executive agency to conduct a periodic risk assessment of the agency's purchase card program. The objective is to assess the risk of illegal, improper, or erroneous use of the purchase card program to determine the scope, frequency, and number of future audits and reviews to be conducted by the OIG.

To assess risk for the purchase card program, the OIG considered several factors, including: effectiveness of internal controls; training requirements; policies and procedures; prior problems with the program, if any; and previous audits and reviews. The OIG concluded the risk of illegal, improper, or erroneous use in the FMC's purchase card program is "low." As a result, an OIG audit or review of the agency's purchase card program is not planned for 2020.

***FMC's Compliance with Reporting and Performance Requirements Regarding Improper Payments.*** Each agency IG is required to review improper payment reporting in their agency's annual Performance and Accountability Report (PAR) or Annual Financial Report (AFR). The objective of the review is to determine if the agency is adhering to reporting requirements of the Improper Payments Information Act of 2002 (IPIA), as amended. The purpose of IPIA, as amended, and the related requirements, are to improve the Federal government's efforts to reduce and recover improper payments.

The FMC reported that based on the results of testing a sample of transactions, the FMC's assessment of risk factors, and reliance on internal controls, including an appropriate segregation of duties, there were no FMC programs or activities susceptible to significant erroneous payments in FY 2019. For FY 2019, the FMC reported no improper payments. The OIG concluded the FMC complied and met the requirements that are applicable to the agency for improper payment reporting.

***Audit Survey of the Succession Planning Process.*** The OIG completed an audit survey of the agency's succession planning process to identify any improvements to the agency's succession planning process; and to decide whether a more detailed OIG audit of the process would be beneficial. Succession planning is designed to ensure the continued effective performance of an organization, division, department, or work group by making provisions for the development, replacement, and strategic application of key people over time. According to the FMC's Office of Human Resources (OHR), 20% of the FMC's employees are eligible to retire in 2020, and more than half of the FMC's employees will be eligible to retire between 2020 and the end of 2030. Among other reasons, these statistics underline the importance of preparing for the retirement of employees, in addition to vacancies in positions caused by an employee being promoted or leaving to work elsewhere.

The OIG's audit survey did not reveal any problem areas that would benefit from further review by the OIG. The OIG found the FMC utilizes a variety of information to assist the Commission in identifying trends for succession planning purposes. The agency has also implemented some succession planning best practices. While the OIG made no recommendations as a result of the audit survey, the OIG did provide three suggestions to improve the agency's succession planning process based on best practices. The Office of Human Resources agreed to consider the suggestions.

## **Open Audits**

*Independent Auditors' Report of FMC's FY 2020 Financial Statements, A21-01.* The audit objectives are to opine on whether the FMC's FY 2020 financial statements follow U.S. Generally Accepted Accounting Principles and present fairly the financial position of the agency. The audit will also review internal controls over financial reporting, and agency compliance with financial related laws and regulations. The statements to be audited are the Balance Sheet as of September 30, 2020, and the related Statement of Net Cost, Statement of Changes in Net Position, Statement of Budgetary Resources, and Statement of Custodial Activity. The final audit report will be issued by November 16, 2020.

*Audit of FMC's Compliance with the Federal Information Security Modernization Act (FISMA) FY 2020, A21-02.* The objective of the independent audit of the FMC's information security program is to identify improvements for the agency's information technology security program. The audit will assess compliance with FISMA and related information security policies, procedures, standards, and guidelines. The scope of this audit includes general controls of the FMC network and applications housing service contracts, tariff location filings, and FMC license applications. The OIG will evaluate potential system vulnerabilities and assess management actions to implement prior-year recommendations. The final audit report will be issued by November 2, 2020.

## **Hotline and 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 by employees or contractors. 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 the period, the OIG received one hotline complaint, and one hotline complaint was closed during the period. There was one hotline complaint open at the end of the reporting period. There were no investigations or matters referred to prosecutorial authorities during this period.

## **Memorandum of Understanding**

In accordance with Section 6 of the Inspector General Reform Act of 2008, each Inspector General shall have his or her own legal counsel, or obtain the services of a counsel appointed by and directly reporting to another Inspector General or the Council of the Inspectors General on Integrity and Efficiency (CIGIE) on a reimbursable basis. The OIG has a memorandum of understanding (MOU) with the Treasury Inspector General for Tax Administration for the FMC OIG to obtain legal advice services to carry out its responsibilities under the Inspector General Act.

## **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, waste, and abuse.

## **Council of the Inspectors General on Integrity and Efficiency (CIGIE) Activities**

The 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 Offices of Inspectors General.

During this reporting period, the IG served on the CIGIE's Audit Committee. The Audit Committee is responsible for coordinating government-wide activities that promote economy and efficiency in Federal programs and operations, and to address areas of weakness and vulnerability with respect to fraud, waste, abuse, and mismanagement. The Audit Committee serves as a

resource for the Federal audit community, maintains professional audit standards, and develops auditor training requirements.

The CIGIE is comprised of all inspectors general that are Presidentially-appointed / Senate confirmed and those that are appointed by agency heads. The FMC OIG remains active in CIGIE operations. Specifically, the OIG is a member of CIGIE, participates in the monthly CIGIE meetings, and periodically assists CIGIE on special projects.

## SUMMARY OF INSPECTOR GENERAL REPORTING REQUIREMENTS

IG Act Reference	Reporting Requirement	Pages
<b>Section 5(a)(1)</b>	Significant problems, abuses and deficiencies	None
<b>Section 5(a)(2)</b>	Recommendations with respect to significant problems, abuses, or deficiencies	None
<b>Section 5(a)(3)</b>	Prior recommendations on which corrective actions have not been completed	9
<b>Section 5(a)(4)</b>	Matters referred to prosecutorial authorities and results	None
<b>Section 5(a)(5)</b>	Summary of instances where information was refused	None
<b>Section 5(a)(6)</b>	List of audit, inspection, and evaluation reports by subject matter, and where applicable, the value of questioned costs, unsupported costs, and funds put to better use	9
<b>Section 5(a)(7)</b>	Summary of each report	2-4
<b>Section 5(a)(8)</b>	Audit, inspection, and evaluation reports with questioned and unsupported costs	None
<b>Section 5(a)(9)</b>	Audit, inspection, and evaluation report recommendations that funds be put to better use	None
<b>Section 5(a)(10)</b>	Summary of each audit, inspection, and evaluation report issued before the commencement of this reporting period for which no management decision was made by the end of the reporting period; for which comments were not returned within 60 days of report issuance; and for which there are any outstanding unimplemented recommendations	None
<b>Section 5(a)(11)</b>	Description and explanation of significant revised management decisions	None
<b>Section 5(a)(12)</b>	Significant management decisions with which the inspector general disagrees	None
<b>Section 5(a)(13)</b>	Information under Section 804(b) of the Federal Financial Management Improvement Act (FFMIA) of 1996	None
<b>Section 5(a)(14)(15)</b>	Peer review activity on FMC OIG	12, App. A
<b>Section 5(a)(16)</b>	Peer review activity by FMC OIG on another OIG	12, App. A
<b>Section 5(a)(17)</b>	Statistical tables on investigative activities	None
<b>Section 5(a)(18)</b>	Description of metrics used for developing the data for the statistical table under Section 5(a)(17)	None
<b>Section 5(a)(19)</b>	Report on each investigation involving a senior Government employee where allegations of misconduct were substantiated	None
<b>Section 5(a)(20)</b>	Description of whistleblower retaliation	None
<b>Section 5(a)(21)</b>	Description of any attempt by the establishment to interfere with the independence of the OIG	None
<b>Section 5(a)(22)</b>	Description of particular circumstances of each inspection, evaluation, and audit conducted that is closed and was not disclosed to the public; and investigation conducted by the OIG involving a senior Government employee that is closed and was not disclosed to the public	None

**TABLE I - Summary of Reports with Corrective Actions Outstanding for More than 6 Months**

Report Title	Report Number	Issue Date	Recommendations		
			Number	Open	Closed
<b><i>Evaluation of the FMC's Information Technology Inventory</i></b>	A-18-04	05/31/18	4	4 *	0
*In a memorandum dated October 19, 2020, the Managing Director informed the IG that the agency has corrected the recommendations. The Office of Information Technology (OIT) has replaced the manual computer equipment inventory spreadsheet with a new automated tracking system, and the agency's computer equipment has been barcoded with the new automated system, among other actions to address the OIG's recommendations. The OIG initiated a follow-up of the agency's corrective actions during this reporting period.					
<b><i>Independent Auditor's Report of the FMC's FY 2019 Financial Statements (Management Letter)</i></b>	A-20-02a	09/30/19	6	3 *	3
*In a memorandum dated October 19, 2020, the Managing Director informed the IG that the agency has corrected three of the six recommendations. The OIG reviewed actions taken by management during this reporting period and the OIG closed three of the six recommendations. Further, management is working to resolve the other three open recommendations.					
<b><i>DATA Act Audit, 2019</i></b>	A-20-01	11/7/19	3	3 *	0
*In a memorandum dated October 19, 2020, the Managing Director informed the IG that the agency has corrected the recommendations. The OIG is planning to conduct the third of three required DATA Act audits in early 2021, and the audit will include a follow-up of these recommendations.					

**TABLE II - Listing of Reports Issued**

Report Title	Assignment Number	Issue Date	Questioned Costs	Unsupported Costs	Funds Put to Better Use
N/A	N/A	N/A	\$0	\$0	\$0

**TABLE III - Reports with Questioned Costs**

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

	<b>Number of Reports</b>	<b>Dollar Value</b>
<b>A.</b> For which no management decision has been made by the commencement of the reporting period.	0	\$0
<b>B.</b> Which were issued during the reporting period.	0	\$0
<b>Subtotal (A + B)</b>	<b>0</b>	<b>\$0</b>
<b>C.</b> 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
<b>D.</b> For which no management decision has been made by the end of the reporting period.	0	\$0
<b>E.</b> Reports for which no management decision was made within six months of issuance.	0	\$0

## Appendix A - Peer Review Activity

In accordance with the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Section 989C of P.L. 111-203), which amended Section 5 of the Inspector General Act of 1978, OIGs are required to include in their semiannual reports (SAR) to Congress the results of peer reviews of their offices, as well as outstanding and not fully implemented recommendations from peer reviews the OIG received from another OIG, and outstanding and not fully implemented recommendations the OIG made in any peer review it performed for another OIG.

An external audit peer review of the FMC OIG audit office was completed on May 23, 2019 by the U.S. Equal Employment Opportunity Commission OIG. A *pass* rating was issued and there were no recommendations contained in the system review report.

In addition, the OIG completed an audit peer review of the U.S. Commodity Futures Trading Commission (CFTC) OIG during a prior reporting period and issued a peer review report on August 13, 2019. The FMC OIG issued a *pass* rating and there were no recommendations contained in the system review report to the CFTC OIG.



# HOTLINE COMPLAINTS

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

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.

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

(202) 523-5865

**ONLINE COMPLAINT FORM:**

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

**TO PLACE A COMPLAINT IN WRITING PLEASE MAIL TO:**

Federal Maritime Commission  
Office of Inspector General  
Suite 1054  
800 North Capitol Street, NW  
Washington, DC 20573  
*To Be Opened By the IG Only*

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