

Office of Inspector General

**Semiannual Report to Congress
Covering the Period**

October 1, 2018 – March 31, 2019



FEDERAL MARITIME COMMISSION



FEDERAL MARITIME COMMISSION
Washington, DC 20573

April 30, 2019

Office of Inspector General

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

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 October 1, 2018 to March 31, 2019.

During this reporting period, the OIG completed one audit and one evaluation; initiated a new audit; and completed the required annual risk assessment of the FMC's purchase card program. Specifically, the OIG completed the FY 2018 annual financial statement audit and the FY 2018 annual evaluation of the FMC's compliance with the Federal Information Security Management Act. The OIG also initiated a compliance audit of the DATA Act, and completed the risk assessment of the purchase card program.

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 Seattle, Washington.



Photo courtesy of the Port of Seattle.

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 October 1, 2018 through March 31, 2019. The most significant activities of the OIG during the first half of fiscal year (FY) 2019 are summarized below and additional details can be found in subsequent sections of this report.

During this reporting period, the OIG completed one audit and one evaluation; initiated a new audit; and completed the required annual risk assessment of the FMC's purchase card program. Specifically, the OIG completed the FY 2018 annual financial statement audit (A19-01) and the FY 2018 annual evaluation of the FMC's compliance with the Federal Information Security Management Act (A19-02). The OIG also initiated a compliance audit of the DATA Act, and completed the risk assessment of the purchase card program. All of these assignments are discussed in more detail later in this report.

At the beginning of this period, there was one hotline complaint open. There were no new hotline complaints received during the period and the one hotline complaint remained open at the end of the reporting period. There were no new investigations or matters referred to prosecutorial authorities during this period and no investigations open at the end of the 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. In January 2019, two of the three previously vacant Commissioner positions were filled. Commissioners Mr. Louis E. Sola and Mr. Daniel B. Maffei were both nominated by President Trump on November 15, 2018, confirmed by the United States Senate on January 2, 2019, and appointed to the Commission by the President on January 15, 2019.

Currently one of the five Commissioner positions is vacant. On March 7, 2019, the White House notified the FMC that President Trump designated Michael A. Khouri as Chairman of the FMC. Chairman Khouri had been serving previously as Acting Chairman since January 2017, and as a Commissioner since January 2010.

Although the majority of FMC personnel are located in Washington, D.C., 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 IG who reports to the FMC Commissioners and Congress. 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 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.

To aid the FMC in accomplishing its mission, the OIG is provided two full-time positions, the IG and an auditor. During this reporting period, the OIG was pleased to welcome Mr. Parker Skaats to the OIG as a full-time permanent employee. Mr. Skaats was previously a Pathways Program auditor intern with the office since May 2018. Following Mr. Skaats' graduation in December 2018 from American University, and completion of the Pathways Program, he was converted to the OIG's vacant auditor position. The OIG is appreciative of the support from the FMC's Office of Human Resources that enabled the OIG to utilize the Pathways Program; Mr. Skaats is the first Pathways intern converted to a full-time position for the agency. The OIG is hopeful the agency will continue to utilize the Pathways Program for future agency positions.

OFFICE OF INSPECTOR GENERAL ACTIVITIES

Completed Audit, Evaluation, and Other Review

Independent Auditors' Report of the FMC's FY 2018 Financial Statements, A19-01.

The audit report was issued on November 7, 2018. The OIG contracted with Dembo Jones, P.C. to perform the audit and the OIG actively monitored and reviewed the work and results of the contractor. The audit objectives were to opine on whether the FMC's FY 2018 financial statements followed U.S. Generally Accepted Accounting Principles (GAAP) and presented fairly the financial position of the agency. The auditors also reviewed internal controls over financial reporting and agency compliance with laws and regulations. The statements audited were the balance sheet as of September 30, 2018, and the related statements of net cost, changes in net position, budgetary resources and custodial activity for the year then ended.

The independent auditor opined that the FMC'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 no reportable noncompliance with laws and regulations tested. Therefore, there were no findings or recommendations in the audit report.

Evaluation of FMC's Compliance with the Federal Information Security Management Act (FISMA) FY 2018, A19-02. The evaluation report was issued on October 31, 2018. The OIG contracted with Your Internal Controls, LLC to perform the evaluation and the OIG actively monitored and reviewed the work and results of the contractor. The objectives of this independent evaluation of the FMC's information security program were to evaluate its security posture by assessing compliance with the FISMA and related information security policies, procedures, standards, and guidelines.

The scope of the testing focused on the FMC General Support Systems (GSS) and major applications. Evaluation testing included inquiry of FMC personnel, observation of activities, inspection of relevant documentation, and the performance of technical security testing. More specifically, testing covered a sample of controls as listed in National Institute of Standards and

Technology's (NIST) 800-53, Recommended Security Controls for Federal Information Systems and Organizations, Revision 4. The evaluation report contained five recommendations to address four findings; FMC management agreed with the five recommendations. In addition, the OIG concluded the FMC had effectively implemented one of the two prior year FISMA recommendations.

2018 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 and Office of Management and Budget (OMB) implementing guidance for the Act require the Inspector General (IG) of each executive agency to conduct an annual risk assessment of the agency's purchase card program. The objective of the risk assessment was to assess the risk of illegal, improper, or erroneous use of the purchase cards to determine the scope, frequency, and number of future audits and reviews to be conducted by the OIG. The OIG concluded the risk of illegal, improper, or erroneous use in the FMC's purchase card program is "**low**." Subsequent to the completion of the risk assessment, the agency planned additional internal controls for the program; the OIG also suggested two additional controls for the program.

Open Audit

DATA Act Audit, 2019. The Digital Accountability and Transparency Act of 2014 (DATA Act), in part, requires federal agencies to report financial and award data in accordance with the established Government-wide financial data standards. In May 2015, the OMB and the Department of Treasury published 57 data definition standards and required federal agencies to report financial data in accordance with these standards for DATA Act reporting, beginning January 2017. Once submitted, the data will be displayed on USAspending.gov for taxpayers and policy makers to understand how taxpayer dollars are being spent.

The DATA Act also requires the IG of each federal agency to review a statistically valid sample of the spending data submitted by its federal agency and to submit to Congress a publicly available report assessing the completeness, timeliness, quality, and accuracy of the data sampled and the implementation and use of the Government-wide financial data standards by the federal agency. The OIG commenced the audit in March 2019 and plans to issue the final audit report by November 8, 2019. This is the second of three required DATA Act audits; the first audit was completed in November 2017 and included one audit recommendation.

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.

At the beginning of this period, there was one hotline complaint open. There were no new hotline complaints received during the period and the one hotline complaint remained open at the end of the reporting period. There were no new investigations or matters referred to prosecutorial authorities during this period and no investigations open at the end of the 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 Federal Election Commission (FEC) OIG under which the FEC IG's Counsel also serves as the FMC IG's Counsel on a reimbursable basis.

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 Office 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 Inspector General (IG) 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 |
|-----------------------------|--|------------|
| 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 | None |
| Section 5(a)(4) | Matters referred to prosecutorial authorities and results | None |
| Section 5(a)(5) | Summary of instances where information was refused | None |
| Section 5(a)(6) | 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 | 10 |
| Section 5(a)(7) | Summary of each report | 3-4 |
| Section 5(a)(8) | Audit, inspection, and evaluation reports with questioned and unsupported costs | None |
| Section 5(a)(9) | Audit, inspection, and evaluation report recommendations that funds be put to better use | None |
| Section 5(a)(10) | 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 |
| 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 804(b) of the Federal Financial Management Improvement Act (FFMIA) of 1996 | None |
| Section 5(a)(14)(15) | Peer review activity on FMC OIG | 12, App. A |
| Section 5(a)(16) | Peer review activity by FMC OIG on another OIG | 12, App. A |
| Section 5(a)(17) | Statistical tables on investigative activities | None |
| Section 5(a)(18) | Description of metrics used for developing the data for the statistical table under Section 5(a)(17) | None |
| Section 5(a)(19) | Report on each investigation involving a senior Government employee where allegations of misconduct were substantiated | None |
| Section 5(a)(20) | Description of whistleblower retaliation | None |
| Section 5(a)(21) | Description of any attempt by the establishment to interfere with the independence of the OIG | None |
| Section 5(a)(22) | 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 |
| <i>Evaluation of the FMC's Information Technology Inventory</i> | A-18-04 | 05/31/18 | 4 | 4 * | 0 |
| *In a memorandum dated April 24, 2019, the Managing Director informed the IG that the agency has already corrected several of the recommendations. The other recommendations are being addressed with an asset inventory and tracking system recently purchased by the agency that is currently being implemented. The OIG plans to follow-up on the audit recommendations after the agency has fully implemented the new asset inventory and tracking system; this will enable the OIG to close the recommendations. | | | | | |
| <i>DATA Act Audit, 2017</i> | A18-03 | 11/08/17 | 1 | 1** | 0 |
| **In a memorandum dated April 19, 2018, the Managing Director informed the IG that the agency considers this recommendation closed. Specifically, management developed and implemented a standard operating procedure to ensure accurate DATA Act reporting. The OIG plans to follow-up during the 2019 DATA Act audit to ensure the issue has been resolved; this will enable the OIG to close this recommendation. | | | | | |
| <i>Evaluation of the FMC's Compliance with the Information Security Management Act FY 2017 (FISMA)</i> | A18-02 | 10/31/17 | 2 | 1*** | 0 |
| ***For the one open recommendation, in a memorandum dated October 26, 2018, the Managing Director informed the IG that the agency has a policy in place to disable the accounts of those separating from the FMC within 5 days – OIT disables the account of the separating employee at the time of their checkout form (Form FMC-25, Employee Clearance Statement) is presented for OIT's sign off. In the two instances noted during the FY 2018 review, OIT promptly changed the passwords on the email accounts, ensuring that separated users could not access their accounts. However, the accounts were not disabled because of the abrupt nature of their departures from the agency and the immediate need to access emails and files necessary for the agency to complete critical tasks. Further, the Managing Director advised in her October 26 memorandum that additional procedures had been implemented immediately. | | | | | |

TABLE II - Listing of Reports Issued

| Report Title | Assignment Number | Issue Date | Questioned Costs | Unsupported Costs | Funds Put to Better Use |
|--|-------------------|------------|------------------|-------------------|-------------------------|
| <i>Independent Auditors' Report of the FMC's FY 2018 Financial Statements</i> | A19-01 | 11/7/18 | \$0 | \$0 | \$0 |
| <i>Evaluation of FMC's Compliance with the Federal Information Security Management Act (FISMA) FY 2018</i> | A19-02 | 10/31/18 | \$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 - 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 initiated in February 2019 by the Equal Employment Opportunity Commission OIG. The peer review is expected to be complete during the next reporting period. The last external peer review of the FMC OIG audit office was completed on March 24, 2016, by the U.S. International Trade Commission OIG. A *pass* rating was issued and there were no recommendations contained in the peer review report.

During a prior reporting period ending September 30, 2016, the OIG conducted an audit peer review of the Election Assistance Commission (EAC) OIG and issued a peer review report on July 20, 2016. The FMC OIG issued a modified peer review report to the EAC OIG, and the peer review report contained no recommendations.



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

THE INFORMATION YOU PROVIDE IS CONFIDENTIAL. YOU CAN CHOOSE TO REMAIN ANONYMOUS; HOWEVER, INDIVIDUALS ARE ENCOURAGED TO ASSIST THE INSPECTOR GENERAL BY SUPPLYING INFORMATION AS TO HOW THEY MAY BE CONTACTED FOR ADDITIONAL INFORMATION.