

INSPECTOR GENERAL'S STATEMENT ON MANAGEMENT AND PERFORMANCE CHALLENGES



FEDERAL MARITIME COMMISSION
Washington, DC 20573

October 16, 2020

Office of Inspector General

TO: Chairman Khouri
Commissioner Dye
Commissioner Maffei
Commissioner Sola
Commissioner Bentzel

FROM: Inspector General

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

The Reports Consolidation Act of 2000 (Public Law 106-531) requires inspectors general to provide a summary and assessment of the most serious management and performance challenges facing Federal agencies, and their progress in addressing these challenges. The attached document responds to the requirements and provides the annual statement to be included in the Federal Maritime Commission's (FMC) Performance and Accountability Report (PAR) for fiscal year (FY) 2020.

This year, the Office of Inspector General (OIG) has identified two management and performance challenges, the *Coronavirus Disease 2019 (COVID-19) pandemic* and *information technology (IT) security*. Both challenges are also government-wide challenges and not unique to the FMC. This assessment is based on information derived from a combination of sources, including OIG evaluation work; Commission reports; Federal government reports; and a general knowledge of the Commission's programs.

The Reports Consolidation Act of 2000 permits agency comment on the inspector general's statements. Agency comments, if applicable, are to be included in the final version of the FMC PAR that is due by November 16, 2020.

/s/

Jon Hatfield

Attachment

Cc: Karen V. Gregory, Managing Director
Peter J. King, Deputy Managing Director
Steven J. Andersen, General Counsel
Kathie L. Keys, Special Assistant to the Managing Director

Office of Inspector General (OIG)
Fiscal Year 2020 Management Challenges

The Management Challenge - Coronavirus Disease 2019 (COVID-19) Pandemic

COVID-19 has created significant challenges in the United States and globally due to the serious health and economic impact and turmoil, and the FMC has experienced this impact. The agency's mission is to ensure a competitive and reliable international ocean transportation supply system that supports the U.S. economy and protects the public from unfair and deceptive practices. The Commission has been focused on COVID-19 related impacts on ocean shipping and the cruise industry.

Compounding the challenges created by COVID-19 has been the location where most of the FMC's employees have been working the past several months – remotely, i.e. at home. Effectively utilizing existing computer technology, and with the implementation of remote work processes, the Commission established maximum telework flexibility due to the pandemic for its entire workforce. The agency headquarters has remained open throughout the pandemic, and several employees continue to work in their offices in Washington, D.C. Procedures have been established for those employees who continue to work at the FMC's headquarters, to include a requirement for face coverings and social distancing to maintain the health and safety of the workforce and public.

Agency Progress in Addressing the Challenge

The agency maintains a maximum telework operating status, and continued limited on-site activities as needed. Among the FMC's COVID-19 focus have been fact finding investigations, potential for regulatory relief by the agency, and an advanced notice of proposed rulemaking to address the process for cruise passengers to obtain a refund when a vessel does not sail. The cruise industry, an area the FMC has some statutory authority, has experienced significant economic impact due to COVID-19. Specifically, the Director of the Centers for Disease Control issued a No Sail Order for cruise ships in March 2020, with additional extensions since then, and continuing until at least October 31, 2020.

Early on in the response to COVID-19, the FMC Chairman asked his fellow Commissioners and agency staff to identify possible regulatory relief the agency could grant that might make a difference to American shippers and consumers, ocean carriers, non-vessel operating common carriers, freight forwarders, and marine terminal operators. In April, FMC instituted a change in the deadline for parties to file service contracts, a relief through December 31, 2020. In addition, Commissioners have led fact finding investigations related to the COVID-19 impact on the supply chain and cruise industry.

The Challenge Ahead

Consistent with Federal guidance, the FMC has drafted a plan to provide guidance for resuming a pre-COVID-19 operational status, while maintaining the health and safety of the FMC workforce and public. The plan consists of a phased approach based on the advice of public health experts. Guidance has been drafted to implement the phased approach to re-occupy facilities, provide safety measures and protocols, and set forth employee responsibilities for the new safety

requirements. FMC management provided the agency's workforce with the draft plan to resume pre-COVID operations and invited comments and questions. Along with other offices, the OIG reviewed the plan and provided comments to management.

During the pandemic, the FMC Chairman has provided weekly updates to the workforce on the agency's operating status, work activities, and reminders to follow health officials' COVID-19 guidelines, to include face coverings in public and social distancing. In a weekly update in October, the Chairman advised staff the agency continues to monitor local conditions at headquarters and field offices. In addition, the Chairman reiterated that the agency's commitment to the safety and health of Commission employees, contractors, and the public will continue to lead the agency's considerations and discussions regarding a return to the workplace and COVID-19. The OIG will continue to be engaged with agency management on their planning and decisions to return to a pre-COVID-19 operational status safely and effectively.

The Management Challenge - Information Technology (IT) Security

Over the last several years and continuing in FY 2020, the OIG has found the FMC to be focused on maintaining an effective IT security program. However, a computer incident at the FMC in the fall of 2019 demonstrated that IT security continues to be a key risk for the agency. The Government Accountability Office (GAO) maintains a high-risk program to focus attention on government operations that GAO identifies as high-risk due to their greater vulnerabilities to fraud, waste, abuse, and mismanagement or the need for transformation to address economy, efficiency, or effectiveness challenges. GAO first designated Federal information security as a government-wide high-risk area over 20 years ago. In 2003, GAO expanded this area to include computerized systems supporting the nation's critical infrastructure and, in 2015, GAO further expanded this area to include protecting the privacy of personally identifiable information.

The Office of Management and Budget (OMB) publishes an annual report to Congress in accordance with the Federal Information Security Modernization Act of 2014 (FISMA). OMB's annual report provides an analysis of agency application of intrusion detection and prevention capabilities, and information from chief information officers and inspectors general from across the executive branch. OMB's FY 2019 report recognizes that cybersecurity threats facing the Federal government and our Nation reinforce the need for strengthening the digital defense of the country's IT environment. According to the OMB report, America's infrastructure, both public and private, continues to be a top target of malicious cyber actors intent on disrupting the geopolitical and socioeconomic stability and prosperity of the United States. OMB states that this persistent threat is a constant reminder that effective cybersecurity is required by all organizations - public and private - to identify, prioritize, and manage cyber risks across their enterprise.

Agency Progress in Addressing the Challenge

FISMA establishes information security program and evaluation requirements for Federal agencies in the executive branch, including the FMC. Each year, the FMC OIG performs an independent audit of the information security program and practices of the agency. The results of the audit are reported annually to OMB; selected congressional committees; the Comptroller General; and the FMC's Commission and management.

In the OIG's *Audit of the FMC's Compliance with the Federal Information Security Modernization Act (FISMA) FY 2020*, the OIG found the FMC had effectively implemented all

the prior year FISMA recommendations. Further, the FY 2020 FISMA audit contained two new recommendations to address one finding. Specifically, the FY 2020 FISMA audit found that although the FMC has various information technology security policies and procedures, several had not been reviewed or updated in a timely manner, or they were lacking from development into a formalized policy. The OIG recommended the agency review, update, and finalize the applicable policies and procedures in accordance with Federal and agency requirements.

The Challenge Ahead

The FMC's Office of Information Technology reported in late 2019 the deployment of several additional IT security protocols to further protect the FMC's computer network. Significant cybersecurity incidents in the Federal government in recent years highlight that continued advancements in computer and communication technologies will likely result in ongoing challenges protecting Federal systems, to include the FMC. Particularly because of the FMC's small size and limited resources, it is critical for the FMC to prioritize security controls and enhancements based on risk and continue to properly plan and partner with Federal agencies to protect vital agency resources.

COMMENTS ON INSPECTOR GENERAL'S STATEMENT

The Commission welcomes the Inspector General's annual audits, reviews, and recommendations for strengthening its IT security controls and helping it to mitigate risk overall. These play an essential role in keeping the Commission up-to-date on the significant risks and challenges facing the Federal government as a whole, and are invaluable in aiding the Commission in protecting its resources. Additionally, the Commission appreciates the OIG's continuing engagement with management on the planning and decision-making process to safely return to a pre-COVID-19 operational status.