

Office of Inspector General

Audit of the FMC's User Fees Methodology

A25-02



April 2025

FEDERAL MARITIME COMMISSION



FEDERAL MARITIME COMMISSION
Washington, DC 20573

April 30, 2025

Office of Inspector General

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

Please find attached the Office of Inspector General's (OIG) Performance Audit Report of the Federal Maritime Commission's (FMC) User Fees Methodology. The OIG contracted with the independent certified public accounting firm Harper, Rains, Knight & Company (HRK) to perform the audit of the FMC's User Fees Methodology and compliance with Office of Management and Budget (OMB) Circular A-25, *User Charges*.

The FMC collects custodial revenue from user fees for the application of licenses issued to qualified Ocean Transportation Intermediaries (OTIs), petitions, and other services the Commission provides. During fiscal year (FY) 2023, the FMC collected over \$425,000 in user fees. OMB Circular A-25, *User Charges*, requires user charges to be sufficient to recover the government's full costs. However, an agency may recommend to OMB that user fees be set below full cost when the cost of collecting the fee would represent an unduly large portion of the fee, or when other conditions exist that, in the opinion of the agency head or designee, justify such an exception.

The audit concluded that the FMC partially complied with the guidance in OMB Circular A-25 and maintained documentation of its biennial user fees calculations. The audit revealed opportunities for improvement in FMC's user fees methodology, documentation, and calculation processes. HRK identified six areas of concern and provided corresponding recommendations for the agency. FMC management agreed with all the audit findings and recommendations and their response is included in the audit report and attached in its entirety in Appendix A.

The OIG would like to thank FMC staff, especially Earl Taylor and Sondra Roberts of the Office of Budget and Finance, for their assistance in helping HRK and the OIG meet the audit objectives.

Respectfully submitted,

/s/

Jon Hatfield
Inspector General

Attachment

cc: Office of the Managing Director
Office of the General Counsel
Office of Budget and Finance



PERFORMANCE AUDIT REPORT

FEDERAL MARITIME COMMISSION
USER FEES METHODOLOGY

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INDEPENDENT AUDITORS' PERFORMANCE AUDIT REPORT ON THE FEDERAL MARITIME COMMISSION'S USER FEES METHODOLOGY

Jonathan Hatfield
Inspector General
Federal Maritime Commission

This report presents the results of our independent performance audit of the Federal Maritime Commission's (FMC) User Fees methodology, calculation process, and compliance with Office of Management and Budget (OMB) Circular A-25, *User Charges*. The Circular requires user charges (i.e. fees) to be sufficient to recover the government's full cost. However, an agency may recommend to OMB that user fees be set below full cost when the cost of collecting the fee would represent an unduly large portion of the fee, or when other conditions exist that, in the opinion of the agency head or designee, justify such an exception. These exceptions must be reviewed and approved by OMB.

According to A-25, full cost includes all direct and indirect costs to any part of the federal government of providing a good or service. These costs include, but are not limited to, an appropriate share of: (a) direct and indirect personnel costs, including salaries and fringe benefits, such as medical insurance and retirement; (b) physical overhead, consulting and other indirect costs including material and supply costs, utilities, insurance, travel and rents or imputed rents on land, buildings or equipment; (c) the management and supervisory costs; (d) the cost of enforcement, collection, research, establishment of standards, and regulation; and (e) full cost shall be determined or estimated from the best available records of the agency.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The objectives of this performance audit were to:

1. Identify any improvements to the agency's methodology of calculating user fees; and
2. Assess the accuracy of user fees calculations and compliance with OMB Circular A-25, *User Charges*.

We concluded FMC partially complied with the guidance in OMB A-25, *User Charges*, and maintained documentation of its biennial user fees calculations. However, our audit revealed opportunities for improvement in FMC's user fees methodology, documentation, and calculation processes. We found that FMC can enhance transparency, refine cost allocation methodologies, and implement more robust tracking and documentation practices. Addressing these issues will

Inspector General
Federal Maritime Commission (continued)

improve the accuracy and integrity of user fees calculations, ensuring compliance with cost recovery principles.

This report is for the purpose of concluding on the audit objectives described above. Accordingly, this report is not suitable for any other purpose. We appreciate the cooperation and courtesies that FMC personnel extended to us during the execution of this performance audit.

Harper, Raino, Knight & Company, P.A.

Washington, D.C.
April 30, 2025

Background

The Independent Offices Appropriation Act of 1952 (IOAA), 31 U.S.C. 9701, authorizes agencies to establish charges (i.e., user fees) for services and benefits that they provide to specific recipients. Under the IOAA, charges must be fair and based on the costs to the Government, the value of the service or thing to the recipient, the public policy or interest served, and other relevant facts. The IOAA also provides that regulations implementing user fees are subject to policies prescribed by the President, which are currently set forth in Office of Management and Budget (OMB) Circular A-25, *User Charges* (revised July 8, 1993).

The FMC collects custodial revenue on user fees it collects for the application of licenses issued to qualified Ocean Transportation Intermediaries (OTIs), review petitions, and other services the Commission provides. During FY 2023, the FMC collected over \$425,000 in user fees.

OMB Circular A-25 requires user charges to be sufficient to recover the government's full cost. However, an agency may recommend to OMB that user fees be set below full cost when the cost of collecting the fee would represent an unduly large portion of the fee, or when other conditions exist that, in the opinion of the agency head or designee, justify such an exception. These exceptions must be reviewed and approved by OMB.

According to OMB A-25, full cost includes all direct and indirect costs to any part of the federal government of providing a good or service. These costs include, but are not limited to, an appropriate share of: (a) direct and indirect personnel costs, including salaries and fringe benefits, such as medical insurance and retirement; (b) physical overhead, consulting and other indirect costs including material and supply costs, utilities, insurance, travel and rents or imputed rents on land, buildings or equipment; (c) the management and supervisory costs; (d) the cost of enforcement, collection, research, establishment of standards, and regulation; and (e) full cost shall be determined or estimated from the best available records of the agency. Direct costs are expenses directly linked to the production of a specific product or service, while indirect costs are expenses that support the overall agency operations but aren't directly tied to a specific product or service.

In 2010, the OIG performed a review of the FMC's user fees calculations and identified several issues with how the FMC calculated user fees. The OIG analyzed the methodology behind the fees charged to the public for services and concluded that the fees are set too low to recover full costs of providing the service to the public. The OIG found that the Office of the Managing Director needed to (i) establish user charges that reflect the full cost of the activity provided, or (ii) with the approval of the Office of Management and Budget, set fees below the full cost if the agency determines that recouping full costs would be a financial burden on the industry or the public.

Objectives, Scope, and Methodology

The objectives of this performance audit were to:

1. Identify any improvements to the agency's methodology of calculating user fees; and
2. Assess the accuracy of user fees calculations and compliance with OMB Circular A-25, *User Charges*.

We conducted this audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient and appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

We reviewed FMC's methodology for determining user fees and assessed FMC's compliance with OMB Circular A-25. We considered the internal control structure for FMC's user fees process in planning our audit procedures. Accordingly, we obtained an understanding of the internal controls over FMC's user fees through interviews and observations, as well as inspection of various documents, including user fees policies and procedures. Our understanding of user fees internal controls was used to evaluate the degree to which the appropriate internal controls were designed and implemented; however, the objective of this audit was not to conclude on internal controls.

To accomplish our audit objectives, we:

- Obtained an understanding of the FMC's methodology for determining user fees;
- Reviewed the FMC's methodology for determining user fees to assess compliance with OMB Circular A-25;
- Conducted interviews with personnel and obtained documentation, as appropriate;
- Reviewed the status of recommendations in the most recent user fees assessment;
- Provided a written report detailing the results of the engagement and provided findings and recommendations for corrective action.

The independent performance audit was conducted from September 23, 2024, through March 31, 2025. It covered the user fees calculated for 2023 as part of FMC's biennial review.

Criteria

The criteria used in conducting this audit included:

- OMB Circular A-25, User Charges;
- OMB Circular A-76, Performance of Commercial Activities;
- OMB Circular A-11, Preparation, Submission, and Execution of the Budget;
- OMB Memorandum M-08-13, Update to Civilian Position Full Fringe Benefit Cost Factor, Federal Pay Raise Assumptions, and Inflation Factors used in OMB Circular No. A-76, "Performance of Commercial Activities";
- GAO's Government Auditing Standards (Yellow Book);
- OMB Circular A-123, Management's Responsibility for Internal Control;
- GAO's Standards for Internal Controls in the Federal Government (Green Book); and
- Other criteria as appropriate.

Results

As part of our audit of the Federal Maritime Commission's (FMC) user fees calculation process, HRK identified several areas of concern that could impact the accuracy and consistency of cost allocation.

1. **Overhead Allocation Assumptions** – FMC's overhead rate calculation assumes that all employees in the Office of the Secretary (OS), Consumer Affairs and Dispute Resolution Services (CADRS), Bureau of Trade Analysis (BTA), and Bureau of Certification and Licensing (BCL) are 100% dedicated to user fees services. The methodology lacks clear documentation supporting these assumptions, potentially leading to inaccurate cost capture.
2. **Incomplete Indirect Cost Calculation** – FMC does not include all non-payroll costs in its indirect cost calculations, limiting its ability to capture the full cost of providing services. When questioned, FMC was unable to provide a rationale for the exclusion of certain non-payroll expenses.
3. **Lack of Process Tracking** – FMC relies on employee estimates for determining labor costs associated with each user fee but does not have a formal tracking mechanism to validate the accuracy of these estimates.
4. **Inconsistent Indirect Labor Allocation** – Of the approximately fifteen offices not directly related to user fees, FMC includes only the Office of Information Technology (OIT), the Office of Human Resources (OHR), the Office of Budget and Finance (OBF), and the Office of Management Services (OMS) as part of indirect labor in their calculation.
5. **Manual Data Entry Risks** – FMC manually inputs critical cost data into the user fees calculation and overhead sheets, increasing the risk of human error.
6. **Lack of Documented Policies and Procedures** – FMC does not have a formalized policy outlining its user fees calculation methodology, which creates risks related to consistency, transparency, and compliance.

Findings and Recommendations

We concluded FMC partially complied with the guidance in OMB A-25, *User Charges*, and maintained documentation of its biennial user fees calculations. However, our audit revealed opportunities for improvement in FMC's user fees methodology, documentation, and calculation processes. We found that FMC can enhance transparency, refine cost allocation methodologies, and implement more robust tracking and documentation practices. Addressing these issues will improve the accuracy and integrity of user fees calculations, ensuring compliance with cost recovery principles.

The findings and their associated recommendations are discussed below.

Finding 1: User Fees Overhead Base & Allocation Percentage

Condition:

FMC, in calculating their overhead rate, uses the total payroll costs for Office of the Secretary (OS), Consumer Affairs and Dispute Resolution Services (CADRS), Bureau of Trade Analysis (BTA), and Bureau of Certification and Licensing (BCL) as their allocation base of the overhead calculation. Using this amount, FMC assumes all employees of these departments are 100% dedicated to user fees services. Additionally, FMC uses an allocation percentage to multiply by the indirect labor costs and non-payroll overhead costs. This percentage is developed by taking the total full-time equivalents (FTE) in OS, CADRS, BTA, and BCL then dividing by the total FTE for the entire agency. Documentation supporting the selection of these allocation bases lacks clear rationale, leading to potential inconsistencies in capturing indirect costs to establish the “full cost” in calculating user fees.

Criteria:

Circular No. A-25, *User Charges*, Revised, Section 6.a.2 states:

Determining the amount of user charges to assess. (a) Except as provided in Section 6c, user charges will be sufficient to recover the full cost to the Federal Government (as defined in Section 6d) of providing the service, resource, or good when the Government is acting in its capacity as sovereign.

Circular No. A-25, *User Charges*, Revised, Section 6.d.1 states:

“Full cost” includes all direct and indirect costs to any part of the Federal Government of providing a good, resource, or service. These costs include, but are not limited to, an appropriate share of:

- (a) Direct and indirect personnel costs, including salaries and fringe benefits such as medical insurance and retirement. Retirement costs should include all (funded or unfunded) accrued costs not covered by employee contributions as specified in Circular No. A-11.
- (b) Physical overhead, consulting, and other indirect costs including material and supply costs, utilities, insurance, travel, and rents or imputed rents on land, buildings, and equipment. If imputed rental costs are applied, they should include:
 - (i) depreciation of structures and equipment, based on official Internal Revenue Service depreciation guidelines unless better estimates are available; and
 - (ii) an annual rate of return (equal to the average long- term Treasury bond rate) on land, structures, equipment and other capital resources used.
- (c) The management and supervisory costs.

(d) The costs of enforcement, collection, research, establishment of standards, and regulation, including any required environmental impact statements.

(e) Full cost shall be determined or estimated from the best available records of the agency, and new cost accounting systems need not be established solely for this purpose.

Cause:

There is a lack of historic documentation for the rationale for these allocation bases, which has been compounded by FMC staff turnover throughout the user fees determination process.

Effect:

Using an allocation percentage and overhead rate based on the assumption that all employees in OS, CADRS, BTA, and BCL are 100% dedicated to user fees services may result in an allocation of indirect costs that is not representative of the cost to producing the user fees.

Recommendation:

We recommend that FMC:

1. Documents the rationale for using the allocation base and its review of the allocation basis at least every two years and considers:
 - a. Current operational practices, data, and cost structures;
 - b. The appropriateness of the user fees base(s);
 - c. Actual user fees collected versus the actual costs to FMC of collecting the user fees based on available data.

Managements' Response:

Management agrees with the audit finding and recommendation. The FMC will enhance its documentation processes regarding the rationale for selecting the user fees allocation base. Specifically, FMC will:

1. **Document the rationale** for selecting and applying the allocation base used for determining user fees. This documentation will include a review of current operational practices, relevant cost structures, and the methodology employed in determining the overhead allocation percentage.
2. **Establish a biennial review process** to evaluate the appropriateness of the allocation basis. This review will consider:
 - a. Updates in operational practices and any changes in cost drivers or cost structures;
 - b. The continued relevance and appropriateness of the selected user fees base(s); and
 - c. A comparison of actual user fees collected with the actual costs incurred by FMC in administering and collecting these fees, based on available data.

This process will be incorporated into FMC's internal controls and financial procedures to ensure transparency, consistency, and alignment with federal cost recovery principles. It is anticipated that this work will be completed by the end of the first quarter of FY 2026.

Finding 2: Non-Payroll Indirect Costs

Condition:

FMC's non-payroll indirect costs include only overhead expenses identified in the budgeting process, excluding other non-payroll costs. HRK, as part of our audit, inquired as to why certain non-payroll costs were excluded from the calculation for capturing the "full cost." FMC was unable to provide a rationale for the excluded non-payroll costs. For instance, phones, training, and software, components that indirectly support the overall operations of the agency, were excluded.

Criteria:

Circular No. A-25, *User Charges*, Revised, Section 6.a.2 states:

Determining the amount of user charges to assess. (a) Except as provided in Section 6c, user charges will be sufficient to recover the full cost to the Federal Government (as defined in Section 6d) of providing the service, resource, or good when the Government is acting in its capacity as sovereign.

Circular No. A-25, *User Charges*, Revised, Section 6.d.1 states:

"Full cost" includes all direct and indirect costs to any part of the Federal Government of providing a good, resource, or service. These costs include, but are not limited to, an appropriate share of:

- (a) Direct and indirect personnel costs, including salaries and fringe benefits such as medical insurance and retirement. Retirement costs should include all (funded or unfunded) accrued costs not covered by employee contributions as specified in Circular No. A-11.
- (b) Physical overhead, consulting, and other indirect costs including material and supply costs, utilities, insurance, travel, and rents or imputed rents on land, buildings, and equipment. If imputed rental costs are applied, they should include:
 - (i) depreciation of structures and equipment, based on official Internal Revenue Service depreciation guidelines unless better estimates are available; and
 - (ii) an annual rate of return (equal to the average long- term Treasury bond rate) on land, structures, equipment and other capital resources used.
- (c) The management and supervisory costs.
- (d) The costs of enforcement, collection, research, establishment of standards, and regulation, including any required environmental impact statements.

(e) Full cost shall be determined or estimated from the best available records of the agency, and new cost accounting systems need not be established solely for this purpose.

Cause:

There is a lack of historic documentation on the rationale for specific non-payroll costs being excluded, which has been compounded by FMC staff turnover throughout the user fees determination process.

Effect:

Excluding certain costs from non-payroll indirect costs can lead to an indirect overhead rate that fails to reflect the full cost, potentially causing user fees to be set inaccurately and not covering the agency's full cost of providing services.

Recommendation:

HRK recommends the following:

1. Reviewing and documenting the methodology for calculating indirect costs to ensure all costs are considered;
2. Creating an annual process to analyze the actual user fees collected versus the actual costs to FMC of the user fees services based on available data.

Managements' Response:

Management agrees with the audit finding and recommendation.

1. Review and Documentation of Indirect Cost Methodology:

FMC will conduct a comprehensive review of its current methodology for calculating non-payroll indirect costs. The review will ensure that all relevant indirect cost components are appropriately identified, considered, and documented in a standardized format. The updated methodology will be maintained as part of FMC's financial policies and procedures to promote accuracy and consistency in cost allocations.

2. Annual Analysis of Fees vs. Costs:

FMC will implement an annual review process comparing actual user fees collected with the actual costs of providing user fee-related services. This analysis will be used to assess the reasonableness of the fees in recovering costs, identify any significant variances, and inform any necessary adjustments to fee structures or cost allocation practices.

These steps will strengthen FMC's cost recovery practices and support transparency and accountability in user fee management. It is anticipated that this work will be completed by the end of the third quarter of FY 2026.

Finding 3: User Fees Direct Costs Estimation Process

Condition:

For each user fee, office or bureau employees involved in providing a service (i.e. petitions, licensing, agreements) submit to the Office of Budget and Finance (OBF) an estimation of the hours and employees, including pay grade, required to provide the service (i.e. direct costs). Per walkthroughs with multiple offices involved in the user fees process, HRK found that FMC does not have a mechanism to calculate how long it takes to provide the services.

Criteria:

Circular No. A-25, *User Charges*, Revised, Section 6.a.2 states:

Determining the amount of user charges to assess. (a) Except as provided in Section 6c, user charges will be sufficient to recover the full cost to the Federal Government (as defined in Section 6d) of providing the service, resource, or good when the Government is acting in its capacity as sovereign.

Circular No. A-25, *User Charges*, Revised, Section 6.d.1 states:

“Full cost” includes all direct and indirect costs to any part of the Federal Government of providing a good, resource, or service. These costs include, but are not limited to, an appropriate share of:

- (a) Direct and indirect personnel costs, including salaries and fringe benefits such as medical insurance and retirement. Retirement costs should include all (funded or unfunded) accrued costs not covered by employee contributions as specified in Circular No. A-11.
- (b) Physical overhead, consulting, and other indirect costs including material and supply costs, utilities, insurance, travel, and rents or imputed rents on land, buildings, and equipment. If imputed rental costs are applied, they should include:
 - (i) depreciation of structures and equipment, based on official Internal Revenue Service depreciation guidelines unless better estimates are available; and
 - (ii) an annual rate of return (equal to the average long- term Treasury bond rate) on land, structures, equipment and other capital resources used.
- (c) The management and supervisory costs.
- (d) The costs of enforcement, collection, research, establishment of standards, and regulation, including any required environmental impact statements.
- (e) Full cost shall be determined or estimated from the best available records of the agency, and new cost accounting systems need not be established solely for this purpose.

Cause:

There is no requirement in place for offices to track, the time involved to provide a service.

Effect:

Improper estimation of the direct costs to provide a service will result in FMC setting user fees at a cost that is either too low or too high, resulting in FMC not accurately capturing the “full cost.”

Recommendation:

HRK recommends that FMC implement a system to track annual occurrences of each user fee service, recording the hours worked and employees involved in processing them from start to finish. This would provide reliable data for accurate estimations.

Managements' Response:

Management agrees with the audit finding and recommendation. The FMC will develop and implement a system to track the annual volume of each user fee service and the associated direct labor efforts. This system will:

1. Record the number of occurrences for each user fee service
2. Track the hours worked and the personnel involved in processing each service from initiation to completion; and
3. Provide a reliable data source to improve the accuracy of direct cost estimates used in fee calculations.

This enhanced tracking will support more precise cost modeling and ensure that user fees are aligned with the actual resources required to provide each service. FMC will evaluate existing tools and systems to determine the most efficient and cost-effective means of implementing this tracking capability. It is anticipated that this work will be completed by the end of the first quarter of FY 2026.

Finding 4: User Fees Indirect Labor Costs

Condition:

Of the approximately fifteen offices not directly related to user fees, FMC includes only the Office of Information Technology (OIT), the Office of Human Resources (OHR), the Office of Budget and Finance (OBF), and the Office of Management Services (OMS) as part of indirect labor in their calculation. Documentation supporting the inclusion of these offices and exclusion of all other offices lacks a clear rationale, leading to potential inconsistencies in capturing the indirect labor costs to establish the full cost in calculating user fees.

Criteria:

Circular No. A-25, *User Charges*, Revised, Section 6.a.2 states:

Determining the amount of user charges to assess. (a) Except as provided in Section 6c, user charges will be sufficient to recover the full cost to the Federal Government (as defined in Section 6d) of providing the service, resource, or good when the Government is acting in its capacity as sovereign.

Circular No. A-25, *User Charges*, Revised, Section 6.d.1 states:

“Full cost” includes all direct and indirect costs to any part of the Federal Government of providing a good, resource, or service. These costs include, but are not limited to, an appropriate share of:

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- (b) Physical overhead, consulting, and other indirect costs including material and supply costs, utilities, insurance, travel, and rents or imputed rents on land, buildings, and equipment. If imputed rental costs are applied, they should include:
 - (i) depreciation of structures and equipment, based on official Internal Revenue Service depreciation guidelines unless better estimates are available; and
 - (ii) an annual rate of return (equal to the average long- term Treasury bond rate) on land, structures, equipment and other capital resources used.
- (c) The management and supervisory costs.
- (d) The costs of enforcement, collection, research, establishment of standards, and regulation, including any required environmental impact statements.

(e) Full cost shall be determined or estimated from the best available records of the agency, and new cost accounting systems need not be established solely for this purpose.

Cause:

There is a lack of historic documentation for the rationale for the inclusion and exclusion of offices in the calculation of indirect labor costs, which has been compounded by FMC staff turnover throughout the user fees determination process.

Effect:

A lack of documentation regarding the inclusion and exclusion of offices in the indirect labor costs may result in FMC calculating indirect costs (i.e. overhead rate) and setting user fees at a cost that is not representative of the full costs to FMC of providing services.

Recommendation:

We recommend that FMC:

1. Documents its review and rationale for the inclusion and exclusion of offices during its biennial review and considers:
 - a. Current operational practices, data, and cost structures;
 - b. The appropriateness of exclusion of offices in the indirect cost calculation.

Managements' Response:

Management agrees with the audit finding and recommendation. The FMC will formalize and document its rationale for the inclusion or exclusion of specific offices in the indirect cost calculations during its biennial reviews. This documentation will consider:

1. **Current operational practices**, organizational structure, and the roles of various offices in supporting user fee-related services;
2. **Relevant data and cost structures**, ensuring all significant cost drivers are appropriately accounted for; and
3. **The appropriateness of excluding certain offices**, with justifications clearly outlined and supported by available data.

This process will be integrated into FMC's broader internal control framework to support consistency, transparency, and alignment with best practices in cost recovery. It is anticipated that this work will be completed by the end of the first quarter of FY 2026.

Finding 5: Manual Processes

Condition:

FMC manually inputs the amounts into the user fees calculations and on the overhead sheet. For instance, FMC used the incorrect allocation rate in their overhead calculation because it was manually typed instead of linked to the rate they calculated.

Criteria:

Circular No. A-25, *User Charges*, Revised, Section 6.a.2 states:

Determining the amount of user charges to assess. (a) Except as provided in Section 6c, user charges will be sufficient to recover the full cost to the Federal Government (as defined in Section 6d) of providing the service, resource, or good when the Government is acting in its capacity as sovereign.

Circular No. A-25, *User Charges*, Revised, Section 6.d.1 states:

“Full cost” includes all direct and indirect costs to any part of the Federal Government of providing a good, resource, or service. These costs include, but are not limited to, an appropriate share of:

- (a) Direct and indirect personnel costs, including salaries and fringe benefits such as medical insurance and retirement. Retirement costs should include all (funded or unfunded) accrued costs not covered by employee contributions as specified in Circular No. A-11.
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 - (i) depreciation of structures and equipment, based on official Internal Revenue Service depreciation guidelines unless better estimates are available; and
 - (ii) an annual rate of return (equal to the average long- term Treasury bond rate) on land, structures, equipment and other capital resources used.
- (c) The management and supervisory costs.
- (d) The costs of enforcement, collection, research, establishment of standards, and regulation, including any required environmental impact statements.
- (e) Full cost shall be determined or estimated from the best available records of the agency, and new cost accounting systems need not be established solely for this purpose.

Government Accountability Office (GAO), *Standards for Internal Control in the Federal Government* (Green Book) states:

Principle 13 – Use Quality Information

Reliable Data from Reliable Sources

13.04 Management obtains relevant data from reliable internal and external sources in a timely manner based on the identified information requirements. Relevant data have a logical connection with, or bearing upon, the identified information requirements. Reliable internal and external sources provide data that are reasonably free from error and bias and faithfully represent what they purport to represent. Management evaluates both internal and external sources of data for reliability. Sources of data can be operational, financial, or compliance related. Management obtains data on a timely basis so that they can be used for effective monitoring.

Data Processed into Quality Information

13.05 Management processes the obtained data into quality information that supports the internal control system. This involves processing data into information and then evaluating the processed information so that it is quality information. Quality information meets the identified information requirements when relevant data from reliable sources are used. Quality information is appropriate, current, complete, accurate, accessible, and provided on a timely basis. Management considers these characteristics as well as the information processing objectives in evaluating processed information and makes revisions when necessary so that the information is quality information. Management uses the quality information to make informed decisions and evaluate the entity's performance in achieving key objectives and addressing risks.

13.06 Management processes relevant data from reliable sources into quality information within the entity's information system. An information system is the people, processes, data, and technology that management organizes to obtain, communicate, or dispose of information.

Cause:

FMC staff turnover has impacted on institutional knowledge transfer and progress in refining and optimizing the process.

Effect:

Not linking to approved and accurate data and manually inputting data can lead to unintentional errors in the data being used for user fees calculations.

Recommendation:

We recommend that FMC:

1. Use available technology to more effectively capture information to minimize the chance of human error; and
2. Use available technology to link data used in the calculation to reconciled data sources.

Managements' Response:

Management agrees with the audit finding and recommendation.

Utilization of Available Technology to Reduce Manual Input and Human Error:

FMC will evaluate and leverage existing technological tools and systems to automate aspects of the user fee calculation process. This includes identifying areas where manual data entry can be minimized to improve efficiency and reduce the potential for human error.

These efforts will be incorporated into ongoing modernization initiatives to strengthen FMC's data management and cost recovery processes. It is anticipated that this work will be completed by the end of the third quarter of FY 2026.

Finding 6: User Fees Policy

Condition:

FMC does not have a documented policy outlining the overall user fees process.

Criteria:

Circular No. A-25, *User Charges*, Revised, Section 8 states:

Agency responsibility: Agencies are responsible for the initiation and adoption of user charge schedules consistent with the policies in this Circular. Each agency will:

- a. Identify the services and activities covered by this Circular;
- b. Determine the extent of the special benefits provided;
- c. Apply the principles specified in Section 6 in determining full cost or market price, as appropriate;
- d. Apply the guidance in Section 7 either to institute charges through the promulgation of regulations or submit legislation as appropriate;
- e. Review the user charges for agency programs biennially, to include: (1) assurance that existing charges are adjusted to reflect unanticipated changes in costs or market values; and (2) a review of all other agency programs to determine whether fees should be assessed for Government services or the user of Government goods or services. Agencies should discuss the results of the biennial review of user fees and any resultant proposals in the Chief Financial Officers Annual Report required by the Chief Financial Officers Act of 1990;
- f. Ensure that the requirements of OMB Circular No. A-123 (Internal Control Systems) and appropriate audit standards are applied to collection;
- g. Maintain readily accessible records of:
 - the services or activities covered by this Circular;
 - the extent of special benefits provided;
 - the exceptions to the general policy of this Circular;
 - the information used to establish charges and the specific method(s) used to determine them; and
 - the collections from each user charge imposed.
- Maintain adequate records of the information used to establish charges and provide them upon request to OMB for the evaluation of the schedules and provide data on user charges to OMB in accordance with the requirements in Circular No. A-11.

Cause:

FMC uses a Microsoft PowerPoint presentation and a User Fees statement of procedures to formalize the policy and procedure of the biennial User Fees process.

Effect:

The lack of an overarching policy, including the procedures and personnel involved, can result in a lack of documented decision making for the user fees calculation process.

Recommendation:

We recommend that FMC:

1. Create an overarching policy, following Section 8 of OMB A-25, *User Charges*, as the overall policy document, to include the following:
 - a. The policy should address who holds the overall authority over the policy;
 - b. The policy should establish a working group of all offices involved in the biennial review of the procedures used, including inputs for direct and indirect costs, including collection methods; and
 - c. The policy should outline the overall approval hierarchy of calculated user fees.
2. Refine the User Fees procedures document to detail the overall processes, procedures, rationale, data inputs/outputs, and systems used in the process, to include the following:
 - a. The procedures should be reviewed prior to and at the completion of the biennial user fees calculation;
 - b. The procedures should be updated, as needed during the biennial review;
 - c. The document should be linked to supporting tables and documents;
 - d. Documentation supporting the procedures should be readily available for review.

Managements' Response:

Management agrees with the audit finding and recommendation.

1. Development of an Overarching User Fees Policy:

FMC will develop a comprehensive policy document that aligns with Section 8 of OMB Circular A-25, *User Charges*, to serve as the overarching authority for user fee development and management. This policy will:

- a. Clearly identify the office or official responsible for oversight and governance of the user fees policy;
- b. Establish a cross-functional working group, consisting of representatives from all relevant offices, to participate in the biennial review of user fee calculation procedures, including the review of both direct and indirect cost inputs and collection methods; and
- c. Define the approval hierarchy for calculated user fees, ensuring transparency and accountability throughout the process.

2. Refinement of the User Fees Procedures Document:

FMC will refine and expand its existing user fees procedures document to provide detailed guidance on:

- a.** The processes, procedures, rationale, and systems used in the user fees calculation;
- b.** Required reviews of the procedures both prior to and upon completion of the biennial user fee review;
- c.** Updates to procedures as necessary during the review;
- d.** Integration and referencing of supporting tables, data sources, and documents; and
- e.** Ensuring all documentation is centrally maintained and readily accessible for internal or external review.

These actions will reinforce FMC's commitment to transparency, compliance with federal guidance, and continuous improvement of its user fee management processes. It is anticipated that this work will be completed by the end of the third quarter of FY 2026.

Appendix A – FMC Management’s Response

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Memorandum

TO : Inspector General

DATE: April 25, 2025

FROM : Managing Director

SUBJECT : Audit A25-02 – Performance Audit Report on the Federal Maritime Commission’s User Fee Methodology

I have reviewed the findings and recommendations contained in the subject audit. Management values the Office of the Inspector General’s efforts in reviewing and assessing the Commission’s methodology for calculating user fees.

Finding 1 – User Fees Overhead Base and Allocation Percentage

Recommendation #1: We recommend that FMC:

1. Documents the rationale for using the allocation base and its review of the allocation basis at least every two years and considers:
 - a. Current operational practices, data, and cost structures;
 - b. The appropriateness of the user fees base(s)
 - c. Actual user fees collected versus the actual costs to FMC of collecting the user fees based on available data.

Comment: Management agrees with the audit finding and recommendation. The FMC will enhance its documentation processes regarding the rationale for selecting the user fees allocation base. Specifically, FMC will:

1. **Document the rationale** for selecting and applying the allocation base used for determining user fees. This documentation will include a review of current operational practices, relevant cost structures, and the methodology employed in determining the overhead allocation percentage.
2. **Establish a biennial review process** to evaluate the appropriateness of the allocation basis. This review will consider:
 - a. Updates in operational practices and any changes in cost drivers or cost structures;
 - b. The continued relevance and appropriateness of the selected user fees base(s); and

- c. A comparison of actual user fees collected with the actual costs incurred by FMC in administering and collecting these fees, based on available data.

This process will be incorporated into FMC's internal controls and financial procedures to ensure transparency, consistency, and alignment with federal cost recovery principles. It is anticipated that this work will be completed by the end of the first quarter of FY 2026.

Finding 2: - Non-Payroll Indirect Costs

Recommendation #2: HRK recommends the following:

1. Reviewing and documenting the methodology for calculating indirect costs to ensure all costs are considered;
2. Creating an annual process to analyze the actual user fees collected versus the actual costs to FMC of the user fees services based on available data.

Comment: Management agrees with the audit finding and recommendation.

1. **Review and Documentation of Indirect Cost Methodology:**

FMC will conduct a comprehensive review of its current methodology for calculating non-payroll indirect costs. The review will ensure that all relevant indirect cost components are appropriately identified, considered, and documented in a standardized format. The updated methodology will be maintained as part of FMC's financial policies and procedures to promote accuracy and consistency in cost allocations.

2. **Annual Analysis of Fees vs. Costs:**

FMC will implement an annual review process comparing actual user fees collected with the actual costs of providing user fee-related services. This analysis will be used to assess the reasonableness of the fees in recovering costs, identify any significant variances, and inform any necessary adjustments to fee structures or cost allocation practices.

These steps will strengthen FMC's cost recovery practices and support transparency and accountability in user fee management. It is anticipated that this work will be completed by the end of the third quarter of FY 2026.

Finding 3 – User Fees Direct Costs Estimation Process

Recommendation #3: HRK recommends that FMC implement a system to track annual occurrences of each user fee service, recording the hours worked and employees involved in processing them from start to finish. This would provide reliable data for accurate estimations.

Comment: Management agrees with the audit finding and recommendation. The FMC will develop and implement a system to track the annual volume of each user fee service and the associated direct labor efforts. This system will:

- Record the number of occurrences for each user fee service
- Track the hours worked and the personnel involved in processing each service from initiation to completion; and
- Provide a reliable data source to improve the accuracy of direct cost estimates used in fee calculations.

This enhanced tracking will support more precise cost modeling and ensure that user fees are aligned with the actual resources required to provide each service. FMC will evaluate existing tools and systems to determine the most efficient and cost-effective means of implementing this tracking capability. It is anticipated that this work will be completed by the end of the first quarter of FY 2026.

Finding 4 – User Fees Indirect Labor Costs

Recommendation #4: HRK recommends that FMC:

1. Documents its review and rationale for the inclusion and exclusion of offices during its biennial reviews and considers:
 - a. current operational practices, data, and cost structures;
 - b. The appropriateness of exclusion of offices in the indirect cost calculations.

Comment: Management agrees with the audit finding and recommendation. The FMC will formalize and document its rationale for the inclusion or exclusion of specific offices in the indirect cost calculations during its biennial reviews. This documentation will consider:

- **Current operational practices**, organizational structure, and the roles of various offices in supporting user fee-related services;
- **Relevant data and cost structures**, ensuring all significant cost drivers are appropriately accounted for; and
- **The appropriateness of excluding certain offices**, with justifications clearly outlined and supported by available data.

This process will be integrated into FMC's broader internal control framework to support consistency, transparency, and alignment with best practices in cost recovery. It is anticipated that this work will be completed by the end of the first quarter of FY 2026.

Finding 5 – Manual Processes

Recommendation #5: HRK recommends that FMC:

1. Use available technology to more effectively capture information to minimize the chance of human error; and
2. Use available technology to link data used in the calculation to reconciled data sources.

Comment: Management agrees with the audit finding and recommendation.

Utilization of Available Technology to Reduce Manual Input and Human Error:

FMC will evaluate and leverage existing technological tools and systems to automate aspects of the user fee calculation process. This includes identifying areas where manual data entry can be minimized to improve efficiency and reduce the potential for human error.

These efforts will be incorporated into ongoing modernization initiatives to strengthen FMC's data management and cost recovery processes. It is anticipated that this work will be completed by the end of the third quarter of FY 2026.

Finding 6 -- User Fees Policy

Recommendation #6: HRK recommends that FMC:

1. Create an overarching policy, following Section 8 of OMB A-25, User Charges, as the overall policy document, to include the following:
 - a. The policy should address who holds the overall authority over the policy;
 - b. The policy should establish a working group of all offices involved in the biennial review of the procedures used, including inputs for direct and indirect costs, including collection methods; and
 - c. The policy should outline the overall approval hierarchy of calculated user fees.
2. Refine the User Fees procedures document to detail the overall processes, procedures, rationale, data inputs/outputs, and systems used in the process, to include the following:
 - a. The procedures should be reviewed prior to and at the completion of the biennial user fees calculation;
 - b. The procedures should be updated, as needed during the biennial review;
 - c. The document should be linked to supporting tables and documents; and
 - d. Documentation supporting the procedures should be readily available for review.

Comment: Management agrees with the audit finding and recommendation.

1. Development of an Overarching User Fees Policy:

FMC will develop a comprehensive policy document that aligns with Section 8 of OMB Circular A-25, *User Charges*, to serve as the overarching authority for user fee development and management. This policy will:

- a. Clearly identify the office or official responsible for oversight and governance of the user fees policy;
- b. Establish a cross-functional working group, consisting of representatives from all relevant offices, to participate in the biennial review of user fee calculation procedures, including the review of both direct and indirect cost inputs and collection methods; and
- c. Define the approval hierarchy for calculated user fees, ensuring transparency and accountability throughout the process.

2. Refinement of the User Fees Procedures Document:

FMC will refine and expand its existing user fees procedures document to provide detailed guidance on:

- a. The processes, procedures, rationale, and systems used in the user fees calculation;
- b. Required reviews of the procedures both prior to and upon completion of the biennial user fee review;
- c. Updates to procedures as necessary during the review;
- d. Integration and referencing of supporting tables, data sources, and documents; and
- e. Ensuring all documentation is centrally maintained and readily accessible for internal or external review.

These actions will reinforce FMC's commitment to transparency, compliance with federal guidance, and continuous improvement of its user fee management processes. It is anticipated that this work will be completed by the end of the third quarter of FY 2026.

Lucille L. Marvin

cc: Office of the Chairman
Office of Budget and Finance