

Office of Inspector General

**Semiannual Report to Congress
Covering the Period**

October 1, 2016 – March 31, 2017



FEDERAL MARITIME COMMISSION



FEDERAL MARITIME COMMISSION
Washington, DC 20573

April 28, 2017

Office of Inspector General

Dear Acting Chairman Khouri and Commissioners Dye, Cordero, Doyle and Maffei:

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, 2016 to March 31, 2017.

During this reporting period, the OIG issued the *Independent Auditors' Report of the FMC's FY 2016 Financial Statements* (A17-01) and the report on the *Evaluation of the FMC's Compliance with the Federal Information Security Management Act FY 2016* (A17-02). The OIG also completed a risk assessment of the FMC's purchase card program, and a review of the FMC's reporting and performance requirements regarding improper payments. All of these assignments are discussed in more detail in the enclosed 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: The Port of Virginia, Norfolk, Virginia



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, 2016 through March 31, 2017. The most significant activities of the OIG during the first half of fiscal year (FY) 2017 are summarized below and additional details can be found in subsequent sections of this report.

During this reporting period, the OIG issued the [*Independent Auditors' Report of the FMC's FY 2016 Financial Statements \(A17-01\)*](#) and the report on the [*Evaluation of the FMC's Compliance with the Federal Information Security Management Act FY 2016 \(A17-02\)*](#). The OIG also completed a risk assessment of the FMC's purchase card program, and a review of the FMC's reporting and performance requirements regarding improper payments.

During the period, there were no new investigations or matters referred to prosecutorial authorities. At the end of this reporting period, four hotline complaints were pending and there were no investigations open.

FEDERAL MARITIME COMMISSION

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

The FMC is headed by five Commissioners nominated by the President and confirmed by the U.S. Senate, each serving five-year terms. 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 OIG is required by law to prepare this report summarizing OIG audits and investigations during the immediately preceding six-month period. This 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's one auditor position was vacant. In accordance with Section 3 of the Inspector General Act of 1978, as amended, 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 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.

OFFICE OF INSPECTOR GENERAL ACTIVITIES

Completed Audit and Evaluation

Independent Auditors' Report of the FMC's FY 2016 Financial Statements, [A17-01](#).

This audit report was issued on November 9, 2016. 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 2016 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, 2016, 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 2016, [A17-02](#). This evaluation report was issued on November 8, 2016. 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 agency continues to make improvements on the agency's

information technology (IT) security. However, some weaknesses remain. The report contained three recommendations to address three findings; however, two of the three recommendations were implemented by the agency prior to the release of the report. In addition, the OIG concluded the FMC had effectively implemented six of the nine outstanding prior year FISMA recommendations.

Other Reviews

In January 2017, the OIG completed the ***FY 2016 risk assessment of the FMC's purchase card program***. Executive agencies, including the FMC, use purchase cards and convenience checks 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, and OMB implementing guidance for the Act, the Inspector General (IG) of each executive agency is required to conduct an annual risk assessment of the agency's purchase card program; and travel card program if annual charges are at least \$10 million. The FMC's travel card transactions are significantly below the \$10 million threshold requiring a risk assessment of the travel card program.

The objective of the risk assessment was 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. The assessment was conducted using industry standard principles for risk management and professional judgment. Specifically, the purchase card program was assessed using the criteria identified in the Charge Card Act and OMB Circular No. A-123, Appendix B, *Improving the Management of Government Charge Card Programs*, Revised, January 15, 2009. 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 FY 2017.

In March 2017, the OIG completed the ***annual [review](#) of the FMC's compliance with reporting and performance requirements regarding improper payments***. The OIG is required by the *Improper Payments Elimination and Recovery Act of 2010* (IPERA) to prepare and submit the annual compliance report within 180 days after the agency's Performance and Accountability Report is published. For FY 2016, the OIG concluded the FMC complied and met the requirements that are applicable to the agency for improper payment reporting.

The OIG completed this annual review based on guidance contained in Office of Management and Budget (OMB) Circular No. A-123, Appendix C, *Requirements for Effective Estimation and Remediation of Improper Payments* (as modified by OMB M-15-02, October 20, 2014). Appendix C implements requirements from the following: (1) the Improper Payments Information Act of 2002 (IPIA), as amended; (2) the Improper Payments Elimination and Recovery Act of 2010 (IPERA); (3) the Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA); and (4) Executive Order 13520 - *Reducing Improper Payments*, November 20, 2009.

The purpose of IPERA and the related requirements are to improve the federal government's efforts to reduce and recover improper payments. An improper payment is any payment that should not have been made or that was made in an incorrect amount. Incorrect amounts are overpayments or underpayments that are made to eligible recipients. An improper payment also includes any payment that was made to an ineligible recipient or for an ineligible good or service, or payments for goods or services not received (except for such payments authorized by law). In addition, when an agency's review is unable to discern whether a payment was proper as a result of insufficient or lack of documentation, this payment must also be considered an improper payment.

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, there were no new investigations or matters referred to prosecutorial authorities. At the end of this reporting period, four hotline complaints were pending and there were no investigations open.

OTHER ACTIVITIES

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.

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.

During this reporting period, the IG served on the CIGIE's Audit Committee and Investigations 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 mission of the Investigations Committee is to advise the IG community on issues involving investigations, investigative personnel, and establishing investigative guidelines.

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	8
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	8
Section 5(a)(7)	Summary of each report	3-5
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	8
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	11, App. A
Section 5(a)(16)	Peer review activity by FMC OIG on another OIG	None
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
FY 2016 Implementation of FISMA	A17-02	11/8/16	9	3*	6

***In a memorandum dated April 4, 2017, the agency advised the OIG that all three open recommendations have been resolved; the OIG plans to review the agency's implementation of the recommendations during the FY 2017 FISMA evaluation. The three recommendations are as follows:**

- (1) Ensure all contractors undergo an appropriate investigation or screening prior to being granted access to any data and/or systems. Furthermore, ensure that all contractors undergo appropriate periodic reinvestigations or screening once the initial investigation is deemed to be successful;
- (2) Ensure a sufficient number of certifying officials are properly authorized and trained on the responsibilities associated with monitoring, certifying and documenting the results of employee background investigations, and reinvestigations, when warranted; and
- (3) OIT should establish a formalized policy for how timely separated users' access is disabled once they have left the agency. Best practices across other agencies disable separated users within 5 business days, therefore, FMC should follow best practices.

TABLE II - Listing of Reports Issued

Report Title	Assignment Number	Issue Date	Questioned Costs	Unsupported Costs	Funds Put to Better Use
Independent Auditors' Report of the FMC's FY 2016 Financial Statements	A17-01	11/9/16	\$0	\$0	\$0
Evaluation of FMC's Compliance with the Federal Information Security Management Act (FISMA) FY 2016	A17-02	11/8/16	\$0	\$0	\$0
FY 2016 risk assessment of the FMC's purchase card program	A17-03	1/31/17	\$0	\$0	\$0
FMC's compliance with reporting and performance requirements regarding improper payments	A17-04	3/31/17	\$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 peer review of the FMC OIG audit office was completed on March 24, 2016, during a prior semiannual period, by the U.S. International Trade Commission OIG. A *pass* rating was issued and there were no recommendations contained in the peer review report.

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.