

**Before the Committee on Commerce, Science, and Transportation
Subcommittee on Surface Transportation and Merchant Marine
Infrastructure, Safety and Security**

For Release on Delivery
Expected at
2:30 p.m. EST
Tuesday
March 8, 2016
CC-2016-005

MARAD's Efforts To Address Program Management Challenges

**Statement of
Mitchell Behm
Assistant Inspector General for
Surface Transportation Audits
U.S. Department of Transportation**



Chairman Fischer, Ranking Member Booker, and Members of the Subcommittee:

Thank you for inviting me to testify on our recent work related to the Department of Transportation's (DOT) Maritime Administration (MARAD). MARAD received over \$399 million for fiscal year 2016 to support operations and administer its programs, including operation of the U.S. Merchant Marine Academy (USMMA).¹ During the past few years, MARAD's mission has expanded to include oversight of a number of grants for port development projects. This increase in responsibilities—along with a restructuring of MARAD's organization—point to the need for enhanced attention to MARAD's management controls.²

Since 2010, we have issued 5 MARAD-specific reports with 46 recommendations and 7 departmentwide reports with 15 MARAD-related recommendations (see exhibit for reports and status of recommendations). Most recently, in December 2015, we issued a comprehensive report³ on a self-initiated audit of the Agency's management controls for a number of areas.⁴ In October 2014, in response to congressional requests, we reported on USMMA's progress in establishing a program to address sexual assault and harassment at the Academy.⁵ My testimony today will focus primarily on the findings in our 2015 report, as well as update you on our ongoing assessment of USMMA's actions to address sexual assault and sexual harassment.

SUMMARY

In 2015, we reported that weaknesses in MARAD's management controls for risk mitigation, workforce development, and program implementation hindered the Agency's ability to meet its mission. MARAD has since taken action to address some of these areas, but weaknesses remain in workforce development and program implementation.

Specifically, we found that MARAD's strategic plan and performance measures aligned with Federal management control standards.⁶ However, MARAD fell short of complying

¹ MARAD also receives funds on a reimbursable basis from the U.S. Department of Defense (DOD) for its National Defense Reserve Fleet (NDRF) program to provide sealift, or ocean transportation, for DOD and other Federal agencies during peacetime and war.

² Management controls, also referred to as internal controls, are intended to help managers achieve desired results through effective stewardship of public resources.

³ *Weaknesses in MARAD's Management Controls for Risk Mitigation, Workforce Development, and Program Implementation Hinder the Agency's Ability To Meet Its Mission*, OIG Report Number ST-2016-011, December 10, 2015.

⁴ We assessed MARAD's management controls organization-wide and for five specific program areas: (1) NDRF Reserve Fleet Operations, (2) Historic Preservation Program, (3) Ship Disposal Program, (4) Vessel Transfer Office (VTO), and (5) Transportation Investment Generating Economic Recovery (TIGER) Grant Oversight. We selected these program areas for review based on MARAD's risk assessments, congressional interest, and input from Office of Inspector General (OIG) investigators and previous audits.

⁵ *Better Program Management and Oversight Are Required for USMMA's Efforts To Address Sexual Assault and Harassment*, OIG Report Number ST-2015-004, October 23, 2014.

⁶ GAO, *Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1, November 1999. This publication was in effect for the duration of this review; GAO, *Internal Control Management and Evaluation Tool*, GAO-01-1008G, August 2001.

with Federal standards for risk management in that it thoroughly documented risks to achieving its goals for most of its divisions, but it did not thoroughly document strategies for mitigating those risks. MARAD has since taken action to improve its risk management process. In line with Federal management control standards, MARAD also conducted a workforce analysis to assess its organizational structure in 2012 and developed several workforce plans, including a Strategic Human Capital Plan. However, as of December 2015—more than 3 years after its 2012 analysis—MARAD had not fully implemented its workforce plans, as it had not fully implemented competency models for certain mission-critical occupations. Furthermore, MARAD’s workforce development policies and procedures related to onboarding new hires, training, and addressing misconduct were incomplete, out-of-date, or not fully implemented. Finally, MARAD’s controls for program implementation, monitoring, and oversight were deficient. We found that over half of the Agency’s directives that document MARAD’s policies and procedures for program implementation were over 10 years old—potentially making these controls obsolete—and policies and procedures were incomplete or outdated in four of the five program areas we reviewed. Since we issued our report, MARAD has taken action to improve its controls for implementation of two program areas and its program oversight, but gaps remain.

MARAD has also made progress in implementing USMMA’s Sexual Assault Prevention and Response (SAPR) program. In October 2014, we reported that USMMA had not completed actions identified for effectively managing SAPR, including assigning responsibility for program oversight and for ensuring compliance with legislative requirements. We also reported delays in establishing standard operating procedures (SOP) for effective SAPR program management. MARAD has since taken action to address our concerns and the weaknesses we identified, but we continue to monitor USMMA’s actions in carrying out the SAPR Program.

WEAK MANAGEMENT CONTROLS HINDER MARAD'S ABILITY TO MEET ITS MISSION

In December 2015, we reported that MARAD’s strategic plan and performance measures aligned with Federal standards, but the Agency did not thoroughly document its risk mitigation strategies. We also reported that MARAD had assessed its organizational structure but had not fully implemented workforce plans and development policies. Finally, we reported that MARAD’s controls for program implementation, monitoring, and oversight were deficient. MARAD has begun to take action in some of these areas.

MARAD's Strategic Plan and Performance Measures Aligned With Federal Standards, but the Agency Did Not Thoroughly Document Its Risk Mitigation Strategies

MARAD's 2012-2015 Strategic Plan and documented performance measures met Federal management control standards. MARAD intends to update its strategic plan based on the outcomes of three ongoing planning efforts—DOT's National Freight Strategy,⁷ the Secretary's 30-year transportation plan, and the National Maritime Strategy. MARAD also established performance measures that align with Federal management control standards for the organization, for each major activity, and for its Senior Executive Service employees. MARAD works with managers, the Department, and OMB to annually re-evaluate its performance measures, and reports certain operational and administrative measures to DOT leadership through quarterly performance management reviews.

However, MARAD fell short of meeting Federal standards for risk management, which require identification of risks to achieving goals and strategies for mitigating those risks. Specifically, MARAD thoroughly documented risks for most of its assessable units (programmatic or functional divisions) but did not thoroughly document mitigation strategies. For example, the Federal Ship Financing Program identified risks, including poor documentation and inter-office coordination on loan monitoring, which could impact program effectiveness, the Agency's reputation, and public trust. However, the program did not document any strategies for mitigating these risks.

To better ensure that MARAD's risk management aligned with Federal control standards, we recommended that the Agency (1) update its policies and procedures to require risk profile reviews to thoroughly document risks and mitigation strategies, and (2) provide additional training to program managers and Internal Control Officers on thoroughly documenting risks and mitigation strategies in risk profiles. MARAD has taken action to implement both recommendations.

MARAD Assessed Its Organizational Structure but Had Not Fully Implemented Workforce Plans and Development Policies

In accordance with Federal standards, MARAD conducted a workforce analysis in 2012 to assess its organizational structure, and in response, developed several workforce plans, including a Strategic Human Capital Plan. The Agency also initiated position enrichment and realignment efforts in 2013 to transform its top-heavy organizational structure by replacing high graded positions with lower grades as attrition occurs.

However, as of December 2015—3 years after its 2012 analysis—MARAD had not fully implemented its workforce plans. For example, MARAD had not fully implemented

⁷ Mandated by the Moving Ahead for Progress in the 21st Century Act, Public Law 112-141, July 6, 2012.

competency models for mission-critical positions. These models are important for making fully informed hiring and training decisions to close identified competency gaps. MARAD identified competency models that it plans to use, such as the Office of Personnel Management’s Leadership Framework, but has not developed important components for each competency—such as a definition, behaviors, and proficiency levels.

MARAD’s workforce development policies also lack important elements. For example, while the policies and procedures for recruiting and hiring aligned with Federal best practices, policies and procedures for onboarding new hires, training, and addressing misconduct were incomplete, out-of-date, or not fully implemented.

A particular concern was the lack of effective policies, procedures, and training to address suspected drug use. DOT’s policy on drug and alcohol use⁸ calls for random drug testing of employees in positions that the Department of Health and Human Services (HHS) has approved as “testing designated,” and testing of employees in non-designated positions when there is “reasonable suspicion”⁹ of illegal drug use. However, only a few of MARAD’s fleet site employees are testing designated—even though fleet sites are open water industrial areas with inherent safety risks that could be exacerbated by employee intoxication. MARAD is working with DOT and HHS to add positions to its list of testing designated positions, but MARAD officials stated that it could be over a year before HHS approves the expanded list and MARAD can implement expanded testing. Testing employees in non-testing designated positions has also been problematic. MARAD has not provided written policies or procedures for determining when to apply the reasonable suspicion provision of DOT’s policy for testing these employees, and some fleet site managers indicated a need for assistance. Further, while DOT requires all Operating Administrations to provide drug and alcohol awareness training for new supervisors—which covers testing procedures in cases of reasonable suspicion—MARAD had not provided this training because its human resources officials were unaware of the training requirements.

We made five recommendations to improve MARAD’s management controls for its organizational structure and workforce development. For example, to better inform MARAD’s hiring, training, and promotion decisions, we recommended that MARAD fully implement comprehensive competency models for mission-critical positions. To prepare supervisors to address important safety issues, we recommended MARAD develop supplemental policies and procedures and train fleet supervisors on how to handle suspected drug use. MARAD plans to complete its actions on all five of our recommendations by the end of December 2017.

⁸ DOT Order 3910.1D, Drug and Alcohol-Free Departmental Workplace Program, October 1, 2010.

⁹ According to DOT’s policy, reasonable suspicion must be based on specific and timely observations concerning the appearance, behavior, speech, and/or body odors of the employee, or information provided by either a reliable and credible source (independently corroborated) or by the employee’s own admission.

MARAD Has Begun To Take Action To Strengthen Controls for Program Implementation, Monitoring, and Oversight

MARAD policies and procedures—which provide management controls for program implementation—are largely outdated agencywide, and incomplete or outdated in four of the five program areas we reviewed: the Ship Disposal Program, the Historic Preservation Program, the VTO, and TIGER grant oversight. We found 132 of the Agency’s 226 maritime administrative orders (MAO)—directives that document MARAD’s policies and procedures for program implementation—were over 10 years old, potentially making these controls obsolete. For example, MARAD had not updated its Freedom of Information Act (FOIA) MAO from 1986 to reflect its current FOIA processes, which incorporate changes in FOIA and DOT policies as well as technological advances. In October 2014, MARAD developed a 3-year plan for updating its MAOs, and identified 96 MAOs to review by July 2015. However, less than a third had been reviewed and updated by that date.

Since we reported our findings in December 2015, MARAD has taken action to improve controls for TIGER grant oversight by changing roles and responsibilities. MARAD has also taken action to improve its Historic Preservation Program by enhancing its policies and procedures for managing and preserving heritage assets, such as artwork, ship models, and ship wheels. These enhancements should help minimize the risk of lost heritage assets—a condition we found during our audit. MARAD also committed to disposing of its excess assets that are no longer considered heritage.

Gaps remain in MARAD’s policies and procedures for the Ship Disposal Program and VTO. These gaps increase the risk of poor program implementation; non-compliance with Federal requirements; lapses in continuity of operations; and fraud, waste, and abuse.

- The Ship Disposal Program lacked policies and procedures for (1) notifying other Federal agencies of its role as disposal agent for obsolete NDRF vessels and some vessels owned by other Federal agencies,¹⁰ and (2) identifying the universe of federally owned vessels it is responsible for disposing. Because MARAD does not have statutory authority to enforce compliance by other Federal agencies, MARAD executed ship disposal agreements with some agencies that own vessels under its disposal purview—the Navy, U.S. Coast Guard, and General Services Administration (GSA)—but not with others, including the National Oceanic and Atmospheric Administration. Furthermore, these agreements do not cover all applicable vessels. For example, the agreement with the Coast Guard did not cover a vessel that may have been under MARAD’s purview for disposal that the Coast Guard ultimately disposed of through GSA without consulting MARAD. When MARAD does not

¹⁰ Per 40 U.S.C. § 548, MARAD is the disposal agent for Government-owned vessels over 1,500 gross tons that are merchant vessels or capable of being converted to merchant use.

dispose of vessels it is statutorily responsible for, it does not receive funds for its Vessel Operating Revolving Fund for MARAD and National Parks Service programs.¹¹ MARAD also had incomplete procedures to allocate and expend ship disposal proceeds in accordance with the provisions of the National Maritime Heritage Act of 1994.

- VTO's policies and procedures for authorizing ownership, registry, and flag transfers for U.S. vessels weighing 1,000 tons or more were developed in 1993 and have not been updated. According to VTO's staff person, the policies are not used because she has the knowledge and experience needed to process transfer applications. As we noted in our report, well-documented policies and procedures would enhance MARAD's ability to ensure consistent program implementation and smooth continuity of VTO operations if the office's only employee leaves the Agency.

MARAD had mechanisms for monitoring performance in the five areas we reviewed. However, we found weaknesses in two areas—NDRF Reserve Fleet Operations and VTO—that inhibit the effectiveness of monitoring. For example, the NDRF Reserve Fleet Operations' key performance indicators (KPI) are not consistently calculated due to differences in fleet practices and system limitations. As a result, the KPIs do not produce reliable assessments of fleet performance.

Finally, MARAD has taken action to enhance mechanisms for overseeing implementation of corrective actions, in response to our recommendation. While the Agency tracked recommendations from OIG and GAO audit reports and the Department's A-123 reviews, the tracking system did not include complete information on management control deficiencies from other sources, such as internal MARAD reviews and other external audits. Moreover, MARAD's Internal Control Program directive did not require information on all management control deficiencies to be communicated to the Program and Performance Office staff who maintain the tracking system. As a result, the Agency may have missed opportunities for program improvement and exposed its programs to ongoing risk. MARAD has implemented our recommendation related to this weakness, and can now better track management control deficiencies and corrective actions.

MARAD has taken action addressing three of our nine recommendations in this area, and plans to complete action on the remaining six by the end of December 2018.

¹¹ The National Maritime Heritage Act of 1994 (54 U.S.C. § 308704) requires MARAD to allocate its ship disposal proceeds to the Vessel Operations Revolving Fund and to expend 50 percent of those funds for acquisition, maintenance, repair, reconditioning, or improvement of vessels in the National Defense Reserve Fleet; 25 percent for expenses incurred by or on behalf of State maritime academies or the U.S. Merchant Marine Academy for facility and training ship maintenance, repair, and modernization, and for the purchase of simulators and fuel; and the remaining 25 percent for the Maritime Heritage Grants or, if otherwise determined by the Maritime Administrator, for use in the preservation and presentation to the public of MARAD's maritime heritage property.

USMMA'S ACTIONS TO ADDRESS SEXUAL ASSAULT AND SEXUAL HARASSMENT ARE ONGOING

In 2008, Congress legislated action aimed at creating a campus environment free of sexual assault and harassment at USMMA.¹² However, USMMA's survey for the 2011–2012 academic year indicated an estimated 25 midshipmen were sexually assaulted and 136 midshipmen were sexually harassed—despite no incidents being reported in that academic year.

In October 2014—6 years after the 2008 legislation—we reported that USMMA had not completed over a third of the actions identified for effectively managing the SAPR program, including assigning responsibility for program oversight and for ensuring compliance with statutory requirements. In response to our report, OST clarified the SAPR program oversight responsibilities in a MAO.

We also reported delays in establishing SOPs for effective SAPR program management. These SOPs included ones for investigating sexual harassment and sexual assault, collecting evidence related to sexual assault and processing restricted sexual assault reports, and meeting requirements to report allegations of sexual harassment and assault.

Finally, we reported that USMMA's annual reports to Congress were issued, on average, nearly 2 years after the academic year ended.¹³ For example, the final 2011-2012 report was issued in March 2014—21 months after the end of the academic year. Weaknesses in USMMA's biennial surveys further limited timely and useful data by delaying the establishment of a reliable baseline for measuring midshipmen, staff, and faculty perceptions of the campus climate. Most recently, MARAD issued a preliminary 2013-2014 report in January 2015, and the final report for that academic year in January 2016. MARAD also issued a preliminary report for academic year 2014-2015 in January 2016.

MARAD concurred with our nine recommendations for addressing the concerns and weaknesses we identified and implemented all of them as of May 2015. We continue to monitor USMMA's actions in carrying out SAPR in response to a congressional directive¹⁴ and plan to brief the requesting committee on our work this Spring.

This concludes my prepared statement. I will be happy to answer any questions you or other subcommittee members may have.

¹² Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, Public Law No. 110-417 § 3507, October, 14, 2008.

¹³ USMMA's academic year runs from July 1 through June 30.

¹⁴ See U.S. Senate Report 113-182 accompanying the Transportation, Housing and Urban Development, and Related Agencies Appropriation Bill, 2015.

EXHIBIT. SUMMARY OF OIG REPORTS FROM 2010 TO PRESENT WITH MARAD-RELATED RECOMMENDATIONS

From 2010 through the present, we issued 5 reports on audits specific to MARAD. These audits contained 46 recommendations, of which 12 remain open.

Table 1: Status of Recommendations from MARAD-specific Audits

Report Title	Date Issued	Total	Closed	Open
<i>Weaknesses in MARAD's Management Controls for Risk Mitigation, Workforce Development, and Program Implementation Hinder the Agency's Ability To Meet Its Mission</i>	12/10/2015	16	5	11
<i>Better Program Management and Oversight are Required for USMMA's Efforts to Address Sexual Assault and Harassment</i>	10/23/2014	9	9	0
<i>MARAD Has Taken Steps To Develop a Port Infrastructure Development Program but Is Challenged in Managing Its Current Port Projects</i>	08/02/2013	9	8	1
<i>USMMA Security Controls Were Not Sufficient to Protect Sensitive Data from Unauthorized Access</i>	05/30/2012	9	9	0
<i>Title XI Loan Guarantee Program: Actions Are Needed To Fully Address OIG Recommendations</i>	12/07/2010	3	3	0
Totals		46	34	12

In addition, from 2010 to the present, we have reported on 7 departmentwide audits with 15 recommendations related to MARAD. Of these, 4 recommendations remain open.

Table 2. Status of MARAD-Related Recommendations from Department-wide Audits

Report Title	Date Issued	Total	Closed	Open
<i>FISMA 2015: DOT Has Major Success in PIV Implementation, but Problems Persist In Other Cybersecurity Areas</i>	11/05/2015	1	0	1
<i>Some Deficiencies Exist in DOT's Enforcement and Oversight of Certification and Warrant Authority for its Contracting Officers</i>	04/09/2015	2	0	2
<i>FISMA 2013: DOT Has Made Progress, but Its Systems Remain Vulnerable to Significant Security Threats</i>	11/22/2013	1	0	1
<i>DOT Does Not Fully Comply With Revised Federal Acquisition Regulations on the Use and Management of Cost-Reimbursement Awards</i>	08/05/2013	1	1	0
<i>Quality Control Review of the Department of Transportation's Audited Consolidated Financial Statements for Fiscal Years 2011 and 2010</i>	11/15/2011	4	4	0
<i>Quality Control Review of Audited Consolidated Financial Statements for Fiscal Years 2010 and 2009, Department of Transportation</i>	11/15/2010	3	3	0
<i>Timely Actions Needed To Improve DOT's Cybersecurity</i>	11/15/2010	3	3	0
Totals		15	11	4

Table 3. Open MARAD-Related Recommendations by Report

Open Recommendations by Report	Target Action
<i>Weaknesses in MARAD’s Management Controls for Risk Mitigation, Workforce Development, and Program Implementation Hinder the Agency’s Ability To Meet Its Mission, Dec. 10, 2015</i>	
3. Create and implement a plan—including tasks, actions, timelines, and responsible personnel—to fully implement comprehensive competency models for mission-critical occupations.	09/30/2016
4. Align Headquarters’ and field offices’ onboarding policies and procedures to ensure consistent implementation and provision of critical information across the Agency.	06/30/2016
5. Update the training policies to reflect the current operating environment and to include a control mechanism to ensure all completed training is tracked in a comprehensive training repository.	06/30/2016
6. Contingent upon HHS’ response, finalize the expansion of the number of testing-designated positions at fleet sites.	12/29/2017
7. Develop supplemental policies and procedures and train fleet supervisors on MARAD’s procedures to handle suspected drug use.	03/31/2016
8. Update existing MAOs in accordance with established timelines.	12/28/2018
9. Update the MAO governing the internal directive system to assign responsibility for monitoring implementation.	07/29/2016
10. Develop or update policies and procedures to carry out MARAD’s ship disposal responsibilities under Title 40 U.S.C. Section 548, including policies and procedures for (a) identifying the universe of Government-owned vessels that meet the statutory criteria for MARAD to serve as the disposal agent; (b) notifying agencies that own these vessels of MARAD’s disposal agent role; (c) specifying into what accounts MARAD should deposit ship disposal proceeds; and (d) specifying when and how the Maritime Administrator determines what portion of funds MARAD retains for its heritage property.	12/30/2016
12. Dispose of excess non-heritage assets identified in the heritage asset inventory.	03/31/2016
13. Update VTO policies and procedures to reflect the current range of program responsibilities and processes.	03/31/2016
15. Provide additional guidance to fleet sites to standardize NDRF Reserve Fleet Operations’ KPI data inputs, and provide more uniform measures of fleet performance.	06/30/2016
<i>FISMA 2015: DOT Has Major Success in PIV Implementation, but Problems Persist In Other Cybersecurity Areas, Nov. 5, 2015</i>	
3. The Deputy Secretary, or his designees, take the following action to ensure that FAA, FHWA, FMCSA, FRA, FTA, NHTSA, MARAD/USMMA, OST, and SLSDC perform actions to immediately disable user accounts that have been inactive for over 90 days, as required by the DOT compendium. Report completion of this effort to OCIO. Create a POA&M to track progress and verify completion of the action.	09/30/2016
<i>Some Deficiencies Exist in DOT’s Enforcement and Oversight of Certification and Warrant Authority for Its Contracting Officers, Apr. 9, 2015</i>	
1. The Office of the Senior Procurement Executive address the cases of noncompliance with CO certification and warrant requirements at FMCSA, FRA, MARAD, and NHTSA, as noted in this report. Specifically, the Operating Administrations should ensure that (a) CO warrants are issued in compliance with	06/30/2016

Federal and departmental requirements and (b) COs obtain and maintain their FAC-C certifications.	
6. The Office of the Senior Procurement Executive correct the FAITAS data inaccuracies noted in this report at FTA and MARAD.	06/30/2016
<i>FISMA 2013: DOT Has Made Progress, but Its Systems Remain Vulnerable to Significant Security Threats, Nov. 22, 2013</i>	
4. Obtain and review plans from FMCSA, MARAD, OST, and RITA to authorize systems with expired accreditations. Perform security reviews of unauthorized systems to determine if the enterprise is exposed to unacceptable risk.	09/30/2016
<i>MARAD Has Taken Steps To Develop a Port Infrastructure Development Program but Is Challenged in Managing Its Current Port Projects, Aug. 2, 2013</i>	
5. Implement procedures to help ensure that MARAD's contract planning efforts comply with Federal acquisition regulations and requirements. These procedures should include establishing acquisition plans and contract administration plans in a timely manner, and maintaining supporting documentation for their rationale; and developing independent Government cost estimates, and validating cost estimates provided by entities other than MARAD.	07/30/2016