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SUBJECT: Audit Report – U.S. Postal Service Purchasing Policies  
(Report Number CA-AR-10-005)

This report presents the results of our audit of U.S. Postal Service Purchasing Policies (Project Number 10YG013CA000). The report responds to a congressional request to review Postal Service purchasing policies for noncompetitive contracting and conflicts of interest. Specifically, we were asked to compare those policies against those in the Federal Acquisition Regulation (FAR).<sup>1</sup> Our objectives were to (1) assess the Postal Service's procurement policies for awarding noncompetitive contracts and dealing with conflicts of interest, (2) determine how Postal Service policies compare to federal regulations and private industry best practices, and (3) assess the Postal Service's compliance with its existing noncompetitive contract policies and procedures. This audit addresses operational risk. See [Appendix A](#) for additional information about this audit.

In 1970, Congress passed the Postal Reorganization Act<sup>2</sup> which established the Postal Service. The newly established Postal Service was given flexibility with its purchasing practices and was exempt from most federal procurement regulations. Since then, the Postal Service's purchasing policies have gone through many changes and iterations in an effort to follow the procurement developments of the private sector, streamline its acquisition process, and reduce purchasing costs. The 2006 Postal Accountability and Enhancement Act reaffirmed the sense of Congress that the Postal Service should implement commercial best practices in their purchasing policies. The Postal Service is not required to comply with certain key federal procurement regulations and laws, such as the FAR and the Competition in Contracting Act of 1984.<sup>3</sup>

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<sup>1</sup> In 1984, the FAR was established to codify uniform policies for acquisition of supplies and services by executive agencies.

<sup>2</sup> The U.S. Postal Service was established as an independent establishment within the executive branch of the government of the U.S. under the Postal Reorganization Act of August 12, 1970 (Public Law 91–375, 84 Stat. 719).

<sup>3</sup> Revised the FAR to encourage competition for awarding all types of government contracts. The purpose was to increase the number of competitors and savings through lower, more competitive pricing.

## **Conclusion**

Congress directed the Postal Service to largely operate outside of the federal procurement regulatory environment with the mission of establishing a more efficient purchasing process. Although this provided increased contracting freedom and flexibility, necessary safeguards to balance these freedoms and ensure protection of the Postal Service's interests were not consistently established or followed. Thus, the Postal Service's procurement policies and procedures for awarding noncompetitive contracts are much less extensive than those mandated in the FAR for federal agencies. While the Postal Service has strengthened its noncompetitive purchasing policy and has taken steps to inform COs of their responsibilities<sup>4</sup>, additional controls are needed to ensure the Postal Service's interests are protected. Specifically, steps need to be taken to:

- Strengthen the oversight and transparency of the Postal Service's noncompetitive purchasing.
- Maximize competition.
- Ensure best value.
- Avoid any actual or apparent conflicts of interest in the contracting process.

We also found that the Postal Service cannot readily identify its noncompetitive contract universe and is not consistently complying with existing controls for justifying and approving noncompetitive contracts.

## **Postal Service Policies Controlling Noncompetitive Contracts Need Strengthening**

We compared the Postal Service's policies and procedures for awarding noncompetitive contracts with that of the FAR. It is important to note that the FAR is statutory, while the Postal Service's Supplying Principles and Practices are not. Additionally, we found that, while there are some similarities, the FAR provided a more effective control environment for awarding these contracts and addressing the associated risks. These differences are a result of the 1970 removal of the Postal Service from the federal contracting environment with the expectation that it would function like a private sector entity. This latitude allows the agency to operate in a more efficient, business-like manner, while providing appropriate accountability and oversight to ensure fair and

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<sup>4</sup> A revised management instruction on noncompetitive purchases (MI-SP-S2-2010-1) was issued on June 29, 2010; a memo was issued to contracting officers (CO) regarding noncompetitive purchases on July 16, 2010; and several training sessions were held the last week of July. The training sessions, which included participation of the Postal Service Chief Counsel, Ethics and Federal Requirements, covered the new management instruction and provided a focus on the new conflict of interest requirements.

transparent operations. The primary differences that impact the Postal Service's ability to support competition and achieve best value are:

- The FAR requires designation of a competition advocate<sup>5</sup> and the Postal Service does not.
- The FAR requires transparency in the public reporting of noncompetitive contract awards and their justifications and the Postal Service does not.
- Postal Service policy allows the vice president, Supply Management, to delegate contractual authority to other business units. When this authority is delegated, most of the Postal Service's purchasing policies no longer apply. The FAR does not support delegation of contracting authority to other business units and FAR compliance cannot be waived.

In addition, the FAR requirements for justifying noncompetitive contracts are more stringent than Postal Service policies. FAR-specific requirements not present in Postal Service policies are:

- A description of efforts made to ensure receipt of offers from as many potential sources as is practicable.
- The CO determination that prices are fair and reasonable.<sup>6</sup>
- The CO certification that the contract's justification is accurate and complete to the best of their knowledge and belief.

However, although the FAR requirements are generally more stringent than Postal Service policies, we did note that Postal Service noncompetitive justification approval thresholds are lower than those required by the FAR. Manager approval is required if the noncompetitive purchase is expected to exceed \$250,000. The vice president, Supply Management, must approve all noncompetitive purchases valued at over \$10 million and all noncompetitive purchases for professional, technical or consultant services valued at over \$1 million. The FAR requires CO approval of purchases over \$550,000 and senior procurement executive approval for purchases starting at \$57 million.<sup>7</sup>

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<sup>5</sup> Per the FAR §6.502, "competition advocates are responsible for promoting the acquisition of commercial items, promoting full and open competition, challenging requirements that are not stated in terms of functions to be performed, performance required or essential physical characteristics, and challenging barriers to the acquisition of commercial items and full and open competition such as unnecessarily restrictive statements of work, unnecessarily detailed specifications, and unnecessarily burdensome contract clauses."

<sup>6</sup> While not requiring documentation of a determination that prices are fair and reasonable as part of the noncompetitive justification, the SP&Ps do require that price/cost analysis be documented in the contract file.

<sup>7</sup> Per the FAR §6.304, Approval of the Justification.

We also reviewed private industry practices regarding management and oversight of noncompetitive contracts and found that private industry endorses competitive acquisition and generally requires special approval for noncompetitive contracts.

### **Conflicts of Interest Policies Need to be Strengthened**

We analyzed Postal Service guidance for handling potential conflicts of interest in the contracting environment. We also compared Postal Service policy to the ethics policies of both the FAR and the Institute of Supply Management (ISM).<sup>8</sup> All of these guidelines emphasize the importance of avoiding the appearance of a conflict of interest or impropriety in the conduct of business activity, particularly when procuring services.

However, the recent investigation of a high-level Postal Service executive found that the control environment within the agency allowed the requesting business function to negotiate prices and award contracts to friends and former associates even though there were apparent conflicts of interest. Although COs were, at times, aware of potential conflicts of interest, they did not always object.

Because awarding noncompetitive contracts by nature can give the appearance of favoritism and lack of impartiality, it is essential that contracting personnel approving these contracts consider any potential appearances of impropriety before approving the noncompetitive purchase. A recent update to the Postal Service's noncompetitive contracting policy<sup>9</sup> requires the requester to submit a certification regarding real or apparent conflicts of interest. Management can further improve this by requiring COs to take steps to address any ethical issues disclosed or later discovered.

### **The Postal Service Cannot Accurately Identify its Noncompetitive Contract Universe**

We found that the Postal Service cannot readily or accurately compile its noncompetitive contract universe. Specifically, we found at least \$910,965,964 of \$17,991,496,721 (or 5.1 percent) in contractual actions the Postal Service either could not classify as competitive or noncompetitive or classified incorrectly. This occurred because Postal Service contracting systems do not classify all contracts as competitive or noncompetitive. An attempt was made to manually analyze the universe of contractual actions, but not all the contractual actions were classifiable and some were classified incorrectly.

In addition to these misclassifications, there are a large number of Postal Service contracts completely excluded from its recorded universe of contractual actions. These exclusions are the result of the Postal Service not recording contracts awarded through

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<sup>8</sup> Established in 1915, the ISM is the largest organization of supply management professionals in the world. Its self-defined mission is to lead the supply management profession through its standards of excellence, research, promotional activities, and education.

<sup>9</sup> Management Instruction (MI)-SP-S2-2010-1, Noncompetitive Purchases, dated June 29, 2010.

delegations of contracting authority in its contract universe. As such, the Postal Service does not know the committed dollars and number of those contractual actions or whether they are competitive or noncompetitive.

Because data on the competitive status of Postal Service contracts is not complete or accurate, the Postal Service cannot analyze the true extent of competition among its contracts. In addition, it cannot track or trend noncompetitive contracting to provide the oversight necessary to ensure maximized competition. Finally, there is increased risk that modifications to noncompetitive contracts could increase their dollar value far beyond the original approval thresholds.

### **Postal Service Personnel Did Not Consistently Comply with Existing Noncompetitive Contracting Policies**

We also found that 24 of the 68 (or 35 percent) of the noncompetitive contracts we reviewed were not sufficiently supported per Postal Service policy. Policies contain minimum requirements for noncompetitive justifications, market research, and endorsement and approval requirements. Compliance with these requirements is essential to ensuring fair treatment of suppliers, adequate competition, and the best value to the Postal Service.

Our review included seven contractual actions identified in a recent investigation of a former Postal Service executive who exerted undue influence on the contracting process in their negotiation and award, and four professional services contracts with description codes similar to the contracts identified during the investigation. None of these 11 contracts met the minimum requirements for noncompetitive justification.

Finally, we also evaluated contracts awarded noncompetitively to former Postal Service employees. By matching Postal Service vendor file information to employee file information, we identified 2,788 contracts in the Contract Authoring Management System with current and former Postal Service employees with separation dates dating back to August 31, 1991, and 359 of those were awarded to employees with separation dates in the last 3 years (October 1, 2006, to September 30, 2009).

We focused our testing in this audit on contracts with former executives because the Postal Service has very specific requirements regarding these awards. We found 17 contracts that were awarded noncompetitively in the last 3 years to former Postal Service executives. We analyzed three of those and found that they were awarded for “knowledge transfer” and other duties related closely to their former Postal Service position. None of the three contracts met the minimum requirements for noncompetitive justification. We will review more broadly the propriety of Postal Service contracts with former employees and the control environment surrounding them in fiscal year (FY) 2011.

The noncompliant, insufficiently supported contracts totaled \$218,940,344. These costs are questioned because their noncompetitive justifications do not contain all the required elements and/or approvals/endorsements prescribed by Postal Service policy. These amounts are not necessarily actual losses incurred by the Postal Service.

Also, because data used to support management decisions is incomplete and/or inaccurate and the existence of unethical appearances could result in negative publicity to the Postal Service, we are also reporting non-monetary impact for data integrity<sup>10</sup> and goodwill/branding.<sup>11</sup> See [Appendix B](#) for our detailed analysis of these topics and [Appendix C](#) for a discussion of the monetary and non-monetary impacts reported.

We recommend the chief financial officer, in coordination with the chief Human Resources officer:

1. Establish a competition advocate within the Postal Service to independently review and approve justifications for noncompetitive purchases and support the use of competition in the Postal Service. The competition advocate should also prepare and submit an annual report to the chief financial officer and vice president, Supply Management, describing barriers to competition and goals and plans for increasing competition.
2. Immediately discontinue contracting with former Postal Service executives until adequate controls are implemented. Such controls should address the appropriate duty and function of former executives in contracted positions, ensure no former executive is paid more than the equivalent of their previous Postal Service rate of pay if contracted noncompetitively, and require a thorough cost and price analysis of proposed rates.
3. Review the need for and propriety of all existing contracts with former executives.
4. Amend the *Administrative Support Manual* to emphasize the importance of compliance with all policies, circulars, and instructions pertinent to encouraging competition and managing noncompetitive purchases.

Further, we recommend the chief financial officer instruct the vice president, Supply Management, to:

5. Take steps to ensure full and accurate tracking and public reporting of noncompetitive contracting actions. Data reported should include, but not be limited to, total dollars committed both competitively and noncompetitively; and the contractor, dollar value, and noncompetitive justifications for noncompetitive contracts. The tracking mechanism should be able to identify when a noncompetitive

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<sup>10</sup> Inaccurate or unsupported data used to support management decisions. This can be the result of flawed methodology; procedural errors; or missing or unsupported facts, assumptions or conclusions.

<sup>11</sup> An actual or potential event or problem that could harm the reputation of the Postal Service.

contract has crossed the review and approval threshold based on modification after initial award.

6. Revoke delegations of authority for contracts that acquire goods and services for the Postal Service and bring these contracts into compliance with all Postal Service purchasing policies.
7. Require that noncompetitive purchase contract files include a determination by the CO that prices are fair and reasonable and a CO's certification that the justification is accurate and complete to the best of their knowledge and belief. A detailed analysis supporting these certifications should be part of the noncompetitive purchase documentation.
8. Require Supply Management officials approving noncompetitive contracts to review purchases for potential or apparent conflicts of interest and evaluate any potential conflicts through the agency's ethics official before approval. The opinion and recommendations of the agency ethics official should be documented in the contract file. In addition, any person found to have an actual or apparent conflict of interest should not be allowed to participate in negotiations with the contractor.
9. Institute an oversight mechanism to ensure and track compliance with updated noncompetitive contracting policies

### Management's Comments

Management generally agreed with the findings, recommendations, and unrecoverable unsupported questioned costs. However, the actions planned to address two recommendations warrant close attention. In response to recommendation 6, management agreed to conduct a review of delegations of authority for the acquisition of goods and services to determine whether there is a continued need for them. As necessary, management agreed to revise the delegations to bring them into compliance with Postal Service purchasing policies or revoke them. In addition, in response to recommendation 7, management stated that COs' reviews and evaluations form the basis for their recommendations to the approving authority and, in effect, make them accountable for their actions. See [Appendix D](#) for management's comments, in their entirety.

### Evaluation of Management's Comments



The U.S. Postal Service Office of Inspector General (OIG) considers management's comments responsive to the recommendations and management's corrective actions should resolve the issues identified in the report. If management decides not to revoke a delegation of authority for the purchase of goods or services, it is critical that the contracts issued under that delegation be brought into compliance with Postal Service purchasing policies and be included in the universe of Postal Service contracting



actions publicly reported. It is also critical that updates to Postal Service contracting policy taken in response to recommendation 7 reiterate the accountability and responsibilities of the contracting officer in approving noncompetitive justifications. While the justifications are the responsibility of the requesting program office, it is the CO's responsibility to ensure fair and reasonable pricing and accurate and complete justification of the noncompetitive purchase before approval. We will closely review corrective actions taken to ensure that they fully address our recommendations and the control weaknesses identified in this report.

The OIG considers all the recommendations significant, and therefore requires OIG concurrence before closure. Consequently, the OIG requests written confirmation when corrective actions are completed. These recommendations should not be closed in the Postal Service's follow-up tracking system until the OIG provides written confirmation that the recommendations can be closed.

We appreciate the cooperation and courtesies provided by your staff. If you have any questions or need additional information, please contact Judy Leonhardt, director, Supply Management, or me at 703-248-2100.

E-Signed by Mark Duda   
VERIFY authenticity with ApproveIt  


Mark W. Duda  
Deputy Assistant Inspector General  
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Attachments

cc: Susan M. Brownell  
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## APPENDIX A: ADDITIONAL INFORMATION

### BACKGROUND

Prior to 1970, the Postal Service was known as the Post Office Department. Its purchasing policy was controlled by the Federal Procurement Regulation, the precursor to the FAR. In 1970, congress passed the Postal Reorganization Act which established the Postal Service. At the same time, it was given flexibility in terms of purchasing practices and was exempted from key federal procurement laws. In 1971, the Postal Service published the *Postal Contracting Manual*.

Since the passage of the Postal Reorganization Act, the Postal Service's purchasing policies have gone through many changes and iterations in an effort to follow procurement developments in the private sector, streamline its acquisition process, and reduce purchasing costs. During this time, it was not required to comply with certain federal regulations and laws such as the FAR and the Competition in Contracting Act of 1984.

On May 19, 2005, the Postal Service deregulated the majority of its purchasing policies and procedures and implemented policies and procedures that do not have the full effect of law. The policies and procedures are now referred to as the *Supplying Principals and Practices* (SP&Ps). The Postal Service's *2002 Transformation Plan* and the President's Commission on the Postal Service drove these changes, which recommended the agency follow the same purchasing practices as the private sector.

The SP&Ps are intended to advise and guide Postal Service professionals on how to perform supply chain management functions. They are not the binding regulations of the Postal Service but are intended for internal use only to assist the agency in obtaining best value and efficiently conducting supply chain functions. They include guidance related to conflicts of interest and noncompetitive purchases. Additionally, the vice president, Supply Management, issued MI-SP-S2-2007-1, Noncompetitive Purchases, on July 30, 2007<sup>12</sup> to provide purchase/supply chain management teams with guidance. The guidance focused procedures for determining whether to purchase goods or services competitively or noncompetitively and endorsing and approving noncompetitive purchases. The vice president issued a revised management instruction on noncompetitive purchases (MI-SP-S2-2010-1) on June 29, 2010, and a memo to COs regarding noncompetitive purchases on July 16, 2010.

On January 14, 2010, Senators Collins and McCaskill requested this audit because of concerns over contracts awarded to individuals or entities that appear to have had prior business relationships with a Postal Service senior official responsible for the program and oversight of the contracts. They stated the Postal Service is facing billions of dollars in annual deficits and that, in light of its dismal financial situation, it must employ policies

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<sup>12</sup> This replaced MI-PM-2.1.6-2002-2, Noncompetitive Purchases, dated April 18, 2002.

and regulations to ensure the best value from its contracts. They were specifically concerned that policies and regulations governing Postal Service contracts do not go far enough to protect its interests.

## OBJECTIVES, SCOPE, AND METHODOLOGY

Our objectives were to (1) assess the Postal Service's procurement policies for awarding noncompetitive contracts and dealing with conflicts of interest, (2) determine how Postal Service policies compare to federal regulations and private industry best practices, and (3) assess the Postal Service's compliance with its existing noncompetitive contract policies and procedures.

To accomplish our objectives, we:

- Reviewed the history of the Postal Service's purchasing policies and procedures and the current policies and procedures regarding noncompetitive contracts and conflicts of interest. We also compared current policies and procedures to those contained in the FAR.
- Benchmarked with the 89 members of the Postal Supplier Council<sup>13</sup> by sending them questionnaires concerning their noncompetitive purchasing practices. We analyzed the 32 responses received and also reviewed the *Report of the Acquisition Advisory Panel to the Office of Federal Procurement Policy and the United States Congress*<sup>14</sup> to determine private industry best practices.
- Obtained the Postal Service's universe of contracting actions from October 1, 2006, to September 30, 2009. The universe contained 39,934 contracting actions totaling about \$12.9 billion for 26,136 contracts classified as competitively awarded; 17,774 contracting actions totaling about \$4.2 billion for 13,687 contracts classified as noncompetitively awarded; 5,442 contracting actions totaling about \$802 million for 2,027 contracts classified as "can't tell"<sup>15</sup>; and 752 contracting actions totaling about \$135 million for 162 contracts classified as purchases from mandatory sources.<sup>16</sup> We selected a sample of 31 contracts classified as competitive and determined whether they were appropriately classified. Additionally, we selected a sample of 66 contracts classified as noncompetitive and determined whether they were appropriately classified,

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<sup>13</sup> The Postal Supplier Council is an assembly of invited Postal Service key suppliers and stakeholders who have pledged to work collaboratively on mutually beneficial projects outside of their contractual relationships.

<sup>14</sup> The review was dated January 2007. The Acquisition Advisory Panel was authorized by Section 1423 of the Service Acquisition Reform Act of 2003.

<sup>15</sup> Because of weaknesses in the contract management system, Postal Service personnel were not able to classify all contractual actions as either competitive or noncompetitive. They labeled those they were unable to classify as "can't tell." The percentage of contractual actions labeled as "can't tell" was 8.5 percent.

<sup>16</sup> The Postal Service is required to comply with laws that outline mandatory sources for particular purchases. These include the Javits-Wagner-O'Day Act and the Randolph-Sheppard Act. In addition, under the terms of an interagency agreement with the Defense Energy Support Center, purchases of certain fuel requirements must follow mandatory procedures.

justified, and approved in accordance with Postal Service's policies and procedures.

- By matching Postal Service vendor file information to employee file information, we identified 2,788 contracts in the Contract Authoring Management System with current and former Postal Service employees with separation dates dating back to August 31, 1991. Of those contracts identified, 359 were noncompetitively awarded to employees with separation dates between October 1, 2006, and September 30, 2009. Seventeen of those were awarded noncompetitively to former Postal Service Career Executives<sup>17</sup> within 1 year of their separation from the agency. We reviewed Postal Service policies for contracting with former employees and compared it to the FAR and reviewed three of the 17 noncompetitive contracts to determine if the Postal Service followed policies and procedures.
- We reviewed seven noncompetitive contracts, identified by the OIG Office of Investigations as potentially being influenced by a Postal Service executive. Because of concerns regarding the potential abuses of professional services contracts, we expanded our sample to review an additional four professional services contracts<sup>18</sup> that had primary product service descriptions<sup>19</sup> similar to the seven contracts identified by the OIG's Office of Investigations. We reviewed the 10 contracts to determine if the Postal Service adequately justified and approved them in accordance with policies and procedures.

We assessed the reliability of the contract data universe the Postal Service provided by analyzing the percentage of contractual actions classified as "can't tell." Also, we reviewed 31 contracts labeled as competitive and 66 contracts labeled as noncompetitive for proper classification. We determined the data were not sufficiently reliable for the purpose of comparing Postal Service noncompetitive contract percentages to that of the federal government. However, we concluded that the data were sufficiently reliable to determine whether Postal Service personnel properly followed policy when preparing noncompetitive justifications. While conducting this audit, we coordinated closely with OIG's Office of Investigations and Office of General Counsel.

We conducted this performance audit from March through September 2010 in accordance with generally accepted government auditing standards and included such tests of internal controls as we considered necessary under the circumstances. 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

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<sup>17</sup> As of July 2, 2010, there were 692 Postal Service Career Executive employees with annual salaries ranging from \$95,000 to \$180,958.

<sup>18</sup> We had already included one of the four contracts in our sample of 66 noncompetitive contracts.

<sup>19</sup> The primary product service descriptions were strategic planning consultation services and management and business professionals and administrative services.

audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We discussed our observations and conclusions with management officials on July 27, 2010, and included their comments where appropriate.

**PRIOR AUDIT COVERAGE**

The OIG identified the following eight reports related to the objectives of this audit.

<b>Report Title</b>	<b>Report Number</b>	<b>Final Report Date</b>	<b>Monetary Impact</b>	<b>Report Results</b>
<i>Postal Inspection Service Noncompetitive Contract Process</i>	SA-AR-06-003	5/2/2006	N/A	The Postal Inspection Service's controls over the noncompetitive contract process needed improvement. Management agreed with the findings and recommendations.
<i>Controls Over Noncompetitive Contracts Awarded to Former Postal Service Employees</i>	CA-AR-06-002	5/26/2006	\$137,636	The Postal Service's controls over noncompetitive personal services contracts awarded to former Postal Service employees needed improvement. Management agreed with the findings and recommendations but not the monetary impact calculation.
<i>Commodity Sourcing Activities Within the Automation Category Management Center</i>	CA-MA-07-005	8/2/2007	N/A	The Postal Service should explore options for developing alternative supply sources and obtain contractor cost and pricing data when noncompetitively awarding share-in-savings, incentive-type mail automation contracts. Management generally agreed with the findings and recommendations.
<i>The Postal Service's Equal Employment Opportunity Contracting Function</i>	HM-MA-08-001	2/21/2008	N/A	The Postal Service's selection process for Equal Employment Opportunity investigative services and final agency decision writers was not adequately documented to ensure fair treatment of suppliers, adequate competition, and compliance with the best value requirements of the delegations of authority. Management agreed with the finding and recommendation.

Report Title	Report Number	Final Report Date	Monetary Impact	Report Results
<i>Controls Over Delegation of Authority for Medical Agreements</i>	CA-AR-09-001	10/17/2008	\$5,866,413	The Postal Service's national medical director, senior area medical directors, and district occupational health nurse administrators (DOHNA) and Supply Management personnel could improve controls over Medical Services delegations of authority. For example, DOHNAs did not maintain documentation demonstrating that agreements were competed among qualified suppliers. Management agreed with the findings and recommendations, unsupported questioned costs, questioned costs, and disbursements at risk.
<i>Management Controls at Contractor Operated Mail Processing Facilities</i>	MS-MA-09-001	10/22/2008	N/A	The Postal Service's controls related to contractor-operated mail processing facilities revealed the contract award process did not address potential organizational conflicts of interest. Management agreed with the findings but did not agree with all of the recommendations.
<i>Supply Management's Oversight of Delegations of Authority</i>	CA-AR-09-005	6/1/2009	N/A	The Postal Service did not have adequate controls to ensure financial due diligence and adhering to the principles guiding delegations of authority. The principles focus on ensuring fair and ethical treatment of all suppliers and obtaining the best value for the Postal Service. Management agreed with the findings and recommendations but not the non-monetary impact.
<i>Information Technology's Preferred Portfolio Partnering Program</i>	CA-AR-09-007	9/29/2009	N/A	The Postal Service's task order pricing process and price and cost analysis for information technology contracts usually did not result in negotiated price reductions. Management agreed with the findings and recommendations.

## **APPENDIX B: DETAILED ANALYSIS**

### **Postal Service Policies Controlling Noncompetitive Contracts Need Strengthening**

The main differences between the FAR and the SP&Ps are:

- The FAR is statutory and the SP&Ps are not. The FAR was established to codify and publish mandatory uniform policies and procedures for all executive agency acquisitions. As such, violating the FAR is a clear violation of a known federal regulation. The SP&Ps are not binding regulations and are generally intended to provide flexibility and discretion in their application to specific business situations. Portions of the SP&Ps are intended as guidance and other portions are considered mandatory.
- The FAR, Subpart 6.5, requires the head of each agency to designate a competition advocate. The competition advocate plays a vital role in promoting, ensuring, and tracking federal agencies' compliance with full and open competition requirements. The competition advocate is responsible for, among other things, promoting full and open competition, setting goals to increase competition, and reviewing and approving justifications for certain noncompetitive contracts. The SP&Ps do not require a competition advocate in the Postal Service.
- The FAR requires transparency in the public reporting of noncompetitive contracting statistics and the Postal Service does not compile competition statistics or require formal reporting. In response to the January 14, 2010, congressional inquiry, however, purchasing statistics were compiled. This compilation was a highly manual process that resulted in at least \$910,965,964 of \$17,991,496,721 (or 5.1 percent) in contractual actions that the Postal Service either could not classify as competitive or noncompetitive or classified incorrectly.
- On July 16, 2010, the FAR was amended to require federal agencies to publicly post their noncompetitive justifications on the Internet within 14 to 30 days after contract award.<sup>20</sup> The Postal Service does not publicly post noncompetitive justifications. Transparency in contracting is a strong internal control in its own right.
- Title 10 U.S.C. §2304 and Title 41 U.S.C. §253 require that, with certain limited exceptions, COs shall provide for full and open competition in soliciting offers and awarding government contracts. At the Postal Service, however, the SP&Ps state that best value is the driving principle and that, while this is generally achieved

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<sup>20</sup> FAR Subpart 6.305, Availability of the Justification.



through competition, market conditions may dictate that a single or sole-source strategy will be the best business approach.

- Postal Service policy allows for delegations of contractual authority (DOAs) by the vice president, Supply Management, and the FAR does not. DOAs allow delegates to manage contracts outside of Postal Service contracting policy. This severely weakens the control environment surrounding these contracts. We discuss this issue further below.

In addition, the FAR requirements for justifying noncompetitive contracts are more stringent than the SP&Ps. Specifically, the FAR has the following additional requirements for the noncompetitive justification:

- A description of efforts made to ensure receipt of offers from as many potential sources as is practicable.
- The CO's determination that prices are fair and reasonable.<sup>21</sup>
- The CO's certification that the justification is accurate and complete to the best of their knowledge and belief.

### Delegations of Authority

One significant difference in procurement policy in the Postal Service is that it allows the vice president, Supply Management, to delegate authority. This delegation effectively releases all related contracting actions from the requirements of most Postal Service purchasing regulations and policies. The SP&Ps require the vice president, Supply Management, to ensure that all Postal Service-supplying activities further the business and competitive interests of the agency. In turn, the vice president, Supply Management, has delegated certain individuals the authority to negotiate, award, modify, and terminate contracts; and, in some cases, to re-delegate these authorities. The delegates are not required to comply with the SP&Ps, rather, they are required to follow four business principles. The four business principles are: (1) all suppliers must be treated in an objective and business-like manner, (2) all actions must adhere to the Code of Ethical Conduct for Employees of the Executive Branch, (3) when practical, requirements should be competed among qualified suppliers, and (4) all agreements must be issued to the supplier offering the best value to the Postal Service.

Our June 2009 report<sup>22</sup> found that, once contractual authority is delegated, the Postal Service does not have adequate controls to ensure financial due diligence and meeting the principles guiding DOAs. Specifically, Supply Management did not have procedures for maintaining a current list of DOAs and DOA files and did not implement a process to

<sup>21</sup> While not requiring documentation of a determination that prices are fair and reasonable as part of the noncompetitive justification, the SP&Ps do require that price/cost analysis be documented in the contract file.

<sup>22</sup> *Supply Management's Oversight of Delegations of Authority* (Report Number CA-AR-09-005, dated June 2009).

ensure delegates complied with DOA minimum oversight requirements. For example, delegates generally did not provide required annual financial reports to Supply Management. Also, our prior detailed reviews of three delegations<sup>23</sup> found that none of them adequately documented the supplier selection process to ensure compliance with the best value requirements of DOAs. At the time of our review, Supply Management personnel maintained a list of 65 DOAs and estimated that expenditures for goods and services purchased through DOAs totaled approximately \$208 million for FYs 2007 and 2008.

In April 2010, we found that almost all of the delegates<sup>24</sup> were still not filing the required reports. Also, the investigation mentioned earlier found that a Postal Service official agreed to a noncompetitive contract under his DOA for purposes other than what the DOA allowed. The \$1.6 million contract award was, in effect, a ratification of a previous unauthorized contractual commitment entered into by the president, Mailing and Shipping Services. This action circumvented the appropriate ratification process and violated the terms of the DOA.

As such, the process for managing DOAs after approval does not ensure appropriate financial due diligence and oversight, subjecting the Postal Service to financial and legal risks. These risks are not in the organization's best interest and could negatively impact the Postal Service's public image and brand.

### Private Sector Practices Also Encourage Competition

In our review of private industry practices, we found similarities in encouraging competition in the FAR, the Postal Service SP&Ps, and private industry practice. Specifically, all three require special approval authority for noncompetitive contracts. With regard to private industry practices, the *Report of the Acquisition Advisory Panel to the Office of Federal Procurement Policy and the United States Congress* details that commercial practice strongly favors fixed-price contracts in the context of head-to-head competition in an efficient market. In the absence of competition, which is relatively rare, commercial buyers rely on their own market research and benchmarking and often seek data on similar commercial sales.

We solicited the input of 89 Postal Service suppliers. Thirty-two of them (36 percent) responded to the survey as follows:

- Twenty-five had specific criteria for awarding contracts noncompetitively.
- Seventeen required special authority to award noncompetitively.
- Fourteen required oversight of noncompetitive awards.

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<sup>23</sup> The delegations were reviewed in the reports, *The Postal Service's Equal Employment Opportunity Contracting Function* (Report Number HM-MA-08-001, , dated February 21, 2008); and *Controls over Delegation of Authority for Medical Agreements* (Report Number CA-AR-09-005, dated October 17, 2008).

<sup>24</sup> At the time, there were 33 DOAs listed on the Supply Management website. Supply Management personnel could only provide FY 2009 financial reports for seven of the delegations.

- Seven suppliers tracked their noncompetitive dollars.

### **Conflicts of Interest Policies Need to be Strengthened**

Postal Service personnel must adhere to Title 5 CFR §2635 and §7001, and Title 18 U.S.C. §201-209 in regard to ethics and conflicts of interest, the same regulations that apply to other federal employees. In addition to these regulations, the SP&Ps contain guidance regarding organizational conflicts of interest that is similar to the FAR. In addition, the FAR states:

Government business shall be conducted in a manner above reproach and, except as authorized by statute or regulation, with complete impartiality and with preferential treatment for none. Transactions relating to the expenditure of public funds require the highest degree of public trust and an impeccable standard of conduct. The general rule is to avoid strictly any conflict of interest or even the appearance of a conflict of interest in Government-contractor relationships. While many Federal laws and regulations place restrictions on the actions of Government personnel, their official conduct must, in addition, be such that they would have no reluctance to make a full public disclosure of their actions.

The ISM provides ethics guidelines to private companies concerning conflicts of interest that are similar to the SP&Ps and FAR. All of these guidelines emphasize the importance of avoiding the appearance of a conflict of interest or impropriety in the conduct of business activity, particularly in the procurement of goods and services.

Noncompetitive contracts, by their nature, can give the appearance of favoritism and a lack of impartiality. In general, the responsibility for reporting potential or apparent conflicts of interest to the ethics official rests with the individual. However, Supply Management personnel authorizing noncompetitive contracts should consider any potential appearance of impropriety before approving the purchase and consult with an ethics official when the potential for a conflict of interest exists. The Postal Service has recently strengthened its policies regarding conflicts of interest in noncompetitive purchases and has provided training and guidance to Supply Management personnel. However, Postal Service policies should be further strengthened to ensure that personnel with real or apparent conflicts of interest are properly vetted through the agency ethics official and do not participate in contract negotiations. The need for strong contractual oversight in the face of apparent conflicts of interest is evidenced by a recent case where a former Postal Service executive dictated the award of several noncompetitive contracts to his friends and former business associates. Supply Management officials approving those contracts did not address the ethical issues at hand.

In testing Postal Service compliance with its noncompetitive contracting policies, we evaluated seven contracts identified in an OIG investigation as being improperly influenced, as well as negotiated, by a former Postal Service executive. We also reviewed three noncompetitive contracts awarded to former executives within 1 year of leaving the Postal Service. None of the 10 contracts complied with noncompetitive contracting policies, creating the appearance of an unethical contracting environment at the Postal Service. We believe Supply Management personnel approving these noncompetitive contracts have a responsibility to appropriately analyze and evaluate all potential unethical appearances and conflicts of interest issues and ensure that parties with real or apparent conflicts of interest do not participate in negotiations.

### **The Postal Service Cannot Readily or Accurately Identify its Noncompetitive Contract Universe**

In response to the January 14, 2010, congressional inquiry, the Postal Service attempted to compile a universe of both competitive and noncompetitive contracts. This compilation was a highly manual process that resulted in the Postal Service being unable to classify 4.5 percent of its contractual actions totaling \$801,846,304.

In addition, when we began a review of the data, we found other errors and omissions. Specifically, we chose 31 contracts classified as competitive to verify the accuracy of the classification. One of the contracts was not valid<sup>25</sup> and Postal Service personnel were unable to provide documentation for another because the contract file was archived. Of the remaining 29 contracts, we found that two with contractual actions totaling \$30,148 were actually noncompetitively awarded. Based on a statistical analysis of the results, we concluded that, at the 95 percent confidence interval, at least 1.16 percent (or 304) of the 26,136 contracts classified as competitively awarded were actually noncompetitively awarded.

Also, contracts entered into under DOAs were not included in the compilation and we identified five contracts with contractual actions totaling \$109,089,512 classified as noncompetitive that were actually competitively awarded. Based on the number of errors found in the universe the Postal Service identified and the omission of contracts entered into under DOAs, we found the universe to be unreliable for the purposes of comparing noncompetitive contract percentages to that of the federal government.<sup>26</sup>

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<sup>25</sup> Supply Management personnel stated that this contract was for a Pony Express public relations event and was not valid.

<sup>26</sup> See [Appendix C](#) for calculation of data integrity errors.

## **Postal Service Personnel Did Not Consistently Comply with Existing Noncompetitive Contracting Policies**

We sampled noncompetitive contracts from the Postal Service's October 1, 2006, to September 30, 2009, universe of contractual actions to determine if they complied with policies for justifying and awarding noncompetitive contracts. We found that 24 of 68 (or 35 percent) of the noncompetitive contracts sampled did not fully comply with Postal Service policies. The 24 contracts had contractual actions totaling \$218,940,344.<sup>27</sup> We also found ethical concerns regarding improper influence exerted on the contracting process by a former Postal Service executive, as well as the award of noncompetitive contracts to former Postal Service executives. We also reviewed a judgmental sample of 13 contracts based on allegations of impropriety and concerns that arose during the resultant investigation. We determined that none of the 13 fully complied with Postal Service policies.

### Noncompetitive Contract Sample

From the universe of noncompetitive contracts, we selected 66 for review. We did not review six of the contracts because they either duplicated other contracts already included in our sample or were for the purchase of real estate, therefore exempt from the requirements. Additionally, we determined that five of the contracts were actually competitively awarded. We reviewed the remaining 55 contracts to determine if Postal Service policy for noncompetitive contracts was followed and found that 11 (or 20 percent) were not in compliance with policy. Specifically, the noncompetitive business cases for the contracts did not contain sufficient documentation for one or more of the required elements. For example, a required element of a noncompetitive business case was market research. It is important that market research be documented to demonstrate why other products/services should not be considered for purchase.

### Instances Specific to Postal Service Policy Regarding Contracts with Former Postal Services Executives

Although, the Postal Service has specific policies regarding contracting with former executives, that policy has not prevented the Postal Service from contracting with former executives shortly after leaving the agency at greatly elevated rates of pay. There is specific policy limiting contracts with officers or Postal Service executives for 1 year after their date of separation from the Postal Service. The SP&Ps state:

The Postal Service does not contract with former officers or Postal Service Executive Service (PCES) executives or entities with which such individuals have a substantial interest for 1 year after the date of their separation from the Postal Service (whether by retirement or otherwise) if the contract calls for substantially the same duties as they

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<sup>27</sup> See [Appendix C](#) for calculation of unrecoverable unsupported questioned costs.

performed during their career with the Postal Service, as determined by the Vice President of Human Resources. The Vice President of Human Resources may grant exceptions to this policy when he or she determines that doing so is in the best interest of the Postal Service. Lastly, contracts with former employees (those who are not former officers or executives), or with suppliers proposing the use of former officers, executives, or employees, are subject to the review and approval of the VP, Human Resources.

By matching Postal Service vendor file information to employee file information, we identified 2,788 contracts in the Contract Authoring Management System with current and former Postal Service employees with separation dates dating back to August 31, 1991. Of these, the Postal Service awarded 359 to employees with separation dates from October 1, 2006, to September 30, 2009, with 17 awarded noncompetitively to Postal Service Career Executives within 1 year of their separation from the agency. We analyzed three of these contracts as part of our sample and found that all noncompetitive business cases associated with them were insufficiently documented and supported. In addition, the former executives were generally being brought back to perform duties or “transfer knowledge” related very closely to the Postal Service position they vacated at rates of pay higher than their former salaries. The contracted hourly rate was \$75 for one former executive and \$160 an hour for the other two; those fees were between \$6 and \$72 an hour higher than the hourly salary rate the executives made at the Postal Service. These contracts were put in place, even though highly experienced Postal Service executives filled the positions vacated by the former executives.

The most recent contract in question was with the former vice president, Network Operations. He retired on May 1, 2009, and was awarded a \$260,000 noncompetitive contract on July 2, 2009, for “knowledge transfer” to the Postal Service executive who assumed his position. There was a 1-year option for an additional \$260,000 that, if exercised, would have cost the Postal Service an additional \$260,000 for a total of \$520,000 to transfer knowledge. Human Resources approved this contract and found that the duties were not substantially the same as previously performed. Given that the former vice president was providing “knowledge transfer” just a few months after his retirement, we believe the contracted duties were significantly similar to his former responsibilities.

There is an ethics issue to consider when noncompetitively contracting with former executives for “knowledge transfer” shortly after their retirement at rates much higher than their former salaries. It appears unethical to hire back former executives at nearly twice their former pay to advise new executives who were placed in their position based on their expertise and years of Postal Service experience. There is also employee morale and public image issues management must consider when the Postal Service is closing post offices and seeking a reduced delivery schedule.



### Instances Where Former Postal Service Executive Applied Undue Influence

We reviewed seven contracts identified by the OIG's Office of Investigations as being potentially influenced by the president, Mailing and Shipping Services. Five of these were with individuals who had a prior business relationship with him. Upon review, we found all noncompetitive business cases associated with the contracts to be insufficiently documented and supported.

Of particular concern is that the president, Mailing and Shipping Services, and the contractors predetermined the pay rates for at least three of the contracts. Supply Management staff approving the contracts attempted to justify the rates prior to actual contract award by comparing them to independent data, such as a market research study by Deloitte.<sup>28</sup> However, the justification was performed after the decision to award the contracts at rates dictated by the president, Mailing and Shipping Services. In the FAR environment, the CO would have been required to certify that contract costs were determined to be fair and reasonable and support that certification with adequate rate analysis and market research. In addition, the CO would be required to ensure offers were obtained from as many sources as possible and certify their support and belief in the noncompetitive purchase justification.

In addition, the OIG investigation found e-mail traffic between the president, Mailing and Shipping Services, and one of the contractors in which the contractor informs him that she was recently laid off. In response, he states:

*“ . . . Would you have any interest in working for the Postal Service as a consultant, temporary, full time, or part time employee in our marketing, strategic planning, or financial planning groups? . . . we could assign you to any function you would like for as long as you would like.”*

The contractor was then awarded a sole source contract based on her skills as an investment banker the following month.

At a minimum, the influence and involvement of the president, Mailing and Shipping Services, creates an appearance that these contracts were inappropriately awarded noncompetitively and that rates were not fairly determined or negotiated by appropriate, independent contracting personnel.

We reviewed four additional professional services contracts<sup>29</sup> that had similar primary product service descriptions as the contracts<sup>30</sup> identified by the Office of Investigations. We found all noncompetitive business cases associated with the contracts to be

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<sup>28</sup> An analysis of vendor contractors' salaries for consulting services of all disciplines and experience levels and a general guide to contract award amounts.

<sup>29</sup> We had already included one of the four contracts in our sample of 66 noncompetitive contracts.

<sup>30</sup> The primary product service descriptions were strategic planning consultation services and management and business professionals and administrative services.



insufficiently documented and supported. However, they did not appear to be unethically influenced.

The following table summarizes the results of our review.

Noncompetitive Contracts Categories	Number of Sample Contracts	Competitive Contracts Incorrectly Classified as Noncompetitive	Not Applicable Contracts <sup>31</sup>	Noncompetitive Contracts Reviewed <sup>32</sup>	Insufficient	Sufficient
Noncompetitive Contract Sample	66	5	6	55	11	44
Contracts with Former Postal Service Executives	3	0	0	3	3	0
Contracts Influenced by Former Postal Service Executive	7	0	0	7	7	0
Other Professional Service Contracts	3	0	0	3	3	0
<b>Total</b>	<b>79</b>	<b>5</b>	<b>6</b>	<b>68</b>	<b>24</b>	<b>44</b>

<sup>31</sup> These contracts were either duplicates of contracts already included in our sample or were for the purchase of real estate, therefore exempt from the noncompetitive contracting requirements.

<sup>32</sup> Number of sample contracts less competitive contracts incorrectly classified as “noncompetitive,” therefore, not applicable contracts.

For the 68 noncompetitive contracts reviewed, the table below identifies the number of elements of the noncompetitive business cases<sup>33</sup> that were insufficiently documented. A business case could have been insufficiently documented for more than one element.

<b>Required Elements of a Noncompetitive Business Case</b>	<b>Required Elements Insufficiently Documented</b>	<b>Required Elements Sufficiently Documented</b>
Purpose of the contract	2	66
Basis for the noncompetitive purchase	6	62
Plans for competing future purchases	15	53
Uniqueness of the goods or services	7	61
Market research	15	53
Company identity (type of organization, prior customers and contracts) and contracting history with the Postal Service	1	67
Total estimated cost of goods and services	2	66
Endorsement by the vice president of the requiring organization (for purchases over \$250,000)	6	62
Approval by appropriate Supply Management personnel based on the dollar amount of the approval authority	5	63

<sup>33</sup> MI-SP-S2-2007-1, Noncompetitive Purchases, dated July 30, 2007, required completion of a noncompetitive business case to document the justification for the decision to purchase goods or services noncompetitively. The noncompetitive business case template included in the management instruction includes required elements and specific instructions for documentation required for each element.

## APPENDIX C: MONETARY AND NON-MONETARY IMPACTS

### Calculation of Unrecoverable Unsupported Questioned Costs

These costs are questioned because their noncompetitive justifications do not contain all the required elements and/or approvals/endorsements prescribed by Postal Service policy. These amounts are not necessarily actual losses incurred by the Postal Service.

<b>Noncompetitive Contracts Reviewed</b>	<b>Number of Contracts with Insufficient Documentation</b>	<b>Value of Contractual Actions Associated with Insufficient Documentation</b>
Noncompetitive contract sample	11	\$210,279,502
Contracts with former Postal Service executives	3	503,000
Contracts influenced by former Postal Service executive	7	7,873,842
Other professional service contracts	3	284,000
<b>Total</b>	<b>24</b>	<b>\$218,940,344</b>

### Calculation of Data Integrity Errors

<b>Category</b>	<b>Amount</b>
Contractual actions classified as "can't tell"	\$801,846,304
Misclassified noncompetitive contracts	109,089,512
Misclassified competitive contracts	30,148
<b>Total</b>	<b>\$910,965,964</b>

## APPENDIX D: MANAGEMENT'S COMMENTS



September 3, 2010

LUCINE M. WILLIS

SUBJECT: Draft Audit Report – United States Postal Service Purchasing Policies  
(Report Number CA-AR-10-DRAFT)

Thank you for the opportunity to review and comment on the subject draft report and allowing us the time to address the issues raised with additional information. In respect to the overall intent of this report to strengthen controls to further balance our commercial purchasing model and ensure compliance with policies and procedures, we appreciate your assistance in identifying areas where we can improve and generally agree with the findings and recommendations in this report. We have already taken actions to address many of your recommendations and will move quickly to further strengthen our Supply Management area. We would like to point out a few important items:

First, we are the largest retailer in the United States and as such, our supply management activities are extensive. Over the three-year period covered by your findings in Appendix A, we executed over 63,000 contract actions totaling over \$18 billion. While your audit findings represent just one percent of total purchases over the period, our goal remains to completely eliminate such exceptions to policy.

Second, we agree that we did not adequately follow all established policies and/or procedures with respect to the "noncompliant, insufficiently supported items" identified in the audit, however, based on our re-examination of these purchases, we believe that the Postal Service received appropriate value and that these contracts satisfied the business needs of the Postal Service. Documentation and processes will be improved in these areas.

### Management Response - Audit Recommendations

We recommend the chief financial officer, in coordination with the chief human resources officer:

Recommendation 1: Establish a competition advocate within the Postal Service to independently review and approve justifications for noncompetitive purchases and support the use of competition in the Postal Service. The competition advocate should also prepare and submit an annual report to the chief financial officer and vice president, Supply Management, describing barriers to competition and goals and plans for increasing competition.

Management Response - Recommendation 1: Overall we agree with the intent of this recommendation. In the Noncompetitive Purchases Management Instruction (MI) issued on June 29, 2010 (MI SP-S2-2010-1), we revised existing noncompetitive review and approval processes, and we are currently drafting further revisions to ensure that the purchase method

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determination (competitive or noncompetitive) will obtain the best value for the Postal Service and will further the Postal Services' business and competitive interests.

The new MI requires early involvement between the requestor and Supply Management in a preliminary determination of the purchase method along with implementing a rigorous review for a noncompetitive purchase. If the preliminary determination is to proceed with a noncompetitive purchase, the requesting office, with the assistance of Supply Management, as necessary, must now complete a Noncompetitive Purchase Request, which includes most of the information previously required for the noncompetitive business case (purpose, background, basis, market research, company identity and history, estimated cost, and future purchases). The new request format contains required certifications by the requestor and his/her management chain, of the existing ethics rules regarding financial conflicts of interest or the appearance of the loss of impartiality in the performance of official duties and nondisclosure. The request (including the ethics-related certifications) must be signed by the originator/preparer, all responsible manager(s) in the requesting office's management chain, and the vice president of the requesting office if the estimated value of the noncompetitive purchase is expected to exceed \$250,000.

A new Contracting Officer Evaluation section requires contracting officers (COs) to evaluate past performance, supplier capability, market conditions, and any other matter he or she believes will lead to a more informed and effective purchase decision when approving or recommending a noncompetitive purchase. As is the case with all contracts, COs must negotiate reasonable prices, terms and conditions; and, when applicable, review relevant competitive pricing. Approval authorities have been revised to state that only Supply Management portfolio managers may approve noncompetitive purchases valued between \$250,000 and \$10 million, and that any noncompetitive purchase for professional, technical, or consultant services valued at \$1 million or more will require the vice president of Supply Management review and approval, as will all noncompetitive purchases over \$10 million. As is noted within your report, these approval thresholds are lower than those required by the Federal Acquisition Regulation.

As to the Competition Advocate, we are currently benchmarking federal agency best practices to determine the optimal way to implement this new role in the Postal Service. Once this is accomplished, we will draft applicable text for the Supplying Principles and Practices (SPs and Ps). Among other responsibilities, the role of the Competition Advocate will be to independently review noncompetitive requests and advise the CO. We will review federal agency best practices and determine a reasonable threshold at which to establish this review.

We believe that the Competition Advocate's independent review will enhance the purchase process and our business decisions. We anticipate establishment of the Competition Advocate no later than the end of the calendar year.

Recommendation 2: Immediately discontinue contracting with former Postal Service executives until adequate controls are implemented. Such controls should address the appropriate duty and function of former executives in contracted positions, ensure no former executive is paid more than the equivalent of their previous Postal Service rate of pay if contracted noncompetitively, and require a thorough cost and price analysis of proposed rates.

Management Response - Recommendation 2: Management agrees not to enter into any new noncompetitive contracts with former postal executives until new policies are established. These policies are currently being drafted and will be completed in October 2010.

Recommendation 3: Review the need for and propriety of all existing contracts with former executives.

Management Response - Recommendation 3: Management agrees with this recommendation. A review of existing contracts with former executives is being performed and discussions held with the requesters. We will notify the Office of Inspector General (OIG) of these results by December 2010.

Recommendation 4: Amend the *Administrative Support Manual* to emphasize the importance of compliance with all policies, circulars, and instructions pertinent to encouraging competition and managing noncompetitive purchases.

Management Response – Recommendation 4: We agree with this recommendation and will draft new text for the *Administrative Support Manual* referring Postal Service employees to the purchasing regulations in 39 CFR, the SPs and Ps, purchasing-related handbooks and management instructions, and highlighting the need to follow all applicable policies and procedures for all purchases. This emphasis, in combination with the changes we've already made in the noncompetitive area, and plan to make, should ensure that all readers are aware of the policies and procedures and the need to follow them. Target implementation date is December 2010.

Recommendation 5: Take steps to ensure full and accurate tracking and public reporting of noncompetitive contracting actions. Data reported should include, but not be limited to, total dollars committed both competitively and noncompetitively; and the contractor, dollar value, and noncompetitive justifications for noncompetitive contracts. The tracking mechanism should be able to identify when a noncompetitive contract has crossed the review and approval threshold based on modification after initial award.

Management Response - Recommendation 5: Management agrees with the intent of this recommendation and Supply Management will continue to implement process and systems enhancements for accurate data reporting and management.

A review is currently being conducted of the coding classifications within our contracting systems. In one of our main systems, the current procurement type classifications for distinguishing between a competitive, noncompetitive, or required source award is currently combined with the contract type classification and does not exist for every contract type classification. Our goal to meet this new reporting requirement is to separate these two classifications which will allow for accurate data capture and reporting across our three contract writing systems. This data classification issue is apparent within approximately five percent of contracting actions in which we were unable to classify as competitive or noncompetitive unless we manually reviewed each contract. The final design on the classifications and reporting will be based on benchmarking the classifications used within the Federal Government and commercial best practices to determine the best categories to use for a higher level of accuracy with tracking and comparison analysis prior to making expensive system changes.

Tracking and public reporting of contracting actions will be performed on a fiscal year basis. The data reported will include, but not be limited to; total dollars committed competitively, noncompetitively, or to a required source. For noncompetitive actions, a summary report with the supplier's name, dollars committed, and the type of business scenario justifying the noncompetitive purchase will be incorporated. Additionally, we will work to develop a mechanism for tracking noncompetitive contracts as they exceed review and approval thresholds based on modification after award. The first reporting period will be for fiscal year 2011 and provided November 2011. This time is required to make the necessary system changes and to develop and standardize the reports.

Recommendation 6: Revoke delegations of authority for contracts that acquire goods and services for the Postal Service and bring these contracts into compliance with all Postal Service purchasing policies.

Management Response - Recommendation 6: Management agrees with the intent of this recommendation. We will conduct a review of delegations of authority that were issued for the purchase of goods and services and determine whether there is a continued need for such delegations. As necessary, delegations will be revised to bring those delegations into compliance with Postal Service purchasing policies. During the review, if it is determined that a delegation of authority is not in the best interests of the Postal Service, we will revoke it and perform any necessary contract actions within the Supply Management organization. Supply Management will complete this review by April 2011.

Recommendation 7: Require that noncompetitive purchase contract files include a determination by the CO that prices are fair and reasonable and a CO's certification that the justification is accurate and complete to the best of their knowledge and belief. A detailed analysis supporting these certifications should be part of the noncompetitive purchase documentation.

Management Response - Recommendation 7: We agree with the intent of this recommendation. Although we believe that our current policies require that a price be found fair and reasonable before the award of a noncompetitive contract (see SPs and Ps 2-34.4, Pricing Noncompetitive Offers), we agree we can make this more explicit and will draft revisions to the SPs and Ps accordingly. The target date for this action is December 2010.

Based on our revised noncompetitive process and the requirement that the requesting organization sign and certify the Noncompetitive Purchase Request, we do not think that COs should be required to certify as to the Request's accuracy and completeness. As described above, the requesting organization is responsible for the request, and all appropriate parties within that organization must sign it. Although the CO will assist in the Request's development, he or she is not required to sign it. Rather, upon receipt of the signed Request, the CO performs a thorough review of the request, evaluates the supplier, considers any other matter that may lead to a more informed business decision, and then makes a recommendation to the approval authority. This action puts the CO on record, as to performing his or her responsibilities, and in effect, accountable for their actions.

Recommendation 8: Require Supply Management officials approving noncompetitive contracts to review purchases for potential or apparent conflicts of interest and evaluate any potential conflicts through the agency's ethics official before approval. The opinion and recommendations of the agency ethics official should be documented in the contract file. In addition, any person found to have an actual or apparent conflict of interest should not be allowed to participate in negotiations with the contractor.

Management Response - Recommendation 8: We agree with this recommendation and have already made changes in this area. As discussed in the Management Response to Recommendation 1, the Noncompetitive Purchase Request format contained in the new MI requires certifications on the part of the requesting organizations that (1) the originator/preparer, (2) all responsible managers in the requesting office's management chain, and (3) the responsible vice president (if the proposed contract exceeds \$250,000), certify that they have no financial conflict of interest nor any personal or business relationship that could lead to a violation of the employee's obligation to avoid an appearance of the loss of impartiality pursuant to the Standards of Ethical Conduct for Employees of the Executive Branch. This should ensure that anyone subject to a conflict of interest recuses himself or herself from the purchase.



We agree that we should revise our conflicts of interest coverage in the SPs and Ps. Currently, conflicts of interest are discussed in general terms in the Supplying Principles. We will work with Ethics Counsel to develop new coverage in this area. Target implementation is February 2011.

Recommendation 9: Institute an oversight mechanism to ensure and track compliance with updated noncompetitive contracting policies.

Management Response - Recommendation 9: Management agrees. With our response to this audit, Supply Management will revise and implement several changes to our purchasing policies. Once these changes have been adopted by our purchase teams, Supply Management will perform an annual compliance review of noncompetitive contracts awarded under these new policies. We anticipate Supply Management's review of compliance with updated noncompetitive contracting policies will be conducted during FY2012 with a target final report date of March 2012.

We do not believe that this report contains any proprietary or business information and may be disclosed pursuant to the Freedom of Information Act. If you have any questions about this response, please contact Susan Witt at 202 268-4833.



Joseph Corbett  
Chief Financial Officer &  
Executive Vice President



Anthony J. Vegliante  
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cc: Susan Brownell  
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