



February 23, 2010

MARY ANNE GIBBONS
SENIOR VICE PRESIDENT, GENERAL COUNSEL

JULIE S. MOORE
SECRETARY OF THE BOARD OF GOVERNORS

SUBJECT: Audit Report – U.S. Postal Service Ethics Program
(Report Number FT-AR-10-010)

This report presents the results of our audit of the U.S. Postal Service's ethics program (Project Number 09BM001FT001). The report, which addresses strategic risk, responds to a request from the prior chairman of the Audit and Finance Committee of the Board of Governors (Board) to review this program. Our overall objective was to determine whether the Postal Service's ethics program is properly designed and operationally effective. See [Appendix A](#) for additional information about this audit.

Conclusion

The Postal Service designed an ethics program that complies with federal regulations. For example, it designated an ethics official for the agency and provides an annual report on the Postal Service's ethics program compliance to the Office of Government Ethics (OGE). Additionally, the Postal Service has voluntarily complied with aspects of section 406 of Sarbanes-Oxley (SOX)¹ and developed an automated system to track and review annual financial disclosure submissions. Based on this voluntary compliance, we identified areas that, if addressed, would increase the operational effectiveness of the program and enhance its current design.

Specifically, management could enhance the communication of ethics policies and supporting standards to its employees and stakeholders. Management has not provided a clear, unified ethics mission and vision that reflects the "tone at the top" or communicated this to its employees and stakeholders. A unified mission and vision would provide clear guidance on how the Postal Service views ethics on a global scale, and policies and procedures would naturally follow to support that vision on a more limited scale. Additionally, management could improve the effectiveness of its ethics

¹ SOX Act of 2002, Section 406, Part (a) – Code of Ethics Disclosure, and Part (c) – Definition.

program as it relates to OGE reporting, and develop written procedures for reporting relevant ethics issues to the Board.

We believe the diverse and fragmented nature of the ethics standards contribute to these issues. Specifically, the Postal Service must comply with Executive Order 12731 that documents the principles of ethical conduct for executive branch employees and requires implementation of the OGE program. In addition, the Postal Service voluntarily complies with SOX Section 406, Code of Ethics for Senior Financial Officers. The emphasis of the aforementioned standards vary significantly. A primary focus of the OGE program is to address conflicts of interest in the federal government. Section 406 of SOX addresses ethical financial reporting.

Without greater awareness of the ethics program among employees and stakeholders, management may inadvertently create situations where the Postal Service could be in violation of certain ethics laws, regulations, and policies.² In addition, sharing information among all relevant parties increases program efficiencies and helps maintain compliance with OGE requirements. Further, when there are clearly defined Board reporting expectations, the Board is made aware in a timely manner of actions that may adversely affect the Postal Service brand and can appropriately address them and respond more effectively.

Communicating Ethics Standards to Employees and Stakeholders

Postal Service management could enhance the communication of ethics policies and supporting standards to its employees and stakeholders.³ Specifically, it does not have a clear, concise framework, published in a central location that is accessible to employees and stakeholders. In addition, the ethics education program is not available to all employees and is not refreshed on a periodic basis. We found only about 1 percent of Postal Service employees receive annual ethics training. Further, management has not documented a clear mission statement that identifies the purpose of the ethics program. As a result, management may inadvertently create situations in which the Postal Service could be in violation of certain ethics laws, regulations, and policies and, therefore, may adversely impact its brand.⁴ See [Appendix B](#) for our detailed analysis of this topic.

We recommend the senior vice president, general counsel:

1. Consolidate Postal Service ethics policies and supporting standards and guidance in a central location that is easily accessible to employees and stakeholders.
2. Continue to enhance the ethics education program to include awareness updates on a regular basis and make them available to all employees.

² We did not identify any instances of such situations.

³ For the purposes of this audit, stakeholders include Postal Service contractors and the public.

⁴ We did not identify any instances of such situations.

3. Develop and communicate a mission statement for the ethics program.

Management's Comments

Management agreed with the U.S. Postal Service Office of Inspector General's (OIG) conclusion that the federal ethics program is compliant with federal regulations and that the Postal Service has adopted a Senior Financial Managers Code of Ethics. However, they added that our report does not distinguish between conclusions and recommendations that relate to the federal ethics program and those that relate to the Code of Ethics. As such, the actions management is required to take when an "ethics" violation occurs depends on whether the misconduct is a violation of federal regulations or the Code of Ethics. Further, management did not agree that [Appendix C](#) was an accurate portrayal of the ethics program.

Management generally agreed with the intent of recommendation 1, noting it is useful to have centralized and more easily accessible ethics policies and supporting standards. The general counsel plans to work with the chief information officer to place an additional, more prominent link to ethics policies and supporting standards in guidance on www.usps.com. The target date for completing this action is September 30, 2010.

Management generally agreed with recommendation 2 but stated the current budget and severe financial constraints will not permit the significant financial investment necessary to offer an ethics awareness training program to all Postal Service employees. However, management agrees that any ethics training effort is worthwhile and will continue to enhance the ethics program to the extent resources permit. Plans include developing an ethics awareness campaign using simple, brief ethics messages that can be displayed in the workplace via printed posters or included as printed material in payroll inserts; continuing to provide all legally required ethics training each year to all financial disclosure filers; and providing ethics training to employees participating in formal and informal training programs. Further, the general counsel's staff has been working to update and enhance the ethics training materials available on the general counsel's internal web page to allow employees to take web-based (non-live) training programs by December 31, 2010.

Although management partially disagreed with recommendation 3, the general counsel is taking action to work with the chief information officer to include a new link on its external and internal web pages to Section 662 of the *Employee Labor and Relations Manual*. This manual provides readers with the purpose for the executive branch ethics program. The target date for completing this action is September 30, 2010. See [Appendix D](#) for management's comments in their entirety.

Evaluation of Management's Comments

The OIG considers management's comments responsive to recommendations 1, 2, and 3. Management's planned actions should resolve the issues identified in the report.

As noted in [Appendix A](#), the objective of our audit was to determine whether the Postal Service ethics program was properly designed and operationally effective. Our goal was to look at the totality of the ethics program. Since the Postal Service has the dual responsibilities of complying with federal regulations while also preparing financial reports similar to those of public corporations, we wanted to provide the Postal Service with information to meet both responsibilities simultaneously. As a result, we provided the Postal Service with information to improve its overall ethics program. The actions taken in response to our recommendations should be considered to be based on both the federal regulations and Code of Ethics. Further, we agree that [Appendix C](#) is not a complete representation of the ethics program. Rather, it is a representation of the flow of communication of the overall ethics program within the Postal Service.

Communicating Relevant Ethics Program Results

The Postal Service could improve the effectiveness of its ethics program as it relates to OGE reporting. Current policies and procedures do not require communicating the results of appropriate investigations and associated disciplinary actions to the designated agency ethics official (DAEO). For example, no one informed Postal Service Law Department personnel that Corporate Personnel Management (CPM)⁵ was tracking and logging investigative results. As a result, the Postal Service increased its risk of not accurately reporting the number of disciplinary actions taken due to ethics standards violations and violations of criminal conflict of interest statutes. See [Appendix B](#) for our detailed analysis of this topic.

We recommend the senior vice president, general counsel:

4. Revise the procedures to include Corporate Personnel Management communicating to the Designated Agency Ethics Official relevant information related to ethics standards violations, violations of criminal conflict of interest statutes, and applicable disciplinary actions.

Management's Comments

The general counsel disagreed with the recommendation, stating the recommended approach will not achieve the desired result. The general counsel believes the CPM staff does not possess the requisite legal skills and expertise to spot and identify ethics violations in an investigation report and suggested the OIG forward copies of these reports simultaneously to the general counsel and the human resources officer when an

⁵ CPM, an organization within Employee Resource Management (ERM), assists managers with human resource issues and acts as a liaison between headquarter managers and the Human Resources Shared Service Center.

ethics violation is suspected. Further, by taking this approach, the general counsel believes Postal Service will not run the risk of an employee who is not a lawyer missing a violation when reviewing a Report of Investigation.

Evaluation of Management's Comments

We believe it is the OIG's responsibility to provide investigative activity data to the Postal Service and the Postal Service's responsibility to disseminate that data to the proper personnel. As noted in the finding, it is important to include CPM in the communication process because they are responsible for tracking and logging investigative results, receiving reports, assigning penalties, enforcing disciplinary actions, responding to the OIG, and maintaining the status of all cases. Our concern is not whether CPM possesses the requisite legal skills and expertise to spot and identify ethics violations within an investigative report but rather that the general counsel receives the information it needs to complete the OGE annual report.

A process has been implemented in which OIG provides a report of its investigative activities to the Postal Service. When the OIG provides investigative results to CPM, it does not include the disciplinary action taken or planned in response to the investigative activities. Therefore, if the OIG were to forward an investigation report to the general counsel and CPM simultaneously, the report alone would not provide the general counsel with all the information needed to complete the OGE's annual report accurately. Further, it would be ineffective for the OIG to provide a report to two areas within the Postal Service and inefficient for the general counsel to receive information from two different sources as they would have to reconcile the information. We continue to believe the general counsel should work internally, in this case, with CPM, to obtain the complete status of all cases. The general counsel, then, can evaluate the cases and complete the OGE annual report accurately.

Although the OIG does not consider management's comments responsive to the recommendation, we will not pursue this recommendation through the audit resolution process. We encourage the general counsel to reconsider its position and use the complete information available from CPM to improve its overall ethics program.

Communicating to the Board

The Postal Service does not have clear written policies and procedures to ensure it reports relevant ethics issues to the Board. Specifically, management has not defined, assigned, and communicated requirements for reporting ethics issues to the Board, and we were unable to identify any specific written guidance provided by the Board to Postal Service management regarding its reporting expectations. Management advised that although specific written procedures do not exist, the postmaster general and the general counsel still provide information related to significant ethics issues to the Board when those issues arise.

When criteria describing the types of ethics issues management should report to the Board do not exist, the Board may not always be informed in a timely manner of relevant ethics violations, including those resulting in financial statement misstatements and internal control deficiencies. Clear written policies and procedures would also enhance the process and give the Board what it needs to address ethics issues that may have an adverse impact on the Postal Service's brand. See [Appendix B](#) for our detailed analysis of this topic.

We recommend the secretary of the Board of Governors:

5. Coordinate with the Audit and Finance Committee of the Board of Governors to provide clear written expectations to Postal Service management regarding its ethics reporting requirements. The expectations should:
 - a. Identify the types of ethics violations that constitute a relevant ethical issue.
 - b. Define the point in the ethics process when the Board of Governors should be notified of relevant issues.
 - c. Designate an official or organizational unit that would be responsible for reporting ethics issues to the Board of Governors.

Management's Comments

Management generally agreed with the recommendation and stated the OIG, postmaster general, and general counsel have verbally informed the board chairman and/or other members of the Board when significant ethics matters arise; however, they agreed that providing clear, written procedures regarding ethics reporting requirements will ensure there are no lapses in the process or interpretation of the Board's expectations. The secretary of the Board has started documenting the criteria and process for informing the Board of ethical violations. In addition, the Audit and Finance Committee, on behalf of the Board, has made reporting ethical violations a priority during committee meeting discussions, designating time in executive sessions to ask both management and the OIG to brief them on potential violations. Management plans to complete this action by May 31, 2010.

We recommend the senior vice president, general counsel:

6. Develop and communicate clear written policies and procedures based on Board of Governors expectations to ensure management reports relevant ethics issues to the Board of Governors.

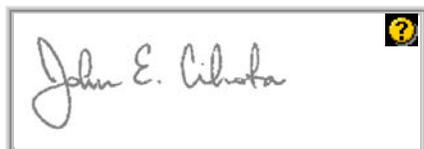
Management's Comments

Management agreed with the recommendation and stated the general counsel will direct the alternate agency ethics official to work with the secretary of the Board to develop written policies and procedures to address reporting on relevant ethics issues. Management plans to complete this action by May 31, 2010.

Evaluation of Management's Comments

The OIG considers management's comments responsive to recommendations 5 and 6, and management's planned actions should resolve the issues identified in the report.

We appreciate the cooperation and courtesies provided by your staff. If you have any questions or need additional information, please contact Lorie Nelson, director, Financial Reporting, or me at (703) 248-2100.

A rectangular box containing a handwritten signature in cursive that reads "John E. Cihota". In the top right corner of the box, there is a small black square icon with a white question mark.

John E. Cihota
Deputy Assistant Inspector General
for Financial Accountability

Attachments

cc: Joseph Corbett
Vincent H. DeVito, Jr.
Steven R. Phelps
Sally K. Haring

APPENDIX A: ADDITIONAL INFORMATION

BACKGROUND

On October 17, 1990, the President signed Executive Order 12731 establishing fair and exacting standards of ethical conduct for all executive branch employees. This order documents the principles of ethical conduct and helps advance citizen confidence in the integrity of the federal government. The order also documents the responsibilities of the OGE,⁶ agencies, and employees, as well as delegations of authority. The Postal Service is required to comply with this order.

The *Employee and Labor Relations Manual* (ELM) documents the policies and procedures used by the Postal Service to disseminate information on ethics laws for informational purposes and identifies all Code of Federal Regulations (CFR) applicable to Postal Service employees. The CFR identifies components of the ethics program and the duties of the persons designated to coordinate and manage the ethics program. According to the CFR,⁷ the Postal Service's ethics program should:

- Identify a liaison with the OGE.
- Provide for a review of financial disclosure reports.
- Initiate and maintain ethics education and training programs.
- Monitor administrative actions and sanctions.

Under the Postal Accountability and Enhancement Act, the Postal Service is required to comply with Public Law 107-204, SOX Act of 2002, Section 404, Management Assessment of Internal Controls. Additionally, the Postal Service voluntarily complies with the requirements of SOX Section 406, Code of Ethics for Senior Financial Officers,⁸ by creating a Senior Financial Managers Code of Ethics. The Postal Service's Senior Financial Managers Code of Ethics attempts to promote honest and ethical conduct.

The Postal Service is in the process of implementing the Complaints Process Improvement project. This project should help leverage coordinated, standard approaches to determine common underlying issues, research and address root causes to increase customer and employee satisfaction, reduce complaint cycle time and resolution cost, and keep the Board apprised of key controls and significant complaints. It appears this process will involve human resources managed processes and provide a centralized coordination and management for internal complaint resolution.

⁶ OGE is an agency within the executive branch established by the Ethics in Government Act of 1978. In partnership with executive branch agencies and departments, OGE promotes high ethical standards for employees and strengthens the public's confidence that government conducts its business with impartiality and integrity.

⁷ CFR Title 5, *Administrative Personnel*, Section 2638.203, Duties of the DAEO.

⁸ SOX Act of 2002, Section 406, Part (a) – Code of Ethics Disclosure, and Part (c) – Definition.

OBJECTIVE, SCOPE, AND METHODOLOGY

Our objective was to determine whether the Postal Service ethics program was properly designed and operationally effective.

To address our objective, we:

- Reviewed applicable policies and procedures to determine the Postal Service's ethics requirements and responsibilities.
- Evaluated the Postal Service's ethics program to determine its compliance with standards.
- Interviewed the Postal Service General Counsel, ERM Division employees, and the OIG legal and investigative staff to determine roles, responsibilities, and effectiveness of the ethics program.
- Examined existing ethics processes to determine whether management adequately monitored and communicated them across the Postal Service.
- Reviewed the ethics communication process for senior financial managers to determine whether communications to the Board were timely and appropriate.
- Benchmarked the ethics program of four organizations, with a focus on their effectiveness in design and implementation, to determine points of comparison to the Postal Service ethics program.

We conducted this performance audit from May 2009 through February 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 audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. We discussed our observations and conclusions with management on December 3, 2009, and included their comments where appropriate. We did not rely on computer-generated data to support the opinions and conclusions presented in this report.

PRIOR AUDIT COVERAGE

The OIG has not performed prior audits related to this objective.

APPENDIX B: DETAILED ANALYSIS

The Postal Service designed an ethics program that complies with federal regulations. For example, it designated an ethics official for the agency and provides an annual report on the Postal Service's ethics program compliance to the OGE. Additionally, the Postal Service voluntarily complied with parts of section 406 of SOX and developed an automated system to track and review annual financial disclosure submissions. Based on this voluntary compliance, we identified areas that, if addressed, would increase the operational effectiveness of the program and enhance its current design.

Communicating Ethics Standards to Employees and Stakeholders

Postal Service management could enhance the communication of ethics policies and supporting standards to its employees and stakeholders. If an employee is unable to identify all applicable ethics standards, that individual may unwittingly violate those standards and adversely impact the Postal Service's brand.

Postal Service ethics policies and federal ethics standards are stored on several Postal Service, OGE, and the Office of Government Printing websites. Employees with access to the intranet may learn about certain aspects of the ethics policies, such as policy on accepting gifts and financial disclosure requirements, on the Postal Service Law Department's ethics website. However, some employees cannot access the intranet because they do not have access to a Postal Service computer. For example, many bargaining unit employees' job responsibilities do not require the use of a computer. In addition, stakeholders cannot view the Postal Service ethics policies using these websites because they do not have access to internal Postal Service information system resources. We acknowledge they can access some ethics information in the Postal Service's external webpage (for example, Senior Financial Managers' Code of Ethics, annual reports, and Comprehensive Statements of Operations), but that information is not consolidated into an easily identifiable location.

The Postal Service also uses internal sources such as its intranet, initial employee orientation, and emails to educate employees on its ethics policies. However, after initial orientation, less than 1 percent of its employees receive periodic ethics training updates.⁹ Because the average Postal Service career employee's tenure is 18 years, he or she has not had ethics training, on average, in 17 years. Postal Service management advised that training is not updated periodically for bargaining unit employees due to the cost of and disruption to an employee's daily work schedule. However, the Postal Service uses tools such as webinars, newsletters, and an ethics help line to instill an ethical culture given resource constraints. In addition, management advised they are moving toward increased education for FY 2010. We acknowledge the cost associated with formal training and the efforts to increase awareness through alternate methods. Other methods, such as placards inserted in Leave and Earnings Statements, *Postal*

⁹ This 1 percent represents personnel involved in the annual financial disclosure process.

Bulletin articles, or posters, may also provide awareness at minimal cost and disruption to an employee's workday.

Additionally, management has not documented a clear mission statement that identifies the purpose of the ethics program. The two private sector and two quasi-government organizations we benchmarked¹⁰ all maintain updated ethics policy and procedure frameworks, including a clear mission statement that defines the purpose of their ethics program. These organizations provide ethics standards and the code of ethics to employees upon initial hire with updates provided annually. Additionally, their ethics policies and procedures are available on their respective external websites. By making ethics standards and a code of ethics available on external websites, these organizations provide the means for employees and stakeholders, including bargaining unit employees and the public, to develop an understanding of the standards of conduct and the ramifications of noncompliance.

A clear, concise framework for the Postal Service ethics program published in a central location along with supporting rules, federal standards, and Postal Service regulations will help institutionalize the role of ethics in the Postal Service's culture and everyday working environment.

Communicating Relevant Ethics Program Results

The Postal Service could improve the effectiveness of its ethics program as it relates to OGE reporting. Current policies and procedures do not include communicating to the DAEO the results of appropriate investigations and associated disciplinary actions. As a result, the Postal Service increases its risk of not accurately reporting the number of disciplinary actions taken due to ethics standards violations and violations of criminal conflict of interest statutes.

Agreed-upon procedures¹¹ between the OIG and the ERM¹² require the OIG to inform the Postal Service ERM organization of ongoing investigations and the results of investigations involving headquarters (HQ) and Postal Career Executive Service (PCES) employees,¹³ including senior financial managers. The ERM office then informs the chief human resources officer and chief operating officer on the status of OIG investigations and findings and informs the appropriate officer or area vice president of investigation findings.

¹⁰ All four organizations are publicly traded companies.

¹¹ The ERM office documented these procedures in a flowchart, *OIG Investigation Process*, dated October 2, 2007.

¹² The ERM organization provides and supports a full range of employee-related programs that positively affect Postal Service performance, including the management of hiring policy, compensation, benefits, safety, training, and organization structure.

¹³ PCES is a staffing category that develops and maintains a group of employees for key management positions. There are two levels in PCES: Level I includes district, area, and HQ executives, and Level II consists of officers, including vice presidents.

ERM's CPM is responsible for tracking and logging investigative results, receiving reports, assigning penalties, enforcing disciplinary actions, responding to the OIG, and maintaining the status of all cases. CPM also meets with an area Human Resources manager or HQ manager to identify the appropriate actions they should take as a result of ethics violations involving HQ and PCES employees.¹⁴ Although the OIG provides investigative results to the Postal Service, it does not determine disciplinary actions taken. See [Appendix C](#) for our flowchart of the ethics program process.

These procedures do not include the DAEO as a participant in the process. However, according to the CFR Title 5, the DAEO responsibilities include periodically evaluating the ethics program and submitting an annual report on ethics program compliance to the OGE. The information collected and maintained by CPM would assist the DAEO in providing accurate responses in the annual report to the OGE and in conducting a comprehensive evaluation of the ethics program. This information would also help the Postal Service ensure the application of its ethics policies, penalties, and advice is consistent, fair, and sufficient. However, because the DAEO was not included in the process, she did not use those resources to complete the OGE questionnaire.

As a result, the DAEO did not accurately report on the number of disciplinary actions taken due to ethics standards violations and violations of criminal conflict of interest statutes, as required by the OGE.¹⁵ For example, in response to the 2008 Agency Ethics Program Questionnaire,¹⁶ the DAEO incorrectly reported¹⁷ that the Postal Service did not take any disciplinary actions when it actually had. In addition, the DAEO's ability to provide an accurate record of administrative actions taken, as suggested by the OGE,¹⁸ is impaired when all groups involved in the program do not communicate effectively.

Management should provide information requested by the OGE in a complete and timely manner. When information is not shared among all relevant parties, there is increased risk the Postal Service may not adequately address OGE requirements and comprehensively evaluate the ethics program. Additionally, an agency that fails to take corrective actions regarding OGE orders involving the establishment or modification of an ethics program in accordance with applicable requirements may be reported to the President and the Congress.

¹⁴ The areas and districts track investigation reports regarding non-HQ employees.

¹⁵ Ethics in Government Act of 1978, Section 402, Authority and Functions, subsection e (1).

¹⁶ Management was required to file this questionnaire by February 2, 2009.

¹⁷ Disciplinary action is reported at a summary level, including violations by all employees.

¹⁸ When OGE conducted its audit in 2005, they suggested the Postal Service also record administrative actions.

Communicating to the Board

Management has not outlined, assigned, and communicated written requirements for reporting ethics issues to the Board. While the Board has provided verbal guidance to Postal Service management regarding its reporting expectations, the groups involved in the process were unable to demonstrate they reported all relevant ethics issues. Postal Service general counsel advised that although a written policy does not exist, they believe that when significant ethics issues arise, the postmaster general adequately communicates them to the Board. While we acknowledge this process and did not note any cases that should have been reported to the Board but were not, without written criteria, there is not a clear definition of what cases should be presented to the Board.

Federal regulation requires that management furnish to the Board information regarding matters that significantly impact the Postal Service's relationship with its stakeholders.¹⁹ The Postal Service Board defines what it expects in integrity and ethical values and can confirm its expectations through its oversight activities. In addition, the Board is responsible for addressing issues that may have an adverse impact on the Postal Service's brand. Senior management is accountable to the Board and plays a key role in establishing the organization's ethical tone.²⁰ In addition, Postal Service policy requires employees and contractors to respect and adhere to the principles of ethical conduct.²¹

The two private sector and two quasi-governmental organizations we benchmarked have written policies that identify reporting responsibility and require the disclosure of any known or suspected code violations to the Board of Directors' Governance Committee and, in turn, the full Board.

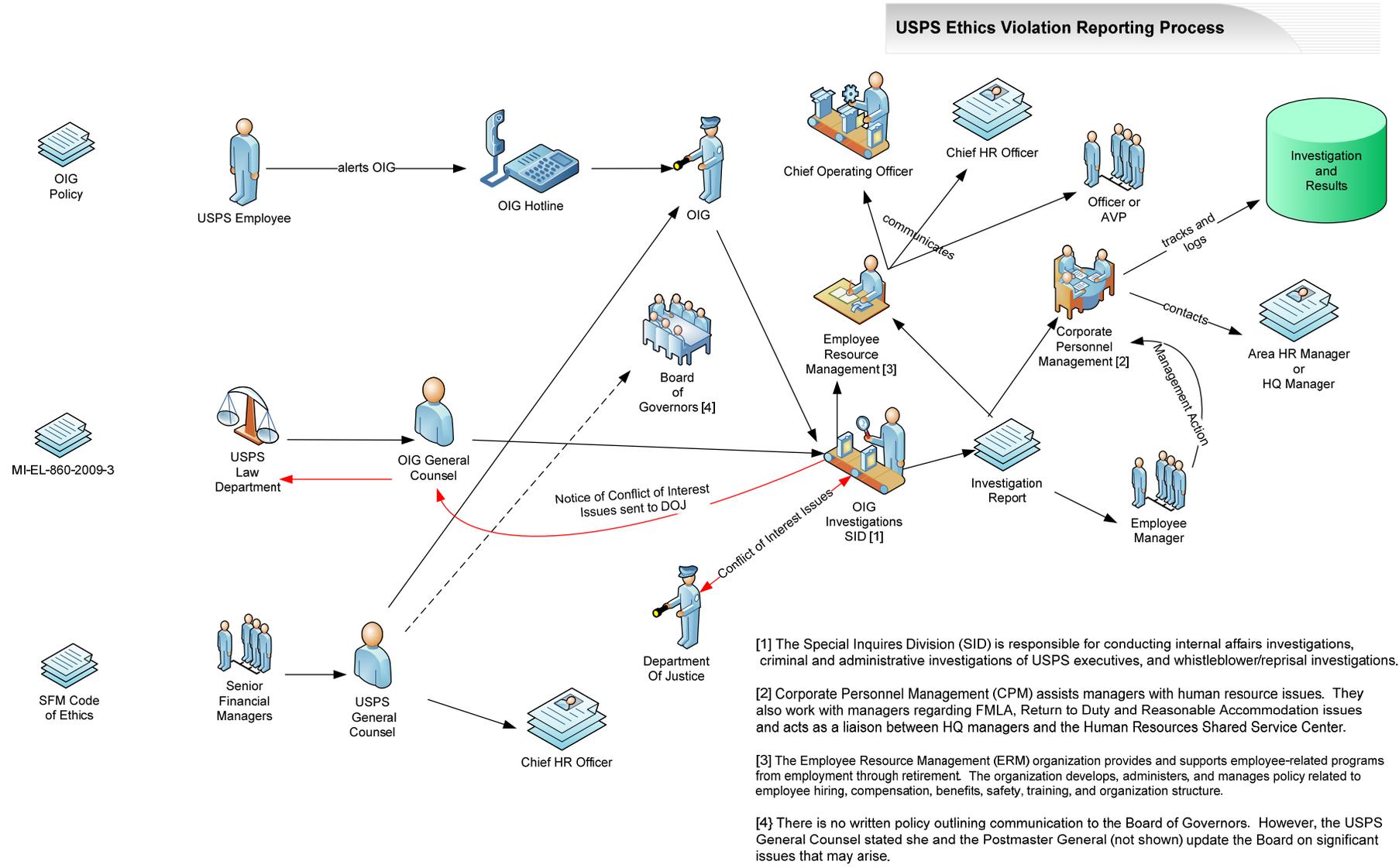
When criteria describing the types of ethics issues management should report to the Board do not exist, the Board may not always be informed in a timely manner of relevant ethics violations, including those resulting in financial statement misstatements and internal control deficiencies. We believe that written policies and procedures would enhance the process and give the Board what it needs to address ethics issues that may have an adverse impact on the Postal Service's brand.

¹⁹ Title 39, *Postal Service*, CFR, Section 3.8, Information Furnished to the Board – Special Reports, paragraph (d).

²⁰ Committee on Sponsoring Organizations of the Treadway Commission Internal Control – Integrated Framework, September 1992.

²¹ ELM Section 662.1.

APPENDIX C: ETHICS PROGRAM PROCESS FLOWCHART



APPENDIX D. MANAGEMENT'S COMMENTS

MARY ANNE GIBBONS
SENIOR VICE PRESIDENT, GENERAL COUNSEL



January 20, 2010

Ms. Lucine Willis
Director, Audit Operations
USPS Office of Inspector General
1735 North Lynn Street
Arlington, VA 22209-2020

Re: U.S. Postal Service Ethics Program
(Report Number FT-AR-10-DRAFT)

Dear Ms. Willis:

Thank you for the opportunity to review and comment on the subject draft audit report.

Management agrees with the conclusion of the Office of Inspector General (OIG) that the Postal Service's federal ethics program is compliant with federal regulations and that the Postal Service has adopted a Senior Financial Managers' Code of Ethics modeled in accordance with Section 406 of the Sarbanes Oxley (SOX) Act of 2002.

Before responding to the specific recommendations in the report, it is important to note that the audit did not distinguish between those conclusions and recommendations that are related to the Postal Service's federal ethics program and those that are related to the Postal Service's Senior Financial Managers' Code of Ethics. Although both the federal ethics program and the SOX-based code contain the term "ethics," each is the result of a different law and serves a different legislative purpose.

For example, the federal ethics program is a required element of every executive branch agency and department. The requirements of the federal ethics program are found in Part 2638 of the CFR. These federal regulations, among others, were promulgated by the Office of Government Ethics (OGE) as a result of authority vested in it by the Ethics in Government Act. The federal ethics program is managed by the General Counsel, who serves as the Postal Service's "Designated Agency Ethics Official" (DAEO) pursuant to OGE's regulations. The Ethics in

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Government Act program was designed to ensure that executive branch decisions are neither tainted by nor appear to be tainted by any question of conflicts of interest on the part of the employees involved in governmental decisions. All executive branch employees are subject to the Standards and provisions of the federal ethics program.

The Senior Financial Managers' Code of Ethics, on the other hand, is modeled after Section 406 of the SOX. It applies to only a few very senior officials who prepare and certify the accuracy of certain financial reports. Congress passed the SOX following several corporate accounting scandals in the 1990s; the SOX legislatively requires measures to strengthen corporate accounting controls and to prevent those preparing financial statements from misleading its investors.

Consequently, the actions required by postal management when an "ethics" violation purportedly occurs are directly dependent on whether the misconduct is grounded in a violation of the Standards of Ethical Conduct or the result of an accounting irregularity in violation of the Senior Financial Managers' Code of Ethics.

Finally, with respect to Appendix C, management does not agree that this is an accurate portrayal of the ethics program. The chart suggests that the ethics program includes both the federal ethics program and compliance with the SOX Code. Further, it contains no reference to the Standards of Ethical Conduct, the Ethics telephone/email Helpline or OGE.

COMMUNICATING ETHICS STANDARDS TO EMPLOYEES & STAKEHOLDERS

Recommendation 1

[General Counsel] Consolidate Postal Service ethics policies and supporting standards and guidance in a central location that is easily accessible to employees and stakeholders.

Response

To the degree the recommendation implies that these policies and supporting standards are not currently centralized or accessible, management disagrees with the recommendation. To the extent the recommendation suggests that it is useful to have the policies and supporting standards centralized and more easily accessible, management agrees with the recommendation. As management explained during the audit, all the relevant information on the Postal Service's ethics policies and supporting standards are presently available on its website and are likewise currently accessible via hardcopy, publically available documents. However, management agrees that it may be useful to the less sophisticated internet user if the Postal Service places a more prominent link on both the internal and external web pages that will simultaneously link the user to both the Standards of Ethical Conduct for Employees of the Executive Branch and the Postal Service's Senior Financial Managers' Code of Ethics.

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Although management strongly disagrees with any conclusion that this information is not readily and currently available to its employees or the public, the General Counsel agrees that it would be a worthwhile effort to work with the Chief Information Officer to design an additional link in a more prominent location on www.usps.com. Because the external website is being redesigned, changes to the external website must be coordinated in accordance with that project. Contingent on the progress of the redesign project, we are targeting accomplishment by September 30, 2010.

Recommendation 2

Continue to enhance the ethics education program to include awareness updates on a regular basis and make them available to all employees.

Response

Management agrees with the recommendation in general but contends that the current budget and severe financial constraints on the Postal Service will not permit the significant financial investment needed to offer a service-wide ethics awareness training program for all Postal employees. If and when the budget permits, the General Counsel plans to develop an ethics awareness campaign using simple, brief ethics messages that can be displayed in the workplace via printed posters and/or included as printed material in payroll inserts. At this time, there are no funds available for these purposes for FY 2010. The General Counsel agrees that any ethics training effort is worthwhile and will continue to enhance the ethics program to the extent the resources permit. Of course, the General Counsel will continue to provide all legally required ethics training each year to all financial disclosure filers and will continue to provide live ethics training to employees participating in formal and informal training programs, such as new officer training, new employee orientation training, annual all-hands training hosted by the various Vice-Presidents, new executive manager training and certain developmental programs offered at the Bolger Center. Further, the General Counsel's staff has been working on updating and enhancing the ethics training materials available on the General Counsel's blue page which will allow employees to take new and improved web based (non-live) training programs later this calendar year.

Recommendation 3

Develop and communicate a mission statement for the ethics program.

Response

Management agrees in part and disagrees in part with this recommendation. It is not necessary for the Postal Service to "develop" a mission statement for its ethics program as one already exists. In that the Postal Service is subject to the same ethics laws and regulations as all other executive branch agencies, the purpose of the federal ethics program has been adequately described by OGE, and published on their webpage at www.usoge.gov, as follows:

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At its heart, the purpose of the "ethics in Government" program is to ensure that executive branch decisions are neither tainted by nor appear to be tainted by any question of conflicts of interest on the part of the employees involved in the decision. Because the integrity of decisionmaking is fundamental to every Government program, the head of each agency has primary responsibility for the day-to-day administration of the "ethics in Government" program.

Based on a simple reading of the purpose behind the federal ethics program, management must also disagree that "management has not provided a clear, unified ethics mission and vision that reflects the 'tone at the top' or communicated this to its employees and stakeholders." Further, the Postal Service clearly articulates the purpose of its ethics program in section 662 of the Employee Labor and Relations Manual: "[t]o ensure that every citizen can have complete confidence in the integrity of the federal government, each federal employee, including each postal employee, must respect and adhere to the principles of ethical conduct set forth in 5 CFR 2635, 5 CFR 7001, and 39 CFR 447."

As discussed in management's response to Recommendation 1, to the extent that the General Counsel and the Chief Information Office develop a new link on its external and internal web pages, management agrees to include the above statement in that link to ensure that all readers are aware of the purpose for the executive-branch ethics program.

COMMUNICATING RELEVANT ETHICS PROGRAM RESULTS

Recommendation 4

Revise the procedures to include Corporate Personnel Management communicating to the Designated Agency Ethics Official relevant information related to ethics standards, violations of criminal conflict of interest statutes, and applicable disciplinary actions.

Response

Management strongly disagrees with the OIG's recommendation that management revise its procedures in such a way as to require Corporate Personnel Management to spot ethics violations contained in OIG Reports of Investigation and, only when Corporate Personnel Management spots such violations, to communicate with the DAEO on the matter at hand. The recommended approach is the not a reliable method to ensure that the General Counsel is properly positioned to accurately track and report all ethics violations to the Office of Government Ethics. The General Counsel has asked the OIG many times to inform her of the results of investigations involving allegations of ethics violations, and the OIG has not provided the needed information. Management again requests the support of OIG to accomplish the tasks assigned to the DAEO pursuant to 5 CFR 2638 and, therefore, specifically requests that the OIG simultaneously send a copy of any Report of Investigation where the investigator suspects an ethics violation to both the General Counsel and to Corporate Personnel Management.

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It may appear to be a simple ministerial change in procedure to ask that Corporate Personnel Management take the recommended action. However, implementing such a recommendation will not result in the desired result—that is, putting the General Counsel in a position where she can accurately monitor ethical compliance and track and report ethics violations. The reason recommendation #4 fails in this regard is because its success is premised on a misplaced reliance that the staff of Corporate Personnel Management possesses the requisite legal skills and expertise to spot and identify ethics violations within a Report of Investigation. This is not a correct factual assumption. While these valuable members of the Human Resources Department have notable and important skill sets unique to Human Resources, the attorneys assigned to the Ethics & Federal Requirements Section of the General Counsel's Office are the Postal Service's subject matter experts in ethics and are best positioned to spot ethics violations in any fact pattern. If the OIG forwarded copies of these reports simultaneously to the General Counsel and the Human Resources Officer whenever an investigator suspects an ethics violation, the Postal Service would not run the probable risk that a non-lawyer would miss a violation in the review of the Report of Investigation.

Management specifically requests the support and assistance of the OIG to ensure that the DAEO is best positioned to accurately fulfill her legal obligations and complete these duties by sending any investigatory report that potentially includes one or more ethics violations within its findings directly to the DAEO at the same time the report is forwarded to any other postal official.

Recommendation 5

[Secretary of the Board of Governors] Coordinate with the Audit and Finance Committee of the Board of Governors to provide clear written expectations to Postal Service management regarding its ethics reporting requirements. The expectations should:

- a. *Identify the types of ethics violations that constitute a relevant ethical issue.*
- b. *Define the point in the ethics process when the Board of Governors should be notified of relevant issues.*
- c. *Designate an official or organizational unit that would be responsible for reporting ethics issues to the Board of Governors.*

Response

To the extent this recommendation implies that the Board has not been receiving reports on ethics matters, management disagrees. The OIG, the Postmaster General and the General Counsel have kept the Board Chairman and/or other members of the Board informed as significant ethics matters arise. Management agrees, however, that it would be helpful if the Audit and Finance Committee provided written guidance regarding ethics reporting requirements. The Secretary of the Board has begun to document the criteria and process by which the Board wishes to be informed of ethical violations. The Audit and Finance Committee, on behalf of the Board, has made the reporting of ethical violations a priority during committee meeting discussions. They have designated time in executive session to ask both management and the OIG to brief them on any potential violations.

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Moreover, the current process is for the Postmaster General to brief the full Board in executive session when significant allegations have been brought against an officer of the Postal Service. Although these processes currently are followed, clear written procedures will add value and ensure there are no lapses in process or interpretation of the Board's expectations. This will be accomplished by May 31, 2010.

Recommendation 6

[General Counsel] Develop and communicate clear written policies and procedures based on Board of Governors expectations to ensure management reports relevant ethics issues to the Board of Governors.

Response

Management agrees with the recommendation. The General Counsel will direct the Alternate Agency Ethics Official to work with the Secretary of the Board of Governors to develop written policies and procedures. This will be accomplished by May 31, 2010.

We do not believe the report contains any confidential or sensitive proprietary business, personal or law enforcement information that would be exempt from disclosure under the Freedom of Information Act. If you have any questions, please contact Jeannine Turenne, Chief Counsel, Ethics and Federal Requirements, at (202) 268-3077.

Sincerely,



Mary Anne Gibbons

cc: Julie S. Moore
Thomas J. Marshall
Helen R. Grant
Jeannine H. Turenne