



February 20, 2009

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SUBJECT: Audit Report – Cooperative Mail Rule Exception
(Report Number MS-AR-09-004)

This report presents the results of our review of the Cooperative Mail Rule (CMR)¹ exception (Project Number 08RG019MS000). The report responds to a request from U.S. Representative Henry A. Waxman's office to review the CMR exception to (1) evaluate how the Postal Service monitors the CMR exception to identify abuses, (2) evaluate the use of the CMR exception among nonprofit mailers, and (3) determine the impact if the U.S. Postal Service changes the CMR exception. See [Appendix A](#) for additional information about this audit.

Conclusion

The Postal Service does not have a process to monitor and identify CMR exception abuses. Because Postal Service data does not identify nonprofit organizations (NPO) or for-profit organizations (FPO) that are using the exception for their mailings, it would be impossible for the Postal Service to currently monitor use of the exception. The Postal Service needs to collect data regarding use of the CMR exception during the mail acceptance process to enable monitoring for abuses.

Furthermore, the CMR exception policy, as written, is not clear and does not define cost, risk or benefit or provide guidance on the types of FPOs that NPOs can cooperate

¹ The CMR allows two or more authorized NPO to share the cost, risk, or benefit of a mailing and mail at Nonprofit Standard Mail® rates. The CMR exception allows an authorized nonprofit organization to share the cost, risk or benefit of a fundraising mailing with a for-profit organization and mail at Nonprofit Standard Mail rates.

with to raise funds.² Finally, the Postal Service can assist with efforts to promote transparency in the nonprofit sector by providing educational information to nonprofit mailers and links to federal and state charity regulation information on USPS.com®. We will report improved service as a non-monetary outcome in our *Semiannual Report*.

Method Needed to Monitor the Exception to Identify Abuses

The Postal Service does not have a process in place to monitor the CMR exception to identify abuses. Consumer Affairs, Mailing Standards, and Postal Inspection Service management said that because they have not received any complaints about the CMR exception, they are not sure whether there is a problem. The U.S. Postal Service Office of Inspector General (OIG) believes that although the Postal Service has not received any complaints, management needs to implement the most effective method to ensure there are no abuses of the CMR exception. See [Appendix B](#) for our detailed analysis of this topic.

We recommend the Vice President and Consumer Advocate:

1. Work with Mailing Standards, Bulk Mail Acceptance, and Postal Inspection Service officials to determine the most effective means to monitor the Cooperative Mail Rule exception to identify abuses.
2. Work with the Vice President, Business Mail Entry and Payment Technologies, to communicate what will be required of nonprofit mailers to assist with monitoring efforts.

Management's Comments

Management partially agreed with recommendation 1, asserting that the Postal Service has a process in place to monitor complaints of CMR exception abuse. Management stated that because there have been no reports of abuse, the Consumer Advocate can only agree to work with Mailing Standards, Business Mail Acceptance, and the Postal Inspection Service to buttress the existing system if abuses are revealed.

Management agreed with recommendation 2 and will communicate the process to capture complaints at the point of mail acceptance and elevate complaints to the Consumer Advocate by June 2009. See [Appendix F](#) for management's comments, in their entirety.

² The term FPO in this report represents professional fundraisers, commercial fundraisers, commercial agencies, and for-profit professional fundraiser organizations. The term NPO in this report represents charity, except in cases where the term charity is more appropriate or in the official title of the organization.

Evaluation of Management's Comments

We concur with management's position on recommendations 1 and 2. The Consumer Advocate's agreement to work with Mailing Standards, Business Mail Acceptance, and Postal Inspection Service to modify the existing system if abuses occur is sufficient. Management's plan to communicate the process to capture CMR exception complaints at the point of mail acceptance will provide authorized NPOs with the necessary information should there be a need to file a complaint. Management's elevation of CMR exception complaints to the Consumer Advocate will assist with complying with the promise to revisit the exception if abuses occur, and if necessary, to consider further rulemaking or other administrative measures.

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

Acceptance Procedures for Exception Mailings Need Strengthening

Thirteen out of 18 mail acceptance employees we interviewed were not knowledgeable of the CMR exception. Fifteen³ of these employees stated they had not received training on the CMR exception. In addition, Headquarters Mail Acceptance management said that when the CMR exception was implemented in November 2003, they did not receive direction from Consumer Affairs on the type of training to provide to mail acceptance clerks. Consequently, without adequate training, mail acceptance employees cannot provide NPOs with information and cannot assist with identifying abuses of the CMR exception or with evaluation of mailings to ensure compliance with the requirements to receive the Nonprofit rate. See [Appendix B](#) for our detailed analysis of this topic.

We recommend the Vice President, Business Mail Entry and Payment Technologies:

3. Coordinate with the Vice President and Consumer Advocate and Vice President, Pricing, to develop training for mail acceptance employees covering acceptance procedures for Cooperative Mail Rule exception mailings.
4. Coordinate with the Vice Presidents, Area Operations, to train mail acceptance employees on procedures for accepting Cooperative Mail Rule exception mailings.

Management's Comments

Management agreed with recommendations 3 and 4. Management will repeat and reinforce the training of all appropriate field mail acceptance employees by June 2009.

Evaluation of Management's Comments

³ Two of the mail acceptance clerks who said they were knowledgeable about the CMR exception said they did not receive training.

The OIG considers management's comments responsive to recommendations 3 and 4, and the corrective actions should resolve the issues identified in the report.

Data Not Available on Exception Usage

The Postal Service does not currently collect data from mailers regarding use of the CMR exception — such as the names of NPOs and FPOs using the exception — and whether the NPO waived its right to the donor list. Management officials in Business Mail Acceptance stated they did not receive instructions from Consumer Affairs to create a method to collect information on CMR exception usage. Because the Postal Service does not collect or maintain this data, management does not have information to determine usage or make decisions regarding the impact of the exception on the nonprofit sector.

In order for us to evaluate CMR exception usage, we surveyed a statistical sample of 5,004 NPOs authorized to mail at Nonprofit Standard Mail rates. We received very limited responses — of the 670 respondents, none used the CMR exception. Because of the limited response rate and the fact that the respondents did not use the exception, it was difficult to make use of much of the survey data. However, almost seven times as many respondents stated that modifying the CMR exception would have a positive rather than a negative impact on their fundraising ability (48 versus 7). Additionally, the respondents generally supported keeping the exception. More than three times as many respondents indicated that removing the exception would have a negative rather than a positive impact on their ability to raise funds (45 versus 14). See [Appendix B](#) for our detailed analysis of this topic.

We recommend the Vice President, Business Mail Entry and Payment Technologies:

5. Work with the Vice President and Consumer Advocate and the Vice President, Pricing, to develop and implement a method to collect data pertaining to the use of the Cooperative Mail Rule exception.

Management's Comments

Management disagreed with recommendation 5. They stated that because there are no cases of CMR exception abuses, and given the present financial climate, the Postal Service cannot justify the substantial expenditure for developing and deploying such a data collection system.

Management also noted that it is not the Postal Service's responsibility to monitor whether an authorized NPO employs a FPO, and the Postal Service does not have the authority to dictate the terms of business relationships between authorized NPOs and the FPOs they employ.

Evaluation of Management's Comments

The OIG understands the Postal Service's present financial climate and agrees that at this time, substantial expenditures in this issue area may not be prudent. However, the Postal Service agreed to monitor use of the CMR exception for abuses when the exception was finalized. Without data on the use of the exception, monitoring is not possible.

The OIG did not state that the Postal Service is responsible for monitoring NPOs' employment of FPOs or the terms of their business relationships. The OIG recommends collecting data to identify users of the CMR exception that will assist with future decision-making efforts regarding the rule. We believe data collection methods should be explored when the Postal Service's financial position improves. Although there is disagreement with this recommendation, we do not intend to elevate this issue to audit resolution.

Clarify Existing Exception Policies

The CMR exception policies do not define cost, risk, and benefit or spell out the types of permissible relationships that an NPO can participate in with an FPO when fundraising. A Mailing Standards management official said the language in the CMR exception policy is vague because, at the time, the Postal Service did not want the public to perceive it as exceeding its authority over the relationship between NPOs and FPOs. However, this official believes it does make sense to clarify the existing CMR exception policies. Clarification of these policies is critical to ensuring mailers fully understand what is permitted and prohibited, and to assist in preventing abuse in this area. Some of the external stakeholders⁴ who were familiar with the CMR exception believe the CMR exception as currently written allows fraud and abuse by FPOs assisting NPOs.⁵ Additionally, inadequate clarity could result in the Postal Service losing revenue due to mailers inappropriately mailing at Nonprofit rates. See [Appendix B](#) for our detailed analysis of this topic.

We recommend the Vice President, Pricing:

6. Clarify existing Cooperative Mail Rule exception policies and procedures by defining cost, risk, and benefit and outlining specifics regarding the relationships allowed between authorized nonprofit organizations and for-profit organizations.

⁴ Stakeholders included associations representing NPOs and FPOs, state charity regulators, consumer protection organizations, charity watchdog organizations, and direct mail companies.

⁵ Organizations within the nonprofit sector cite abuses including ownership of acquired donor lists, guarantee of results (e.g., a net dollar amount), ownership of the mailpiece or package, control of donations, sharing donations, (e.g., compensation by percentage of gross or net donations), and extension of loans or cash advances.

7. Work with the Vice President, Business Mail Entry and Payment Technologies, to communicate the clarified policies and procedures to authorized nonprofit organizations and for-profit organizations.

Management's Comments

Management agreed with recommendations 6 and 7. Management will use its resources to clarify the existing CMR exception policies and procedures, to include issuing additional customer support rulings if necessary and revising Publication 417, *Nonprofit Standard Mail Eligibility*, to give more examples of how those policies are interpreted. They plan to accomplish these actions by June 2009.

Evaluation of Management's Comments

The OIG considers management's comments responsive to recommendations 6 and 7, and the corrective actions should resolve the issues identified in the report.

Transparency and Charity Regulation

The Postal Service could assist federal and state charity regulators and charity watchdog organizations with efforts to promote transparency in the nonprofit sector by providing educational information on the CMR exception and its use as well as links to consumer protection and charity regulation information on USPS.com. Basic information and links to relevant sites could assist mailers and NPOs in making appropriate use of this exception by informing them of their rights and responsibilities. Although stakeholders have suggested the Postal Service could administer a national database of charities, most of the stakeholders we interviewed believe such a database is not a part of the Postal Service's jurisdiction or mission and would duplicate what is currently available through organizations that provide similar information to consumers. See [Appendix B](#) for our detailed analysis of this topic.

We suggest the Manager, USPS.com:

8. Add educational information about the Cooperative Mail Rule exception as well as a link on USPS.com directing consumers to existing federal and state charity regulators' websites that are committed to improving transparency in the nonprofit sector.

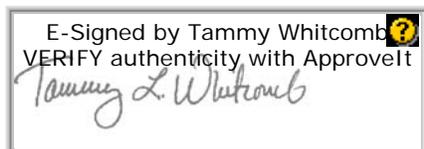
Management's Comments

Management agreed with the suggestion. Management will modify usps.com to provide more information about charities to consumers by May 2009.

Evaluation of Management's Comments

The OIG considers management's comments responsive, and the corrective 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 Robert Mitchell, Director, Sales and Service, or me at (703) 248-2100



E-Signed by Tammy Whitcomb 
VERIFY authenticity with ApproveIt
Tammy L. Whitcomb

Tammy L. Whitcomb
Deputy Assistant Inspector General
for Revenue and Systems

Attachments

cc: Robert F. Bernstock
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APPENDIX A: ADDITIONAL INFORMATION

BACKGROUND

Nonprofit Standard Mail is defined as printed matter (such as pamphlets, newsletters, direct mail, or merchandise) that weighs less than 16 ounces and is eligible for nonprofit prices if mailed by an authorized NPO. The Postal Service allows certain NPOs such as religious, educational, scientific, philanthropic, agricultural, labor, veterans, and fraternal entities to mail at Nonprofit Standard Mail® rates.⁶ The eligible organization must submit a completed Postal Service (PS) Form 3624, *Application to Mail at Nonprofit Standard Mail Rates*, along with required documentation, at a local post office or electronically.⁷ Table 1 provides the number of NPOs the Postal Service has authorized to mail at Nonprofit Standard Mail rates by calendar year.

End of Calendar Year	Authorized Nonprofit Mailers	Increase
2001	274,490	--
2002	286,974	12,484
2003	306,144	19,170
2004	317,496	11,352
2005	324,208	6,712
2006	337,379	13,171
2007	352,823	15,444

Source: U.S. Postal Service, PCSC

Nonprofit Standard Mail rates are priced at 60 percent of commercial rates and NPOs are also eligible for appropriate presort discounts. Table 2 provides Nonprofit Standard Mail volume and revenue⁸ by fiscal year (FY).

⁶ *Domestic Mail Manual* (DMM), Chapter 703, Nonprofit Standard Mail and Other Unique Eligibility, Subsection 1.2, Qualified NPO, updated March 13, 2008.

⁷ An eligible organization can apply to mail at Nonprofit Standard Mail rates in person at any postal facility or electronically through *PostalOne!* as of August 24, 2008. The organization completes a PS Form 3624 and forwards it to the Pricing Classification Service Center (PCSC) in New York for review and approval. The eligible organization must provide required documentation, such as the Internal Revenue Service (IRS) letter of federal tax exemption, organization articles of incorporation or charter, and an example of the organization's mission statement.

⁸ The Revenue Forgone Reform Act of 1993 (the Act) eliminated appropriations to support reduced rates for nonprofits and transferred the cost to other mailers. The Act only retained free postage for the blind and for voting material under the Uniform and Overseas Citizens Absentee Voting Act and for certain consular and diplomatic officials. The Act appropriated \$29 million each year from 1994 through 2035 to compensate for past years' insufficient appropriations.

Fiscal Year	Nonprofit Standard Mail Volume (000s)	Nonprofit Standard Mail Revenue (\$000s)
2001	14,423,446	\$1,672,146
2002	14,006,494	\$1,696,646
2003	14,527,723	\$1,816,272
2004	14,441,837	\$1,796,415
2005	15,046,802	\$1,855,416
2006	14,602,767	\$1,859,245
2007	14,783,682	\$1,935,547

Source: Postal Service, Revenue Pieces and Weight by Classes of Mail

The Postal Service is not required to measure the cost to process nonprofit standard mail separately from commercial mail.⁹ As a result, the Postal Service does not have specific cost data associated with processing Nonprofit Standard Mail.

The CMR allows one or more NPOs to share the cost, risk or benefit of a mailing. Cooperative mailings are entered at Nonprofit Standard Mail rates only if all cooperating NPOs are authorized to mail at that rate. The CMR does not allow NPOs to share the cost, risk or benefit of a mailing with FPOs and mail at the Nonprofit Standard Mail rate. In 2001 the U.S. House of Representatives and the U.S. Senate attempted to modify the CMR to allow authorized NPOs to partner with FPOs and mail at Nonprofit Standard Mail rates.¹⁰ These efforts did not result in any legislative changes to the CMR.

The Postal Service issued a proposal in the May 6, 2003, *Federal Register*¹¹ to amend DMM standards for mail matter eligible for Nonprofit Standard Mail rates. The Postal Service received 67 comments on the proposal and although the majority of the respondents supported the proposal, several organizations stated the CMR exception could allow abuse by some FPOs. These organizations wanted the Postal Service to add language to the CMR exception that protects NPOs.¹²

In November 2003, the Postal Service amended the DMM to include an exception to the CMR allowing NPOs to share the cost, risk or benefit to solicit monetary donations only and mail at Nonprofit Standard Mail rates.¹³ The solicitation cannot promote or facilitate the sale or lease of any goods or services and the authorized nonprofit mailer must receive a list of each donor including contact information and the amount of the

⁹ Public Law 106-384, Reduced Rate Mail Modification Provisions, October 27, 2000.

¹⁰ 107th Congress, U.S. House of Representatives Bill HR1169 presented in March 2001 and U.S. Senate Bill S1562 presented in October 2001. Neither bill received action from the committees to which they were forwarded.

¹¹ *Federal Register*, Volume 68, Number 87, Rules & Regulations Regarding CMR, Proposed Rule: Eligibility Requirements for Certain Nonprofit Standard Mail Matter, May 6, 2003.

¹² The organizations provided the Postal Service with language to include in the amendment that would protect NPOs; however, the Postal Service elected not to include the additional language.

¹³ *Federal Register*, Volume 68, Number 196, Rules & Regulations Regarding CMR, Final Rule: Eligibility Requirements for Certain Nonprofit Standard Mail Matter, October 9, 2003.

donation.¹⁴ If the authorized nonprofit mailer does not want the donor list, a written waiver is required. This type of cooperative mailing can be mailed at Nonprofit Standard Mail rates.

According to the Urban Institute's National Center for Charitable Statistics (NCCS), in 2006 there were more than 1.4 million public charities, private foundations, and other Internal Revenue Code Section 501(c)¹⁵ NPOs in the U.S. According to the NCCS, public charities include most organizations in the arts, education, healthcare, and human services and are what most people mean when they use the term nonprofit organization. Private foundations typically fund 501(c)(3) public charities and are usually endowed by a founding individual, family, or corporation. The "other" category includes social and recreational clubs, trade associations, labor unions, veterans associations, and advocacy organizations.¹⁶ The combined total revenue these organizations generated in 2006 was more than \$1.7 trillion. Chart 1 depicts the number of NPOs by type and chart 2 depicts the revenue generated by type of NPO in 2006.

¹⁴ Publication 417, *Nonprofit Standard Mail Eligibility*, Chapter 5, Cooperative Mailings, Subsection 5-2.1, Scope of CMR, March 2006.

¹⁵ Title 26, USC, § 501(c) is a provision of the Internal Revenue Code listing 28 types of NPOs exempt from some federal income taxes. These NPOs are generally nonprofit corporations, funds, and foundations for education, religious, charitable, or scientific purposes; civic leagues for general social welfare; or fraternal beneficial societies, orders, or associations.

¹⁶ *The Nonprofit Sector in Brief, Facts and Figures from the Nonprofit Almanac 2008: Public Charities, Giving, and Volunteering*, The Urban Institute, 2008.

Chart 1. Number of Nonprofit Organizations 2006

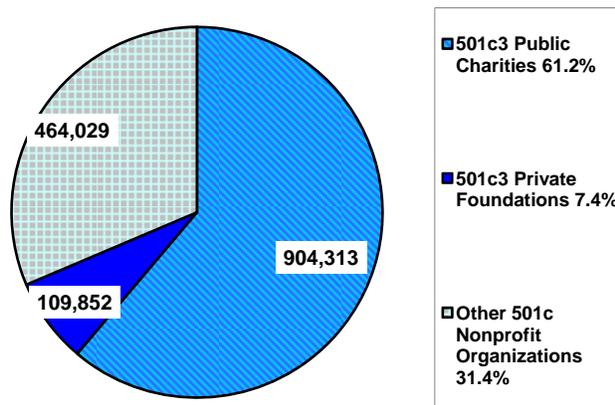
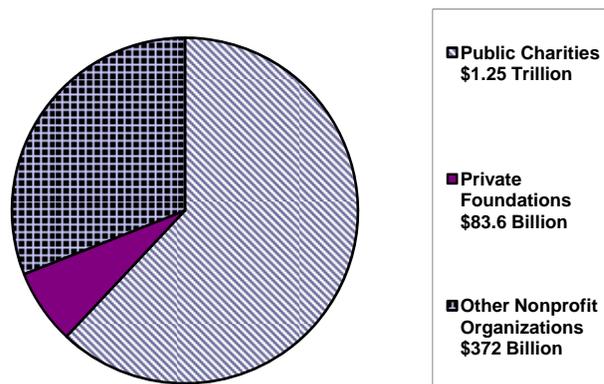


Chart 2. Revenue by Type of Nonprofit Organization 2006



Source: NCCS¹⁷

Direct mail fundraising campaigns are a popular option for NPOs. On average in 2006, 45.4 percent of the mail households received contained a request for funds with the majority of the requests made by NPOs.¹⁸ The Direct Marketing Association (DMA) states that direct mail, as a fundraising technique, was 70.5 percent successful in 2007.

According to direct mailers, on average, a direct mail campaign can cost anywhere from \$400 to \$500 per thousand mailpieces, so a mailing of 25,000 could cost between \$10,000 to \$12,500.¹⁹ Chart 3 shows the cost distribution for a sample direct mail budget.²⁰

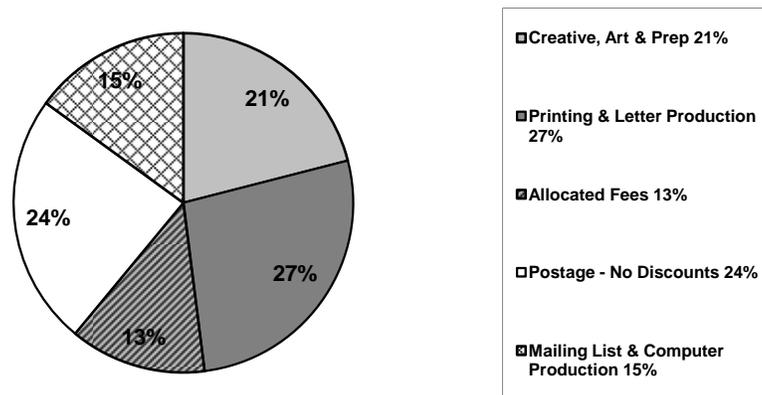
¹⁷ NCCS data is based on 2006 Form 990 filings from the IRS Business Master File as of January 2007.

¹⁸ This document sources the *Household Diary Study, Mail Use & Attitudes in FY 2007*, published by the Postal Service.

¹⁹ Association of Direct Response Fundraising Counsel (ADRFCO) and the Association of Fundraising Professionals (AFP) members participated in an e-mail survey regarding their clients' use of the CMR exception and we obtained information about the cost of a direct mail campaign.

²⁰ *DMA Statistical Factbook*, 30th Edition, 2007. Allocated fees include ad agency, consultant, and contingency costs. The postage is automation standard.

Chart 3. Direct Mail Budget Distribution



Source: DMA Statistical Fact Book

According to the ADRFCO, the most tangible asset an NPO will gain from direct mail fundraising is the list of donors. The average annual net revenue an NPO may expect for renting its list of donors is \$13,500 for a list of 25,000 donors.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of our review were to evaluate how the Postal Service monitored the CMR exception to identify abuses, evaluate the use of the CMR exception among nonprofit mailers, and determine the impact if the Postal Service changes the CMR exception. To accomplish our objectives, we:

- Documented and reviewed policies and procedures pertaining to the CMR exception.
- Evaluated how the Postal Service monitors the CMR exception to determine whether abuses are occurring, by conducting interviews with Postal Service management in the Office of Consumer Affairs and documenting the process used to handle complaints. In addition, we conducted interviews with the Postal Inspection Service and Postal Service management in Mailing Standards and Business Mail Acceptance. OIG auditors also conducted interviews at 18 randomly selected postal facilities during previously planned work in support of the FY 2008 financial statements audits to assess mail acceptance employees' knowledge of the CMR exception.
- Evaluated the use of the CMR exception among authorized NPOs by sending a survey to a statistical sample of 5,004 authorized NPOs. We also documented the process FPOs used to conduct direct mail fundraising campaigns and judgmentally surveyed 11 direct mail FPOs that assist NPOs with fundraising efforts. See [Appendix D](#) for details of the sampling methodology used to survey authorized nonprofit mailers.

- Evaluated the potential impact of changes to the CMR exception by analyzing documents and conducting interviews with associations representing NPOs, FPOs assisting NPOs, associations representing FPOs, state charity regulators, the Combined Federal Campaign (CFC), the Federal Trade Commission (FTC), the IRS, the Treasury Inspector General for Tax Administration, and several consumer protection organizations. In addition, we reviewed the transcripts and testimonies of three Congressional hearings relating to the CMR exception. Finally, we reviewed and discussed with the Postal Regulatory Commission (PRC) its public inquiry into the CMR exception.²¹
- Reviewed and summarized studies and reports regarding the nonprofit sector and charity regulation efforts located on websites sponsored by associations representing NPOs, associations representing FPOs, charity watchdog organizations, the IRS, and the FTC. We also reviewed a Government Accountability Office (GAO) report and testimony²² about IRS charity regulation efforts and interviewed the GAO Director who led the work to discuss the audit findings and recommendations.

We conducted this performance audit from June 2008 through February 2009 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 objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We relied upon computer-generated data retrieved from the Official Classification and Records Authorization (OCRA) system to obtain a listing of nonprofit mailers authorized to mail at Nonprofit Standard Mail rates.²³ At the time of our review, the Postal Service began a migration of OCRA data into the *PostalOne!* system.²⁴ Although we did not attest to the reliability of the OCRA data, we performed a limited analysis of the data and excluded records with incomplete addresses from our universe. To ascertain the accuracy of the mailing addresses in the OCRA database, we compared the OCRA

²¹ *Inquiry into the Cooperative Mail Rule Exception*, Docket Number PI2008-4, issued April 22, 2008, Postal Regulatory Commission.

²² Tax Exempt Organizations, *Improvements Possible in Public, IRS, and State Oversight of Charities*, Report to the Chairman and Ranking Minority Member, Committee on Finance, U.S. Senate, GAO-02-526, April 2002; Tax Exempt Sector, *Governance, Transparency, and Oversight Are Critical for Maintaining Public Trust*, GAO-05-561T, Testimony before the House Committee on Ways and Means on Wednesday, April 20, 2005.

²³ The OCRA system was a database containing information about authorized nonprofit mailers. According to PCSC management officials, the server that housed the OCRA database was retired in August 2008 and all of the data regarding authorized nonprofit mailers was migrated to *PostalOne!*

²⁴ The *PostalOne!* system is a suite of services that offers web-based initiatives to business mailers and business mail acceptance employees.

data to the data in the Postal Service's Address Management System (AMS).²⁵ We discussed our observations and conclusions with management on December 16, 2008, and included their comments where appropriate.

PRIOR AUDIT COVERAGE

The report titled *Improvements Possible in Public, IRS, and State Oversight of Charities*, GAO-02-526, April 2002, resulted from work conducted at the request of the U.S. Senate Committee on Finance. The report focused on the adequacy of publicly reported IRS Form 990, *Return of Organization Exempt From Income Tax* data on charity spending in facilitating public oversight of charities; IRS oversight of charities; and IRS data sharing with state agencies that oversee charities. The GAO made the following four recommendations to the IRS.

- (1) Obtain reliable data on compliance issues for the full charity community.
- (2) Develop result-oriented goals, strategies, and measures to gauge progress in accomplishing those goals when overseeing the charity community.
- (3) Develop, in consultation with state charity officials, a procedure to regularly share IRS data with states as allowed by federal law.
- (4) In concert with the Department of Treasury and state charity officials, identify the specific types of data that may be useful for enhancing state charity officials' oversight of charities, the appropriate mechanisms for sharing the data, the resources needed, and the types and levels of protections to be provided to prevent improper disclosure and misuse.

²⁵ The AMS is the master addressing database the Postal Service uses to capture, correct, and complete address information to enhance the efficiency of mail processing and delivery through automation. AMS contains information such as ZIP Codes and place names, Postal Service facility information, carrier routes, address ranges, and individual delivery addresses. AMS is the source for all address data and products used by mailers and internal Postal Service mail processing operations.

APPENDIX B: DETAILED ANALYSIS

Method Needed to Monitor the Exception to Identify Abuses

The Postal Service does not have a process in place to monitor the CMR exception to identify abuses. Consumer Affairs, Mailing Standards, and Postal Inspection Service management officials said that because they have not received any complaints about the CMR exception they are not sure whether there is a problem. While the Postal Service has not received any complaints, we believe that management needs to implement actions to ensure there are no abuses of the CMR exception.

When the Postal Service proposed the CMR exception in May 2003, it received comments from several associations²⁶ representing NPOs and FPOs encouraging the inclusion of language to safeguard NPOs and prevent FPOs from using the new rules to take advantage of inexperienced or unsophisticated NPOs. The requested safeguards included the following.

- Excluding the ineligible participant, the FPO, from serving as a key member of the NPO's board.
- Requiring board members or NPO officers to sign written contracts when obtaining the services of a FPO.
- Requiring the NPO to control solicited funds.
- Ensuring the NPO has sole ownership rights to the fundraising package developed at its expense.
- Prohibiting the FPO from extending credit to, and creating continued employment situations for, NPOs.
- Requiring certification on a PS Form 3602, Postage Statement, that the mailing satisfies all restrictions.

In the final ruling, the Postal Service stated that concerns can be addressed through alternatives to regulation such as education or training of NPOs. Furthermore, the Postal Service stated the new rule will not dictate the terms of the relationship between the NPO and FPO; but will increase the options available to the parties by allowing NPOs to consider retaining the services of a FPO.

The Postal Service included language in the final ruling stating the FPO must provide the NPO with a list of the individuals who gave donations, including contact information and the amount donated. If the NPO does not want the donor list, a written waiver is required. The Postal Service indicated it would assist in educating NPOs and its Consumer Advocate would monitor the CMR exception for abuses. The Postal Service

²⁶ Some of the organizations that were against the proposal included the Alliance of Nonprofit Mailers (ANM), AFP, Independent Sector, and the DMA.

also stated that if abuses occurred, it would revisit the exception and consider further rulemaking or other appropriate administrative measures.²⁷

In the January 2004 issue of the *Memo to Mailers*, the DMA Nonprofit Federation, PostCom, and the DMA, in cooperation with the Postal Service, published an article titled *New Standards for Nonprofit Mailers*.²⁸ The article discussed the change in the CMR that would allow authorized NPOs seeking monetary donations to share risk, profits, or management control with FPOs and use Nonprofit Standard Mail rates. The same groups also published a pamphlet titled *Prudent Contracting with A Professional Fundraiser* outlining changes in the cooperative mail regulation and offered warnings and advice to NPOs seeking to negotiate the services of FPOs.²⁹

The Postal Service has 80 Consumer Affairs Managers located throughout the country. According to the *Consumer Affairs Standard Operating Procedures for Complaint Handling Process*,³⁰ complaints can be made via the Internet, congressional inquiry, telephone call, walk-in, or correspondence. Employees enter all complaints that require research into the Customer Activity Response and Exchange (CARE) system within 24 hours. The Postal Service uses CARE to retrieve historical data and provide reports on all customer issues received by Consumer Affairs. Complaints not handled at the postal facility or district levels can be elevated to the area and headquarters levels.³¹

Consumer Affairs management stated they have not received any complaints regarding the CMR exception and if they had, they would have handled the complaints like all others. Specifically, issues are evaluated and answered by the appropriate functional area within the Postal Service. For example, Mailing Standards would handle CMR exception complaints because they are the subject matter experts. Officials also stated if the CMR exception complaint was related to fraud, it would be referred to the Postal Inspection Service.

The Postal Inspection Service's Revenue Protection³² program would handle CMR exception investigations and its Mail Fraud program would handle charity fraud.³³ Complaints can come to the Postal Inspection Service from Consumer Affairs, Postal Service business mailers, or customers who have had a monetary loss. Tips or

²⁷ *Federal Register*, Volume 68, Number 196, Final Rule: Eligibility Requirements for Certain Nonprofit Standard Mail Matter, October 9, 2003, Rules & Regulations Regarding CMR.

²⁸ *Memo to Mailers*, published by the U.S. Postal Service, Volume 39, Number 1, January 2004.

²⁹ The pamphlet also states the change to the CMR will remove restraints on so-called "risk-sharing" arrangements, such as percentage compensation arrangements or outcome guarantees.

³⁰ U.S. Postal Service, *Consumer Affairs Standard Operating Procedures Complaint Handling Process*, January 2007.

³¹ Because the OIG is currently conducting an audit of the Consumer Advocate complaint handling process, we did not determine the effectiveness of the process as part of this audit.

³² Revenue Protection investigations include eligibility fraud, which includes a mailing that does not meet requirements for preferential rates such as Periodicals or Nonprofit Mail.

³³ A type of mail fraud scheme defined as complaints from consumers who believe they have been solicited by or given donations to a disreputable charitable organization. Charity fraud may include solicitation purporting to be for a worthy cause that is, in fact, for private personal gain. Some subjects of charity fraud complaints may claim to have a nonprofit 501(c)(3) status when they do not.

complaints about abuse can also originate from field offices, the fraud complaint system, a telephone call, or letter. Postal Inspection Service management stated that, based on their data and investigations, there have been no issues regarding the CMR exception. The Postal Inspection Service has investigated three cases involving a violation of the CMR; however, these cases occurred prior to implementation of the CMR exception in November 2003. The mailings in all of the cases were inappropriately mailed at Nonprofit Standard Mail rates.

There is currently a perception that the CMR exception allows FPOs to take advantage of NPOs and donors when conducting direct mail solicitations. In addition to the Congressional hearings,³⁴ we reviewed a situation in which an NPO conducted direct mail fundraising campaigns and used the services of a FPO, but received only a small percentage of the money raised. Specifically, a large well-known NPO collected gross donations of \$46,155,104 between 1999 and 2003; however, the direct mail FPO kept \$43,344,899 of the donations raised. The extent of this type of situation is unknown and the Postal Service can assist in the effort to confirm whether it exists on a broader scale. Consumer Affairs officials said that because they have never received a CMR exception complaint outside of the current complaint process, they are not sure of what type of process to put in place. However, they are open to working with other Postal Service stakeholders (such as Mailing Standards and Business Mail Acceptance) to determine whether it makes sense to develop something different from the current complaint handling process.

The OIG encourages Consumer Affairs, Mailing Standards, Business Mail Acceptance, and Postal Inspection Service officials to work together to determine the most effective means to monitor the CMR exception to identify abuses.

Acceptance Procedures for Exception Mailings Need Strengthening

Thirteen out of 18 mail acceptance employees we interviewed were not knowledgeable of the CMR exception, and 15³⁵ stated they had not received training on the CMR exception. In addition, headquarters mail acceptance management said that when they implemented the CMR exception in November 2003, they did not receive direction from Consumer Affairs on the type of training to provide to mail acceptance clerks. Consequently, without adequate training, mail acceptance employees cannot provide NPOs with information or assist with identifying abuses of the CMR exception. Furthermore, mail acceptance employees cannot evaluate the mailings to determine mailer compliance with the requirements to receive the Nonprofit rate.

³⁴ The House Oversight and Government Reform Committee held hearings on December 13, 2007, and January 17, 2008. The House Subcommittee on Federal Workforce, Postal Service, and the District of Columbia held a hearing on April 24, 2008.

³⁵ Two of the mail acceptance clerks who said they were knowledgeable about the CMR exception said they did not receive training.

According to Publication 417, *Nonprofit Standard Mail Eligibility*, nonprofit mailers using the CMR exception remain subject to all other eligibility standards for Nonprofit Standard Mail. In order to determine whether these requirements and standards are met, Postal Service mail acceptance employees must verify the CMR exception mailing to:

- Ensure it solicits monetary donations for the authorized nonprofit mailer.
- Ensure it does not promote or otherwise facilitate the sale or lease of any goods or services.
- Determine whether the nonprofit organization waived its rights to the donor list.

Mail acceptance clerks must also verify that the NPO is authorized to mail at Nonprofit Standard Mail rates. Postal facilities with *PostalOne!* access are able to verify an NPO's authorization to mail at Nonprofit rates electronically. Postal Service facilities without *PostalOne!* access must review a hardcopy list of authorized nonprofit mailers.

OIG auditors also conducted interviews at 18 randomly selected postal facilities during previously planned work in support of the FY 2008 financial statements audits. Of the 18 mail acceptance clerks interviewed, 13 were not familiar with the exception. Most of the mail acceptance employees said they were not familiar with the CMR exception because they did not receive training. See [Appendix C](#) for the results at each postal facility.

Business Mail Acceptance management at Postal Service Headquarters stated they were not surprised that mail acceptance clerks were unaware of the CMR exception. One official said when the ruling came out in October 2003, the only notification was a *Postal Bulletin*³⁶ article which announced the Postal Service made a very small revision to the DMM that addressed the CMR exception. However, Mailing Standards required nothing additional to be presented by a mailer to support use of the CMR exception or of business mail acceptance to verify the support for the exception.

Business mail acceptance clerks are the first line of defense for ensuring that unauthorized users do not abuse Nonprofit Standard Mail rates. Postal Service mail acceptance employees must know the CMR exception to ensure that mail is accepted according to policies and procedures and that the rate paid for the mailing is appropriate. Enhancing employee knowledge of the CMR exception will assist in this effort.

³⁶ *Postal Bulletin*, 22114, DMM Revision: Nonprofit Standard Mail – Cooperative Mail, October 30, 2003.

No Data on Exception Usage

The Postal Service does not currently collect data from mailers pertaining to the use of the CMR exception, such as the names of NPOs and FPOs using the exception, and whether an NPO waived its right to the donor list. Business Mail Acceptance management stated they did not receive instructions from Consumer Affairs to collect information on CMR exception usage. Because the Postal Service does not collect or maintain data pertaining to the CMR exception, management does not have information to determine usage or make decisions regarding the impact of the exception on the nonprofit sector.

The Postal Service does not require mailers to provide information regarding CMR exception mailings. The OIG conducted a survey of 5,004 authorized nonprofit mailers to ascertain that mailers use the CMR exception. Of the 5,004 surveys mailed, we received 670 responses.³⁷ Our overall survey response rate of 13.4 percent does not provide enough information to draw conclusions about CMR exception usage. The majority of the respondents were religious and educational organizations and these types of organizations do not typically use direct mail as a primary fundraiser. None of the authorized NPOs that responded to the survey used the CMR exception.³⁸ Table 3 provides the response rate by type of nonprofit organization and chart 4 depicts the number of nonprofit mailers that responded to our survey.

Type of Nonprofit Organization	Number of Surveys Mailed	Number of Responses	Survey Response Rate (Percent)
Religious	2,105	327	16
Educational	1,471	159	11
Philanthropic	868	53	6
Veterans	124	20	16
Fraternal	246	38	15
Combined: Scientific, Agricultural, Labor and Qualified Political Committee	190	21	11
Did Not Specify ³⁹	--	52	--
Totals	5,004	670	13.4 - Average

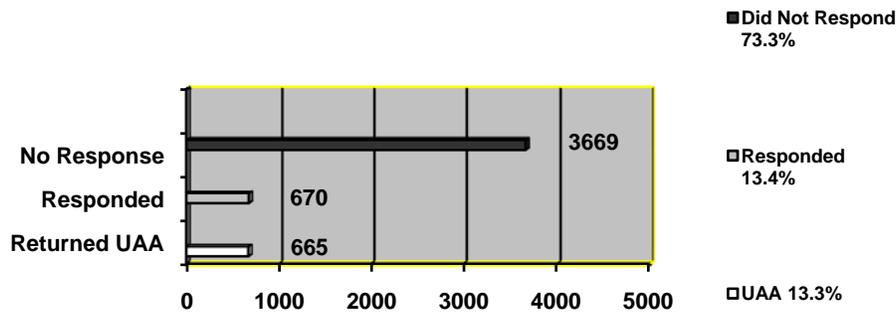
Source: OIG Nonprofit Mailer Survey Results

³⁷ An additional 665 surveys (13.4 percent) were returned Undeliverable as Addressed, which indicates that the Postal Service data on these charities may not be very accurate or up-to-date.

³⁸ We provided NPOs with a definition of the CMR exception to assist with responding to the questions.

³⁹ When these authorized nonprofit mailers responded to the survey, they did not indicate the type of nonprofit organization they represented.

Chart 4. Authorized Nonprofit Mailer Response to OIG Survey



Source: OIG Nonprofit Mailer Survey Results

We asked authorized NPOs about their use of direct mail, hiring a FPO, and the CMR exception since 2004. Of the 670 respondents, 181 used direct mail to raise money and 35 used the services of a FPO but none of the authorized NPOs used the CMR exception. Many mailers stated they do not use direct mail campaigns to raise money or hire FPOs. Table 4 provides details of the responses.

Type of Nonprofit Organization	Number of Respondents	Used Direct Mail	Hired a For-Profit Organization	Used the CMR Exception
Religious	327	64	8	0
Educational	159	56	13	0
Philanthropic	53	26	8	0
Veterans	20	1	0	0
Fraternal	38	5	1	0
Combined: Scientific, Agricultural, Labor and Qualified Political Committee	21	9	1	0
Did Not Specify	52	20	4	0
Totals	670	181	35	0

Source: OIG Nonprofit Mailer Survey Results

We asked NPOs what impact the CMR exception has had on their fundraising efforts since it was implemented in November 2003. Of the 623 that responded to the question, 22 stated it has had a positive impact while 596 indicated it has had no impact on their fundraising efforts. Five indicated the CMR exception had a negative impact on their fundraising abilities. Table 5 highlights the responses.

Type of Nonprofit Organization	Number of Respondents	Positive Impact	No Impact	Negative Impact
Religious	307	11	296	0
Educational	150	2	147	1
Philanthropic	51	4	44	3
Veterans	20	1	19	0
Fraternal	33	2	30	1
Combined: Scientific, Agricultural, Labor and Qualified Political Committee	20	0	20	0
Did Not Specify	42	2	40	0
Totals	623	22	596	5

Source: OIG Nonprofit Mailer Survey Results

We asked NPOs to indicate the impact on their fundraising ability if the Postal Service modified the CMR exception by adding language, such as ensuring the NPO is in control of the money raised or providing guidance regarding key employees of the NPO and FPO.⁴⁰ Of the 616 NPOs that responded to the question, 48 stated that modifying the CMR exception would have a positive impact, 561 stated it would have no impact, and seven stated it would have a negative impact. Table 6 provides the details of the responses.

Type of Nonprofit Organization	Number of Respondents	Positive Impact	No Impact	Negative Impact
Religious	302	16	284	2
Educational	150	11	138	1
Philanthropic	51	9	39	3
Veterans	20	2	18	0
Fraternal	34	1	32	1
Combined: Scientific, Agricultural, Labor and Qualified Political Committee	21	4	17	0
Did Not Specify	38	5	33	0
Totals	616	48	561	7

Source: OIG Nonprofit Mailer Survey Results

We asked NPOs to indicate the impact on their fundraising ability if the Postal Service removed the CMR exception and did not allow NPOs to share the cost, risk or benefit

⁴⁰ Associations representing NPOs and FPOs wanted the Postal Service to add language such as no officer, director, principal, or fiduciary of any FPO or corporate affiliate thereof, or any close relative of any such individual, serves the nonprofit organization as officer, director, or key employee.

with a FPO. Of the 622 NPOs that responded to the question, 14 stated it would have a positive impact, 563 stated it would have no impact, and 45 stated it would have a negative impact. Table 7 provides details of the responses.

Type of Nonprofit Organization	Number of Respondents	Positive Impact	No Impact	Negative Impact
Religious	307	7	284	16
Educational	149	0	139	10
Philanthropic	51	3	38	10
Veterans	20	0	18	2
Fraternal	34	4	29	1
Combined: Scientific, Agricultural, Labor and Qualified Political Committee	21	0	20	1
Did Not Specify	40	0	35	5
Totals	622	14	563	45

Source: OIG Nonprofit Mailer Survey Results

A few of the ADRFCO and the AFP direct mail agency members participated in an OIG e-mail survey regarding their clients' use of the CMR exception. Of the 17 direct mail agencies surveyed, 11 responded and none of them used the CMR exception with their clients' fundraising campaigns. Reasons included not being in a position to share in the cost, risk or benefit of a mailing with a client or believing the CMR exception encourages fraud and abuse and should be removed. Ten of the 11 direct mail FPOs that responded to the question stated their ability to assist NPOs with fundraising would not be affected if the Postal Service removed or modified the CMR exception. One FPO said that removing or modifying the CMR exception would have a positive impact on their ability to assist NPOs with fundraising because entities that are not following best practices may not be able to continue what they are doing. This FPO also believes donors are distracted from giving to more effective NPOs.

In order to generate data about users of the CMR exception, the Postal Service must first require mailers to provide the information. Business Mail Acceptance management believes the Postal Service can add the information as a required field on the *Postage Statement for Nonprofit Standard Mail*⁴¹ and possibly as a field in the *PostalOne!* system in 2010. Once the Postal Service collects CMR exception data, it can use the data to assist management with identifying NPOs and FPOs using the exception, thereby assisting with making informed decisions about its impact.

⁴¹ PS Form 3602-N1, *Postage Statement – Nonprofit Standard Mail*, June 2007.

Clarify Existing Exception Policies

The CMR exception policies do not define cost, risk, and benefit or spell out the types of permissible relationships that an NPO can participate in with a FPO when fundraising. A Mailing Standards official said the language in the CMR exception policies is vague because, at the time, the Postal Service did not want to be perceived as exceeding its authority over the relationship between an NPO and FPO. However, this official does believe it makes sense to clarify existing CMR exception policies. Clarification is critical to ensuring mailers know what is permitted and prohibited and to assist in preventing abuse in this area. Most of the external stakeholders⁴² we interviewed believe the CMR exception, as currently written, allows fraud and abuse by FPOs assisting NPOs. Additionally, insufficient clarity in the policy could result in a loss of revenue to the Postal Service, if mailers are inappropriately mailing at the Nonprofit rate.

CMR exception policies outlined in the DMM, Chapter 703,⁴³ and in Publication 417, Chapter 5,⁴⁴ do not specify that an NPO can share the cost, risk or benefit of a solicitation mailing with a FPO. The DMM CMR exception policy is more ambiguous than Publication 417's and does not specify that an NPO can partner with a FPO and share the cost, risk or benefit of a solicitation mailing. The policy only states there is an exception to the CMR. Although Publication 417 does state that cost, risk or benefit can be shared, it does not specify the kinds of FPOs the NPO can partner with to mail solicitations. Table 8 provides the policies for the CMR and the CMR exception and also lists what is missing from each policy.

Table 8. CMR Exception Policy Analysis	
DMM 703	Publication 417
A cooperative mailing may be made at the Nonprofit Standard Mail rates only when each of the cooperating organizations is authorized to mail at the Nonprofit Standard Mail rates at the post office where the mailing is deposited.	A cooperative mailing is a mailing produced by an authorized organization that "cooperates" with one or more organizations to share the cost, risk or benefit of the mailing. Organizations may not enter cooperative mailings at Nonprofit Standard Mail rates unless the Postal Service has authorized all the cooperating organizations to mail at these rates.
<i>Exception:</i> This standard does not apply to mailings by an organization authorized to mail at Nonprofit Standard Mail rates soliciting monetary donations to the authorized mailer and not promoting or otherwise facilitating the sale or lease of any goods or services.	The cooperative mail rule generally applies to all mail entered as Nonprofit Standard Mail; however, effective November 13, 2003, the Postal Service adopted a limited exception to this policy for certain fundraising mail to assist nonprofit organizations in obtaining the monetary funding needed to support their programs.
This exception applies only where the organization authorized to mail at Nonprofit Standard Mail rates is given a list of each donor and their contact information and donation amount or waives in writing receipt of	Mailings within the exception are not subject to the cooperative mail rule and are not denied entry at nonprofit rates under that provision, but remain subject to all other eligibility standards for Nonprofit Standard Mail.

⁴² Stakeholders included associations representing NPOs and FPOs, state charity regulators, consumer protection organizations, and direct mail companies.

⁴³ DMM, Section 703, Nonprofit Standard Mail & Other Unique Eligibility, Subsection 1.6.3, Cooperative Mailings, March 13, 2008.

⁴⁴ Publication 417, *Nonprofit Standard Mail Eligibility*, Chapter 5, Cooperative Mailings, March 2006.

Table 8. CMR Exception Policy Analysis	
DMM 703	Publication 417
this list.	
	Nonprofit Standard Mail is not subject to the cooperative mail rule if it meets the following criteria: <ul style="list-style-type: none"> ○ It is mailed on or after November 13, 2003. ○ It solicits monetary donations for the authorized nonprofit mailer. ○ It does not promote or otherwise facilitate the sale or lease of any goods or service.
	The authorized nonprofit mailer is given a list of each donor and their contact information and donation amount or waives in writing receipt of this list.
What is Missing from the Policy	
<ul style="list-style-type: none"> ○ Does not specifically mention FPOs ○ No definitions of cost, risk or benefit ○ No definition of FPOs ○ Does not state terms such as sharing cost, risk or benefit 	<ul style="list-style-type: none"> ○ Does not specifically mention FPOs ○ No definitions of cost, risk or benefit ○ No definition of FPOs

Postal Service Mailing Standards management stated that they educate nonprofit mailers about the CMR exception at the National Postal Forums. The presentation used to educate NPOs addresses nonprofit mail eligibility and content restrictions and discusses the CMR and the CMR exception. In our survey, we asked NPOs how their organizations learned about the CMR exception and 109 NPOs stated they were not aware of the CMR exception. Table 9 depicts the NPO by type of organization that indicated they were not aware of the CMR exception.

Table 9. Nonprofit Organizations' CMR Exception Knowledge		
Type of Nonprofit Organization	Number of Respondents	Number of Respondents that Did Not Know About the CMR Exception
Religious	327	52
Educational	159	25
Philanthropic	53	8
Veterans	20	2
Fraternal	38	5
Combined: Scientific, Agricultural, Labor and Qualified Political Committee	21	2
Did Not Specify	52	15
Totals	670	109

Source: OIG Nonprofit Mailer Survey Results

Some external stakeholders believe the CMR exception as currently written allows fraud and abuse by FPOs assisting NPOs. Stakeholders within the nonprofit sector state that FPO abuses of NPOs include ownership of acquired donor lists, guaranteed results (such as a net dollar amount), ownership of the mailpiece or package, control of

donations, compensation by percentage of gross or net donations, and FPO extension of loans or cash advances to NPOs. These stakeholders believe the Postal Service should modify the language in the CMR exception to prevent these abuses from occurring.

The Postal Service should clarify the CMR exception policies and procedures and can consider using terminology and definitions that already exist in the nonprofit sector. For example, the IRS defines professional fundraising services as

services performed for the organization requiring the exercise of professional judgment or discretion consisting of planning, management, the preparation of materials (e.g., direct mail solicitation packages), the provision of advice and consulting regarding solicitation of contributions, and direct solicitation of contributions. However, professional fundraising does not include purely ministerial tasks, such as printing, mailing services, or receiving and depositing contributions to a charity, such as the services provided by a bank or caging service.⁴⁵

Some state charity regulators also have definitions of commercial/ professional solicitors and commercial/professional fundraising counsels.⁴⁶

Eligible NPOs may be limiting their ability to raise money for their programs because the CMR exception policy is not clear. In addition, if the CMR exception policy does allow FPOs to take advantage of NPOs, the Postal Service should address this concern as well.

Transparency and Charity Regulation

The Postal Service could assist federal and state charity regulators, and charity watchdog organizations with efforts to promote transparency in the nonprofit sector by providing educational information on the CMR exception and its use as well as links to consumer protection and charity regulation information on the Postal Service's website. For example, although the Postal Service has undertaken some educational efforts, information on the website about these efforts is limited. In January 2004 the DMA Nonprofit Federation, PostCom, and DMA, in cooperation with the Postal Service, published an article titled *New Standards for Nonprofit Mailers*,⁴⁷ discussed earlier in this report; however, it is not currently available on the website. These and other articles and links to relevant sites could assist mailers and NPOs in making appropriate use of this exception by informing them of their rights and responsibilities.

⁴⁵ IRS, 2008 Instructions for Form 990, Glossary.

⁴⁶ Washington state uses the terms "commercial fundraiser" and "fundraising counsel" while South Carolina and Pennsylvania use the terms "professional solicitor" and "professional fundraising counsel."

⁴⁷ *Memo to Mailers*, U.S. Postal Service, Volume 39, Number 1, January 2004.

While some stakeholders have suggested that the Postal Service could administer a national database of charities, most of the stakeholders we interviewed believed such a database is not a part of the Postal Service's jurisdiction or mission. Also, this database would duplicate what is currently available through organizations that provide similar information to consumers.

The mission of the Postal Service is to provide trusted, affordable, universal service. Although the Postal Service maintains a database of NPOs that are authorized to mail at Nonprofit Standard Mail rates, a national database of charities would be a substantial undertaking. However, the Postal Service can assist consumers, members of the nonprofit sector, IRS, state charity regulators, and consumer protection organizations with efforts to promote transparency in the charity sector by providing additional information and links to consumer protection and charity regulation on their website. Postal Service USPS.com management agrees with providing additional information about the CMR exception on the website to assist nonprofit mailers; however, these officials do not recommend adding links to websites (such as charity watchdog organizations) because consumers do not visit USPS.com to obtain this information and may also believe the Postal Service is endorsing these sites.

Over the past few years, the nonprofit sector and federal and state agencies have undertaken efforts to promote transparency, governance, accountability, and ethics within the nonprofit community. [Appendix E](#) of our report provides information regarding current regulation of and issues regarding the nonprofit sector.

APPENDIX C: MAIL ACCEPTANCE CLERK SURVEY SUMMARY

Table 10. Mail Acceptance Clerk Survey Results		
Postal Service Facility Name and Location	Mail Acceptance Clerk Knew About the CMR Exception	Mail Acceptance Clerk Received Training on the CMR Exception
[REDACTED]	Yes	Yes
[REDACTED]	No	No
[REDACTED]	Yes	No
[REDACTED]	No	No
[REDACTED]	No	No
[REDACTED]	Yes	Yes
[REDACTED]	No	No
[REDACTED]	Yes	Yes
[REDACTED]	No	No
[REDACTED]	Yes	No
	Yes = 5 and No = 13	Yes = 3 and No = 15

APPENDIX D: NONPROFIT MAILER SURVEY SAMPLING METHODOLOGY

To perform this study, we sent out surveys to NPO authorized to mail at Nonprofit Standard Mail rates stratified by the type of nonprofit.⁴⁸ We divided the strata into the five largest nonprofit types and added a sixth stratum to include the remaining types. Using this approach we were able to optimize the sample sizes associated with each of the strata based on the estimated variances within each. Specifically, we used the RAT-STATS 2007 v.2 sample size determination module for stratified sampling. Table 11 outlines the number of surveys mailed to each nonprofit organization type.

Table 11. Authorized Nonprofit Mailer Sample by Organization Type	
Type of Nonprofit Organization	Number of Surveys Mailed
Religious	2,105
Educational	1,471
Philanthropic	868
Veterans	124
Fraternal	246
Combined: Scientific, Agricultural, Labor and Qualified Political Committee	190
Totals	5,004

The executive director of the ANM co-signed our survey. We mailed the survey to a sample of 5,004 authorized nonprofit mailers on August 5, 2008, and also offered the opportunity to complete the survey online. We gave authorized nonprofit mailers until August 25, 2008, to respond to the survey.

⁴⁸ We retrieved authorized nonprofit mailer data from OCRA as of June 8, 2008, prior to the migration of OCRA data into *PostalOne!*

APPENDIX E: CURRENT REGULATION OF THE NONPROFIT SECTOR

This appendix discusses current regulation of and issues regarding the nonprofit sector. We begin by discussing the Postal Service's role and follow with the requirements of the PRC. We then discuss federal, state, and charity watchdog organizations followed by a discussion of ethics and good business practices for NPOs. We conclude with an analysis of the regulation of FPOs and provide reasons why the Postal Service should not administer a national database of charities.

Postal Service

On April 24, 2008, the Postmaster General (PMG) testified before the Subcommittee on the Federal Workforce, the Postal Service, and the District of Columbia. The PMG stated the Postal Service can and must play an important role in maintaining an environment that supports personal philanthropy by helping to raise awareness of the issue regarding significant financial advantage for FPOs and not NPOs. The PMG stated the goal of the CMR exception was to avoid conflicts between individual state laws governing the operation of charitable organizations and mailing rules that apply to all nonprofit mailers, regardless of location.

The Postal Service provides policy outlining the extent to which an NPO is qualified to mail at reduced rates. The Postal Service also governs the acceptance of mail from authorized NPOs interested in using Nonprofit Standard Mail rates. NPOs can access USPS.com to learn about Nonprofit Standard Mail eligibility requirements, the application process, and nonprofit mail preparation.

In the business section of the website, there are four frequently asked questions regarding nonprofit mail, one of them being "Using Professional Fundraising without Losing Nonprofit Status." The answer states

the Postal Service will allow nonprofits to use professional fundraising organizations without jeopardizing their eligibility to mail Nonprofit Standard Mail. This decision will allow nonprofits to increase the potential pool of charitable donors when the economy is weak and public resources are being diverted.

The Postal Service is also a resource to the general public and USPS.com is one of the most frequently visited government sites, with 386 million visits in 2007 – averaging one million visitors each day.⁴⁹ The Postal Service makes the *U.S. Postal Inspection Service Guide to Preventing Mail Fraud*⁵⁰ available on USPS.com. This publication provides guidance to consumers on preventing the use of the mail to defraud customers and to help consumers and businesses identify different types of mail fraud. The publication covers several types of mail fraud schemes including sweepstakes and free

⁴⁹ *Postal Service Facts 2008*, U.S. Postal Service.

⁵⁰ Publication 300-A, *U.S. Postal Inspection Service Guide to Preventing Mail Fraud*, June 2007.

prizes, credit repair and credit card schemes, and charity fraud. The charity fraud information includes advice such as “give to charities you know, check out the ones you never heard of and be suspicious of charities that accept cash only.” The Postal Inspection Service’s website (postalinspectors.uspis.gov) also provides information about charity fraud as well as a link to the Better Business Bureau (BBB) Wise Giving Alliance website for consumers interested in learning about organizations with which they are unfamiliar.

Postal Regulatory Commission

The Postal Accountability and Enhancement Act of 2006 (Postal Act of 2006), Section 711, Provisions Relating to Cooperative Mailings, requires the PRC to conduct a study to examine whether the DMM contains adequate safeguards to protect against abuses of rates for nonprofit mail and deception of consumers. The PRC is required to report the results of the examination to the Postal Service along with recommendations deemed appropriate.⁵¹

The PRC issued a public inquiry into the CMR exception on April 22, 2008, to facilitate compliance with this provision.⁵² Regarding abuses of Nonprofit Standard Mail rates, the PRC requested comments regarding the extent of abusive fundraising practices, education efforts by the Postal Service and the nonprofit sector, as well as available data on the use of the CMR exception. Regarding deception of consumers, the PRC requested comments about state laws on charitable fundraising, Postal Service and state consumer education efforts, and reported cases of donor deception. The Public Inquiry closed in July 2008 and the PRC received five comments and three replies.

On February 13, 2009, the PRC issued its report on the results of the public inquiry, *Report of the Postal Regulatory Commission on the Fundraising Exception to the Cooperative Mail Rule*. The report includes five recommendations:

- (1) Improve Oversight of Use of the Fundraising Exception to Enhance [Postal Act of 2006] Goals of Accountability and Transparency in the Administration of this Regulation.
- (2) Develop a Coordinated Internal Plan that Builds on Existing In-house Training and Education, with Added Emphasis on both the Cooperative Mail Rule and the Fundraising Exception.
- (3) Develop a Comprehensive External Communications Plan that Builds on Concerns of the Nonprofit Mailing Community, the Professional Fundraising Community, and the Donor Community and, as Part of This, Consider Whether

⁵¹ If the Postal Service fails to act on the recommendations of the Commission, the Commission may take action it determines necessary to prevent abuse of rates and deception of consumers.

⁵² Docket Number PI2008-4, Inquiry into the CMR Exception, April 22, 2008.

Editorial Improvements in the Wording of the Cooperative Mail Rule Would Enhance a Lay Audience's Understanding of these Regulations.

- (4) Consider Whether Ties to Other Authorities and Agencies Should be Formalized and, if This is Warranted, Periodically Provide a Brief Report on the Activities of This Group Via an Established Reporting Mechanism.
- (5) Consider Whether Persistent Concerns About Undue Influence or Control Over Nonprofit Organizations Warrant Revisiting a Decision in the 2003 Rulemaking, to Exclude from the Fundraising Exception Any Terms that Would Address These Matters, and Whether Substantive Revisions Warrant Developing a New Legislative Proposal.

House Oversight and Government Reform Committee

The House Oversight and Government Reform Committee held hearings on December 13, 2007, and January 17, 2008, on fundraising; and the House Subcommittee on Federal Workforce, Postal Service, and the District of Columbia held a hearing on April 24, 2008. Committee members expressed concern that some charities are conducting high volume mail and telemarketing campaigns that enrich the organizations and fundraisers without providing meaningful assistance to veterans. Chairman Henry A. Waxman stated that although hundreds of millions of dollars are donated to charities, most of the funds never reach veterans or their families but are instead wasted on bloated overhead costs and self-enrichment.

The hearings raised awareness of abuses by some FPOs that are using the CMR exception to conduct direct-mail fundraising at Nonprofit Standard Mail rates and keeping a large portion of the money raised. Some committee members believe the Postal Service's CMR exception "fostered" an opportunity for these types of abuses. The hearings centered on veterans' charities that have allegedly suffered from this activity.

The PMG, Chairman of the PRC, NPOs, FPOs, state charity regulators, and charity watchdog organizations testified at the hearings.

Senate Committee on Finance

The Senate Committee on Finance made two requests and three reports were issued as a result of those requests. In the first report, issued in April 2002, the GAO reviewed oversight of charities because of congressional and media concern regarding charities spending too much on fundraising and general management and not enough on program services to meet charitable purposes related to tax-exempt status.⁵³ The GAO

⁵³ GAO-02-526, *Tax Exempt Organization: Improvements Possible in Public, IRS, and State Oversight of Charities*, April 2002, Report to the Chairman and Ranking Minority Member, Committee on Finance, U.S. Senate, Honorable Max Baucus, Chairman, and the Honorable Charles E. Grassley, Ranking Minority Leader.

report is discussed previously in the Prior Audit Coverage section of this report. The IRS implemented all but the recommendation to develop result-oriented goals, strategies, and measures to gauge progress in accomplishing those goals when overseeing the charity community.⁵⁴

The second and third reports resulted from a request of the Independent Sector⁵⁵ by the Chairman and Ranking Minority Member of the Senate Committee on Finance in September 2004. The Committee was considering comprehensive reform to protect charities from “bad actors” and to strengthen their accountability to donors. In addition, there was an effort to construct appropriate legislative remedies and enable good self-regulation. The Independent Sector convened a Panel on the Nonprofit Sector (Panel) and issued two comprehensive reports with recommendations to the Senate Committee on Finance and the Nonprofit Sector regarding transparency, governance, and accountability of charitable organizations.⁵⁶ The Panel made recommendations concerning the role of charitable organizations in American life, the responsibilities of the charitable community, and the need for balanced government oversight. The Panel also made recommendations to Congress, the IRS, the FTC, state charity regulators, and charitable organizations regarding charitable solicitation and the use of FPOs. The charitable solicitation recommendations centered on addressing concerns about fraudulent solicitations and about FPOs whose efforts primarily benefit themselves, not the NPO.

Internal Revenue Service

The IRS Commissioner of Tax Exempt and Government Entities (Commissioner) believes the IRS is responsible for providing transparency, governance and accountability to the public and is concerned about the extent to which abuse has emerged in the charitable sector. The Commissioner stated⁵⁷ the abuse is both actual and perceived, unsettles the environment of the charitable sector, is a threat to the

⁵⁴ GAO also conducted a study and provided testimony before the House Committee on Ways and Means, *Governance, Transparency, and Oversight Are Critical for Maintaining Public Trust*, GAO-05-561T, released on Wednesday, April 20, 2005. The GAO was asked to address the growth of the 501(c)(3) tax exempt sector, role of governance and transparency, IRS capacity to oversee the tax exempt sector, state oversight, and the relationship of the states with the IRS in overseeing the tax exempt sector.

⁵⁵ The Independent Sector was founded in 1980 and is a nonprofit, nonpartisan coalition of approximately 600 national public charities, foundations, and corporate philanthropy programs. In its request, the Senate Finance Committee stated it would welcome the recommendations of the Independent Sector to assist in legislative efforts to improve oversight and governance of charitable organizations, as well as to stimulate or initiate efforts with the charitable community to identify and enforce standards of best practices in the areas of governance, transparency, financial accountability, conflicts of interest, fundraising practices, and grant practices.

⁵⁶ The Senate Finance Committee was provided two reports: *Strengthening Transparency, Governance, and Accountability of Charitable Organizations*, a final report to Congress and the Nonprofit Sector, June 2005; and *Strengthening Transparency, Governance, and Accountability of Charitable Organizations*, a supplement to the final report to Congress and the Nonprofit Sector, April 2006.

⁵⁷ The IRS Tax Exempt and Government Entities Commissioner testified on July 24, 2007, to the Oversight Subcommittee, House Ways and Means Committee, on the Oversight of Tax-Exempt Organizations. The Commissioner also provided remarks to the Georgetown Seminar Exempt Organization on April 23, 2008; the Philanthropy Roundtable on November 10, 2007; and the Independent Sector on October 22, 2007. We also reviewed *IRS Exempt Organization Implementing Guidelines for FY 2004, FY 2005, FY 2006, FY 2007 and FY 2008*.

community, and requires action by regulators. IRS enforcement efforts include the determinations program, the compliance program, and the examinations program.

The Commissioner stated the IRS's ability to regulate the tax-exempt sector depends on the quality of the information that tax-exempt organizations report to the IRS. The IRS is expanding its presence in the community and making data about exempt organizations more accessible to its agents and to the public. Transparency efforts include (1) redesigning Form 990 to capture information that was previously not requested of tax-exempt organizations, (2) allowing electronic filing of Form 990 and 990 EZ, (3) implementing Form 990-N (e-Postcard)⁵⁸ for small exempt organizations whose gross receipts are normally \$25,000 or less, and (4) working with the charitable sector to improve governance and accountability.

Beginning with the 2008 tax year (filing in 2009), the IRS redesign of Form 990 will include Part VI, *Governance, Management, and Disclosure*, a new question that asks about the organization's governance structure, policies, and disclosure practices. Another significant change includes the completion of Schedule G, *Supplemental Information Regarding Fundraising or Gaming Activity*, if the organization paid more than \$15,000 in expenses for professional fundraising services, fundraising events, and/or gaming activities. In relation to fundraising activities, Schedule G requires the tax-exempt organization to:

- Indicate the types of fundraising activities conducted such as mail solicitations, e-mail solicitations, or phone solicitations.
- Disclose whether there was an oral or written agreement with any individual, including officers, directors, trustees, key employees, or entities in connection with professional fundraising services.
- Disclose the 10 highest paid individuals or entities (fundraisers) that were compensated at least \$5,000.
- List all states in which the organization is registered or licensed to solicit funds or has been notified of its exemption from registration or licensing.

The IRS makes Form 990 available on their website (www.irs.gov) for public inspection. The IRS has also worked closely with officials in several states to implement an expanded information-sharing process to ensure the process meets the strict confidentiality and safeguard requirements imposed by the PPA of 2006.⁵⁹ During FY

⁵⁸ The Pension Protection Act (PPA) of 2006 added the 990-N e-Postcard as a requirement to ensure the IRS and potential donors have current information about tax-exempt organizations. The first e-Postcards are due in 2008 for tax years ending on or after December 2007 and filers can complete the form by accessing the website <http://epostcard.form990.org>.

⁵⁹ PPA of 2006, Title XII, Provisions Relating to Exempt Organizations, B, Reforming Exempt Organizations, Section 1224, Disclosure to State Officials Relating to Exempt Organizations, states the IRS is now permitted to disclose to

2007 the IRS received 158 referrals from state officials from 21 states, a significant increase from the previous year.

Federal Trade Commission

The FTC Bureau of Consumer Protection's website (www.ftc.gov) provides consumer advice regarding charitable donations, information about charity fraud schemes, and guidance for NPOs interested in hiring FPOs. The FTC website allows consumers to file a complaint online. The FTC also administers the Telemarketing Sales Rule (TSR), which Congress mandated through the Telemarketing and Consumer Fraud and Abuse Prevention Act of 1994 (Act). TSR requires telemarketers to adhere to certain rules when conducting telemarketing campaigns and the Act allows states to enforce the rules in federal court.

State Charity Regulators

Currently, 39 states and the District of Columbia have some form of regulation of NPOs and FPOs interested in soliciting donations from their residents.⁶⁰ Typically, state charity regulators and attorneys general work together to carry out the states' charitable solicitation laws, which are statutes designed to regulate the process of raising funds for charitable purposes within each state.⁶¹ In most instances, state regulators require NPOs and FPOs to register and FPOs to file annual financial disclosure reports in each state where they conduct fundraising activities. Some states publish annual reports listing the NPOs that have contracted with FPOs to solicit funds for charitable purposes. These annual reports include the amount of money raised as well as the compensation to the FPO in relation to the funds raised and administrative costs. The annual reports and consumer information regarding charity regulation are also provided on each state's website.

Members of the National Association of State Charity Officials (NASCO), the association of state offices charged with oversight of charitable organizations and charitable solicitation in the U.S., share information regarding audits and investigations of NPOs and FPOs. NASCO is also responsible for writing the *Charleston Principles: Guidelines on Charitable Solicitations Using the Internet*. On April 30, 2008, the president of NASCO provided a written statement to the Subcommittee on Federal Workforce, Postal Service, and the District of Columbia regarding the CMR exception.

appropriate state officials certain information about investigations related to refusal to recognize an organization as tax-exempt or revocation of tax exemption.

⁶⁰ According to the Giving USA Foundation's *Annual Survey of State Laws Regulating Charitable Solicitations*, January 1, 2008, 39 states and the District of Columbia require registration or licensing requirements for charitable organizations and 11 states do not have requirements.

⁶¹ *The Value of Relationships between State Charity Regulators & Philanthropy*, David Biemesderfer and Andras Kosaras, 2006, published by the Council on Foundations and the Forum of Regional Associations of Grantmakers. This document discusses the results of a study of 16 states and their charity regulation and enforcement efforts. The document notes that 57 percent of all public charities and 64 percent of private foundations are located in these 16 states: New York, California, Texas, Illinois, Florida, Pennsylvania, Massachusetts, Ohio, New Jersey, Michigan, Minnesota, Oregon, Rhode Island, South Carolina, New Hampshire, and New Mexico.

In its statement, NASCO recommended the CMR exception be revoked or revised to provide meaningful constraints to ensure that the benefit of the discounted postage does not benefit FPOs.

State Attorneys General have primary responsibility for enforcing their states' consumer protection laws. The National Association of Attorneys General (NAAG) has a Consumer Protection Project that works to improve the enforcement of state and federal consumer protection laws by State Attorneys General as well as supporting multi-state consumer protection enforcement efforts. The Consumer Protection Project also promotes information exchange among the states with respect to investigations, litigation, and consumer education, and both federal and state legislation. Members of NAAG wrote the Model Charitable Solicitation Act (Act). The Independent Sector made a recommendation in one of its reports to update the Act to address current fundraising vehicles and practices, including the Internet, and to also encourage all state legislatures to adopt the Act to protect donors and deter and punish charitable solicitation abuses.

NASCO also works with the NAAG to assist with compliance and enforcement efforts. NASCO and NAAG coordinate the Unified Registration Statement (URS), which represents an effort to consolidate data requirements of all states that require registration of NPOs and FPOs performing charitable solicitations within their jurisdiction. The goal of URS is to standardize, simplify, and economize requirements under states' solicitation laws. Currently, 35 states and the District of Columbia accept the URS.

Charity Watchdog Organizations

Charity watchdog organizations have websites that provide information to the general public to assist with making charitable giving decisions. Charity Navigator, American Institute of Philanthropy, Guide Star, and the BBB Wise Giving Alliance are all concerned about transparency in the nonprofit sector. Some charity watchdog organizations offer searchable databases as well as electronic versions of the NPOs' IRS Form 990. In some instances, consumers can register to receive monthly newsletters. The Charity Navigator's October 2008 newsletter provided a list of the top 10 charities that overpaid their for-profit fundraisers. The information included specific financial information about each charity and the amount of money paid for professional fundraising. The Charity Navigator's website also has a "frequently asked questions" section for donors that provides answers to questions such as "how do I find a charity on your site?" and "how can I compare charities?" In addition, the BBB Wise Giving Alliance publishes *Standards for Charity Accountability*, which it developed to assist donors in making charitable giving decisions.

Some charity watchdog organizations assess NPOs by analyzing their IRS Form 990 and other information such as audited financial statements and then assigning a letter grade or starring system based on the results of the assessment. The methodology

used to assess an NPO varies by watchdog organization and we also noted that some NPOs do not approve of some of the methods used by some watchdog organizations.⁶² A report on how some watchdog organizations rate charities stated evaluators may use criteria that are overly simplistic or may tend to focus on financial measures but overlook program effectiveness, or ratings often drive revenues to the evaluators.

Ethics and Good Business Practices

In addition to charity regulation, NPO and FPO associations actively provide information regarding standards, governance, and contracting information to their members. Some FPO professional fundraising associations have ethical principles with which members must comply. The AFP publishes *Ethics Enforcement, Handling and Preventing Unethical Behavior* and its website lists individuals it has expelled since 1992. DMA publishes a *Report on Ethics Committee Findings* on its website which summarizes the cases the Committee on Ethical Business Practice investigated and also notifies interested parties if a member has been expelled from the association. Table 12 provides some regulators and overseers of NPOs and FPO.

⁶² *Rating the Rater, An Assessment of Organizations and Publications that Rate/Rank Charitable Nonprofit Organizations*, published by the joint task force National Council of Nonprofit Associations and the National Human Services Assembly, 2005.

Table 12. Charity Regulation		
Regulation or Oversight	Nonprofit Organization	For-Profit Organizations
IRS - Tax-Exempt Organizations	<ul style="list-style-type: none"> ○ Determinations ○ Compliance ○ Examinations ○ Annual Form 990 or applicable document ○ Searchable Database 	None
Federal Trade Commission	None	<ul style="list-style-type: none"> ○ Telemarketers ○ Fraudulent solicitations in interstate commerce
State Charity Regulators	<ul style="list-style-type: none"> ○ Registration ○ Searchable Database 	<ul style="list-style-type: none"> ○ Registration ○ Annual Financial Disclosure Reports
Charity Watchdog Organizations ⁶³	<ul style="list-style-type: none"> ○ Assessment and Rating ○ Searchable Database 	None
Postal Service	<ul style="list-style-type: none"> ○ Authorization – Nonprofit Standard Mail Rates ○ Mail Content Restrictions ○ CMR Exception Usage 	<ul style="list-style-type: none"> ○ CMR Exception Usage
Postal Inspection Service	<ul style="list-style-type: none"> ○ Mail Eligibility Fraud ○ Charity Fraud 	<ul style="list-style-type: none"> ○ Mail Eligibility Fraud ○ Revenue Protection
Associations Representing NPO ⁶⁴	<ul style="list-style-type: none"> ○ Guidance on Transparency, Governance and Ethical Practices 	None
Associations Representing Professional Fundraisers and Direct Mailers ⁶⁵	<ul style="list-style-type: none"> ○ Guidance on Direct Mail Campaigns 	<ul style="list-style-type: none"> ○ Rules of Business Ethics and Practice

Other issues that are widely discussed in the nonprofit sector include percentage based compensation, accounting standards, and the use of fundraising expense ratios.

Several professional fundraising associations believe percentage-based compensation should be eliminated and flat fees paid for professional fundraising services. These organizations believe elimination of percentage-based compensation will reduce the opportunity for fraud. Nine out of 11 direct mail FPOs we surveyed stated they are paid a flat fee for their services and some believe that percentage-based compensation is unethical and can provide reward without merit. The Independent Sector published *Principles for Good Governance and Ethical Practice, A Guide for Charities and Foundations*, October 2007, which provides 33 principles for charitable organization board members and staff leaders covering four categories: legal compliance and public disclosure, effective governance, strong financial oversight, and responsible fundraising.

⁶³ BBB Wise Giving Alliance, Guide Star, Charity Navigator, and American Institute of Philanthropy.

⁶⁴ NPO associations include ANM, Independent Sector, National Council of Nonprofit Associations, and DMA Nonprofit Federation.

⁶⁵ FPO professional fundraising associations include ADRFCO, the AFP, and DMA.

One of the responsible fundraising principles states a charitable organization should not compensate internal or external fundraisers based on a commission or percentage of the amount raised. Professional fundraising associations such as ADRFCO *Rules of Business Ethics & Practice* (2003), the AFP *Code of Ethical Principles and Standards of Professional Practice* (2004), and the DMA *Guidelines for Ethical Business Practice* (May 2008) do not favor percentage-based compensation.

Implementation of accounting standards varies by NPO and there are three major bodies that issue standards for NPO financial accounting. The standard bodies are the Financial Accounting Standards Board (FASB), American Institute of Certified Public Accountants (AICPA), and the U.S. Office of Management and Budget (OMB). The NPO's accounting practices can impact the information provided on IRS Form 990.⁶⁶

Accounting guidelines permit NPOs to allocate a certain amount of their fundraising costs to their program services when their solicitation materials include educational information. The amount of an NPO's total budget spent on programs versus the amount spent on fundraising and administration cost is widely discussed. The AICPA Statement of Position (SOP) 98-2, *Accounting for Cost of Activities of Not-for-Profit Organizations and State and Local Governmental Entities That Include Fund-Raising*, prescribes conditions under which costs may be split between fundraising and other activities such as program services or operations. IRS Form 990 requires the organization to designate whether SOP 98-2 was followed if program services expenses represent a combined educational campaign and fundraising solicitation.

Fundraising and administrative costs as a tool to determine NPO effectiveness have also come under scrutiny by NPOs, charity watchdog organizations, and state and federal agencies. The NCCS issued a briefing discussing the value of financial comparison between charities soliciting donations.⁶⁷ The findings revealed that although the ratios are important and allow consumers to make decisions regarding charitable giving, the ratios can also be misleading. Typical standards say that NPOs should spend no more than 25 to 50 percent of contributions on fundraising. The briefing discusses the implications of these ratios to smaller organizations versus larger organizations; new organizations versus established organizations; and popular versus unpopular causes. The briefing concludes that only at the point where costs of fundraising exceed its revenues should the public worry that an NPO is not being efficient in its fundraising. As of November 2006, the CFC stopped using fundraising expense ratios when determining the effectiveness of an NPO.

⁶⁶ Two standards issued by FASB include 116, *Accounting for Contributions Received and Contributions Made* and 117, *Financial Statements of Not-for-Profit Organizations*. OMB Circulars include, but are not limited to, A-122, *Cost Principles for Non-Profit Organizations*, and A-133, *Audits of Institutions of Higher Education and Other Non-Profit Organizations*. Other work includes the United Way of America's *Accounting and Financial Reporting: A Guide for United Ways and Not-for-Profit Human-Service Organizations*.

⁶⁷ *The Pros & Cons of Financial Efficiency Standards*, NCCS, Urban Institute Center on Philanthropy, Indiana University, August 2004.

As a result of a May 5, 2003, U.S. Supreme Court ruling — which states fundraising is protected by the First Amendment freedom of speech and high fundraising expense ratios do not constitute fraud — state charity regulators cannot prosecute an NPO or FPO for what may be considered high fundraising expenses. However, should the FPO or NPO mislead donors about how much of their donation supports the charity versus how much goes toward administrative and fundraising costs, state charity regulators can prosecute on the basis of fraud.⁶⁸

National Charity Database

As stated previously, the IRS, Guide Star, NCCS, and state charity regulators have websites that offer searchable databases on NPOs. Some of the websites allow consumers interested in obtaining information to assist with making giving decisions to review and print an NPO's IRS Form 990. According to the Charity Navigator, creating a national database is costly and must include purchasing the right hardware, software, and database management systems. In addition to creating the database, there is a requirement for collecting, analyzing, and inputting NPO data. The initial cost of approximately \$1,000 per NPO plus an additional \$100 is required to maintain the information as well as the time and skill to verify the accuracy. Furthermore, the Postal Service would also have to take into account the issues previously discussed in this report related to inconsistent accounting practices and the use of expense ratios.

⁶⁸ Supreme Court of the U.S., *Illinois ex. rel. Madigan, Attorney General of Illinois vs. Telemarketing Associates, Inc., et al.*, October Term 2002, No. 01-1806, Argued March 3, 2003 – Decided May 5, 2003.

APPENDIX F: MANAGEMENT'S COMMENTS



February 13, 2009

Lucine Willis
Director, Audit Operations
1735 North Lynn St.
Arlington, VA 22209-2020

SUBJECT: Review of the Cooperative Mail Rule Exception (MS-AR-09-DRAFT)

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

Management disagrees with some of the findings in the report. Specifically, we do not agree with the statement that the Postal Service does not have a process in place to monitor and identify cooperative mail rule (CMR) exception abuses.

We also question whether the Postal Service needs to collect data regarding the CMR exception during the mail acceptance process. First, we have no record of reported abuses that would justify the expense to establish such a data collection system. It must be noted that "abuse" in the eyes of the Postal Service in terms of the CMR exception includes (1) fraud, or (2) failure to adhere to the terms of the final rule (i.e., mailings by an organization authorized to mail at Nonprofit Standard Mail prices soliciting monetary donations to the authorized mailer and not promoting or otherwise facilitating the sale or lease of any goods or service, and the organization authorized to mail at the Nonprofit Standard Mail prices is given a list of each donor, contact information (e.g., address, telephone number) for each, and the amount of the donation or waives in writing the receipt of this list). We do not agree that the Postal Service has a responsibility to monitor whether an authorized nonprofit organization (NPO) employs the services of a for-profit organization (FPO), nor do we believe the Postal Service has the authority to dictate the terms of such business relationships between authorized nonprofit organizations and the FPOs they employ.

With regard to the conclusion that the CMR exception policy is not clearly defined there are, and there have been prior to the CMR exception having been adopted in 2003, resources (e.g., Customer Support Rulings (CSRs), DMM, Publication 417) which provide examples of postal policies in this area. In addition, we have used venues such as Postal Customer Councils, National Postal Forums, Memo to Mailers and others to educate mailers and postal employees concerning these matters.

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Recommendations 1 and 2:

We recommend the Vice President and Consumer Advocate:

1. Work with Mailing Standards, Business Mail Acceptance, and Postal Inspection Service officials to determine the most effective means to monitor the Cooperative Mail Rule exception to identify abuses.
2. Work with the Vice President, Business Mail Entry and Payment Technologies, to communicate what will be required of nonprofit mailers to assist with monitoring efforts.

Response:

We partially agree with recommendation 1. The Postal Service does have a process in place to monitor complaints of abuse. Since there have been no reported abuses as defined by the Postal Service in our opening remarks, we can only agree to work with Mailing Standards, Business Mail Acceptance, and the Postal Inspection Service to buttress the existing system if necessary should abuses be revealed.

We agree with recommendation 2. Business Mail Entry and Payment Technology will again communicate the process to capture complaints at the point of mail acceptance and elevate complaints to the Consumer Advocate.

Target implementation date: June 2009

Recommendations 3 and 4:

We recommend the Vice President, Business Mail Entry and Payment Technologies:

3. Coordinate with the Vice President and Consumer Advocate and Vice President, Pricing, to develop training for mail acceptance employees covering acceptance procedures for Cooperative Mail Rule exception mailings.
4. Coordinate with the Vice Presidents, Area Operations, to train mail acceptance employees on procedures for accepting Cooperative Mail Rule exception mailings.

Response:

We agree with the recommendation 3 and 4. Business Mail Entry and Payment Technologies will repeat and reinforce the training of all appropriate field mail acceptance employees.

Target implementation date: June 2009

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Recommendation 5:

We recommend the Vice President, Business Mail Entry and Payment Technologies:

5. Work with the Vice President and Consumer Advocate and the Vice President, Pricing, to develop and implement a method to collect data pertaining to the use of the Cooperative Mail Rule exception.

Response:

We disagree with the recommendation 5. In view of the fact that not a single abuse of the CMR exception having been identified, and given our present financial climate, we cannot justify the substantial expenditure for developing and deploying a data collection system for when organizations authorized to mail at the Nonprofit Standard Mail prices employ the services of FPOs, and if so, whether those services fall under the CMR exception.

Recommendations 6 and 7:

We recommend the Vice President, Pricing:

6. Clarify existing Cooperative Mail Rule exception policies and procedures by defining cost, risk, and benefit and outlining specifics regarding the relationships allowed between authorized nonprofit organizations and for-profit organizations.
7. Work with the Vice President, Business Mail Entry and Payment Technologies, to communicate the clarified policies and procedures to authorized nonprofit organizations and for-profit organizations.

Response:

We agree with the recommendations 6 and 7. Pricing, along with Business Mail Entry & Payment Technologies, will use its resources to clarify the existing CMR exception policies and procedures (e.g., issue additional CSR(s) if necessary and revise Publication 417 to expand on examples of how those policies are interpreted).

Target implementation date: June 2009

Recommendation 8:

We suggest the Manager, USPS.com:

8. Add educational information about the Cooperative Mail Rule exception as well as a link on USPS.com directing consumers to existing federal and state charity regulators' websites that are committed to improving transparency in the nonprofit sector.

Response:

We agree with this recommendation. We will modify usps.com to provide greater information about charities to consumers. Information may include: 1) links to other web sites such as the Better Business Bureau, Guidestar (a complete database of nonprofit 990s filed with IRS), the American Institute of Philanthropy, or others and

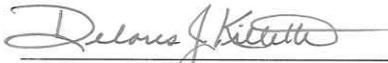
- 4 -

2) information on evaluating charities (incorporate information from Better Business Bureau or the American Institute of Philanthropy)

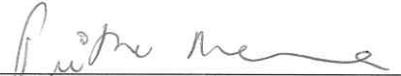
Target implementation date: May 2009

We agree with the non-monetary finding of Improved Service.

This report and management's response do not contain information that should be exempt from disclosure under the Freedom of Information Act.



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Vice President and
Consumer Advocate



Pritha N. Mehra
Vice President, Business Mail Entry &
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Maura Robinson
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Patricia M. Mason
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