Business or Public Service? Insights into the Unique Laws and Regulations Applying to the Postal Service

RISC REPORT

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Executive Summary

The Postal Reorganization Act (PRA) of 1970 entrusted the Postal Service with an "obligation to provide postal services to bind the Nation together" and a mission to provide trusted and affordable universal service to the American public. Congress aimed to give the Postal Service the management flexibility of private enterprise while maintaining government ownership and the civil service status of postal employees. It established the United States Postal Service (USPS) as an independent agency that receives the vast majority of its funding through revenue from postage, supported by the longstanding mailbox and mail delivery monopolies rather than from appropriations from Congress. As a result, unlike nearly every other federal agency, USPS is structured to be self-funded, operating in a corporate fashion. Over the last few decades, however, the steady decline of mail volume, the substantial liability of health and retirement benefit programs and, recently, an increasingly competitive package market have strained the Postal Service's financial sustainability.

While the postal market has undergone significant changes since the Postal Service was established, subsequent legislative reforms — including financial relief in 2022 — have left the general U.S. postal legal framework largely unchanged. The Postal Service still operates under many of the same laws, creating a combination of benefits and restraints. As a result, there has been a recurring debate over whether the "businesslike" model established by Congress in 1970 is optimally tailored to allow the Postal Service to fulfill its mandated public mission while staying financially viable and competitive as mail volumes decline in today's complex market environment. Since 2016, as part of its Semiannual Reports to Congress, the OIG has highlighted the inherent tension between business and government among the top management challenges facing the Postal Service.

To provide insights into the unique hybrid environment in which the Postal Service operates, the U.S. Postal Service Office of Inspector General (OIG) first reviewed the laws applicable to the Postal Service, highlighting the differences with the private sector and other government agencies. Then, the OIG identified the laws and regulations that have had the most substantial impact on the Postal Service's business decision-making, finances and operations, and discussed their implications. These laws are categorized in terms of public service obligations and funding; labor, materials, and capital expenses; and governance and oversight.

Public Service Obligations and Funding

The Postal Service's universal service obligation (USO), historically established through legislative and regulatory framework, mandates the agency to deliver mail six days a week to every address in the United States and provide a minimum level of service at an affordable price. The Postal Service has relative freedom to structure its processing and delivery network to fulfill this mandate while balancing the obligation to be financially self-sufficient. It also maintains letter delivery and mailbox monopolies to help fund the infrastructure and other costs of providing the universal service, for example, to locations that may not otherwise be financially sustainable for a carrier to serve. However, the combined value of the monopolies, as measured by the Postal Regulatory Commission (PRC), has decreased from $4.5 billion in fiscal year (FY) 2018 to $4.2 billion in FY 2022. The costs of providing universal service exceeded the value of the monopolies by $1.8 billion in FY 2022. At the same time, unlike private sector companies, legislation and pricing regulations place a cap on the Postal Service's ability to increase the price of mail products. With declining mail volumes and revenue, covering the costs of universal service is becoming increasingly challenging.

Labor, Materials and Capital Expenses

To pay for operating expenses — such as labor, transportation, materials, and investment in network improvement and vehicles — the Postal Service relies almost entirely on the cash generated from the sale of products and services, investments, and borrowed funds. Approximately 74 percent of the Postal Service's operational budget is spent on labor. The Postal Service is one of the nation's largest civilian employers, and a complex combination of private and public sector laws apply to its workforce. Unlike private sector competitors, the Postal Service has little control over the parameters of its retirement and workers' compensation programs. Despite recent reform, the Postal Service remains restricted to investing retirement assets in low-risk, low-interest federal securities, limiting the funding of retirement liabilities from returns earned through potentially more lucrative investments. The Postal Service's unfunded retirement liability has increased by 85 percent since 2012, totaling $122 billion in FY 2023. In FY 2022, these underfunded liabilities would have resulted in an estimated surplus of $700 billion had the Postal Service been allowed to invest in a more diversified portfolio of stocks and bonds over the prior 15 years.

The remaining 25 percent of the Postal Service's operational budget is spent on procuring transportation, materials, and services. Procurement laws and regulations are less restrictive than those applying to other federal agencies. However, the Postal Service is required to comply with specific laws that relate to the federal purchases of products and services, creating disadvantages when compared to the relative agility of private sector competitors. (See Appendix E.)

To fund capital investments and operations, the Postal Service is allowed to borrow from the U.S. Department of Treasury, through the Federal Financing Bank. While it pays a lower interest rate on borrowed funds than private sector companies do, the annual amount of borrowings is capped at $3 billion and the $15 billion debt limit has not been adjusted to inflation or changed in over thirty years.

Governance and Oversight

Several key aspects of the United States' legal framework may impact the Postal Service's ability to make and implement strategic business decisions. First, restraints on product diversification have mandated a "postal-only" operating model. While private business entities and many foreign postal operators have had the freedom to diversify to create new sources of revenue, the Postal Service must rely almost entirely on revenue from postal products and services. Outside its core postal business, the Postal Service can only diversify into government services.

Additionally, as a government entity, the Postal Service is subject to oversight by multiple government entities. This oversight helps ensure good and transparent governance principles, identifies fraud, waste, and abuse, informs public discussion and debate, and influences strategic decision making. It is distinct, however, from private sector companies where such issues and discussions generally remain internal. Finally, restrictions on the tenure of Postal Service's governors may affect decision-making as well as the retainment of institutional knowledge. In early 2024, the seven non-management governors on the USPS board had served an average of 3 years; meanwhile, the average tenure of a member of a board of directors in a publicly-traded company is about 10 years.

The OIG analyzed existing quantifications of the advantages or disadvantages of these laws and regulations on the Postal Service's business, concentrating on the most impactful ones. However, it would be difficult to determine the financial and operational impact of alternative strategic decisions the Postal Service would make absent certain restrictions. The assessment of alternative statutory and regulatory models for the Postal Service, involving different degrees of business freedoms and different public missions or funding mechanisms, was outside the scope of this paper.

The Postal Service's current legislative agenda does not include specific proposals for significant alterations to the current legislative framework. However, the Postal Service has publicly stated that increasing operating costs and declining mail volumes, combined with the limitations imposed by the current legislative and regulatory environment, continue to put pressure on its ability to efficiently fulfill its public service mission and respond to market challenges. Consequently, the long-term viability of the current U.S. postal model warrants thoughtful examination and consideration.

Observations

Introduction

The Postal Policy Act of 1958 declared the Postal Service to be a public service. In 1968, to address severe financial and operational issues, the Kappel Commission recommended that the Postal Service, while remaining government-owned, be given the management flexibility of private companies.[1] Building on these recommendations, Congress passed the Postal Reorganization Act (PRA) of 1970, which remains to this day the most comprehensive revision of postal legislation in the United States. On the one hand, the U.S. Postal Service (USPS) was entrusted with the "obligation to provide postal services to bind the Nation together through the personal, educational, literary, and business correspondence of the people".[2] On the other, the PRA abolished the U.S. Post Office Department, creating the United States Postal Service (USPS) as an independent establishment of the Executive Branch.[3]

Additionally, the PRA stipulated that Postal Service's employees would continue to be in the civil service and keep their civil service pension rights.[4] Instead of appropriations from Congress, the Postal Service would collect revenue from ratepayers towards a universal service obligation (USO), a set of requirements for providing a standard and affordable level of service to all Americans. To support the costs of the USO, Congress upheld the longstanding Postal Service monopolies that ensure the exclusive right to letter mail delivery and the use of mailboxes.[5]

However, unlike most other federal agencies, the Postal Service was structured to be a self-funded government entity operating in a corporate fashion — but without the full business flexibility of a private sector organization.

Two additional waves of postal legislation did not change the fundamental framework of the agency, requiring the Postal Service to be financially self-sustaining through the sale of postal products and services. The Postal Accountability and Enhancement Act of 2006 (PAEA) introduced new price setting mechanisms and the Postal Service Reform Act of 2022 (PSRA) provided financial relief to the Postal Service.[6] Over half a century since the PRA, the financial sustainability of the Postal Service's "businesslike" model has been strained by increased operating costs and declining mail volumes and revenue. Since 2016, as part of its Semiannual Reports to Congress, the OIG has highlighted the top management challenges facing the Postal Service, including inherent tension between business and government.[7] Postal Service leadership has emphasized that its Delivering for America 10-year strategic plan, launched in March 2021, represents

Over half a century since the PRA, the financial sustainability of the Postal Service's "businesslike" model has been strained by increased operating costs and declining mail volumes and revenue.

1 The Commission was created by President Johnson after the Post Office Department accumulated a deficit in excess of $1 billion and the major 1966 Chicago post office shutdown left millions of mailpieces unprocessed for several weeks. It recommended that "a Postal Corporation owned entirely by the Federal Government be chartered by Congress to operate the postal service of the United States on a self-supporting basis". Kappel Commission, "Towards Postal Excellence – The Report of The President's Commission on Postal Organization," June 1968, https://ufdc.ufl.edu/AA00024775/00001/flipbook/1ident's Comm... - UF Digital Collections (ufl.edu), pp.54-55.

2 39 USC § 101(a), https://www.govinfo.gov/content/pkg/STATUTE-84/pdf/STATUTE-84-Pg719.pdf.

3 The Commission determined that recreating the Postal Service as a private entity was not feasible. Notably, it mentioned the potential lack of investors' interest and pension issues, including unfunded pension liabilities, as main barriers to a transfer of ownership.

4 39 USC § 1001(b). These provisions partly stemmed from the findings of the Kappel Commission, which suggested that present postal employees be transferred to a new career service and keep their accrued Civil Service pension rights, as well as leave, pay, and seniority rights.

5 As discussed in the next section, the letter mail monopoly entails the exclusive right to deliver non-expedited, addressed letter mail under 12.5 ounces and catalogs under 24 pages.

6 As the first major overhaul since 1970, the PAEA reorganized the Postal Rate Commission, stipulated that postage for Market Dominant products should not increase faster than the rate of inflation, separated Competitive products under a different price regulation scheme, and required the Postal Service to pay in advance for employee retirement and retiree health benefits. The PSRA removed the pre-funding of employee health and retiree benefits. For more on Postal Reform see U.S. Postal Service Office of the Inspector General, "Primer on Postal Reform," RISC-WP-23-002, December 20, 2022, https://www.uspsoig.gov/reports/white-papers/primer-on-postal-reform.

7 OIG, "Semiannual Report to Congress," Fall 2023, https://www.uspsoig.gov/sites/default/files/reports/2023-10/FY2023_Fall_SARC.pdf, pp. 25-26.

its efforts to restore USPS to a financially healthy organization in the current framework.

To provide insights on the Postal Service's unique hybrid status, the U.S. Postal Service Office of Inspector General (OIG) reviewed the legal framework applicable to the Postal Service, focusing on the laws and regulations applicable to USPS that either do not apply to or differ from those applying to the private sector and other government organizations. Specifically, this report covers the laws and regulations that govern the Postal Service's public mission, revenue generation, workforce, operations, and decision-making processes. In addition, the OIG identified the laws and regulations that have had the most substantial impact on the Postal Service in terms of costs and business agility.

In addition to its prior work, the OIG built on reports from the Federal Trade Commission (FTC) and the U.S. Government Accountability Office (GAO), which both categorized laws that apply differently to the Postal Service and private sector companies.[8] (For a summary of GAO's analysis, see Appendix B).[9] See Appendix A for more details on this project's objectives, scope, and methodology.

Laws Governing the Postal Service's Public Service Mission

The Postal Service's mission is to provide the nation with reliable, affordable, universal mail service. Like most postal operators in other countries, it has a universal service obligation (USO) – a collection of requirements meant to ensure that citizens and businesses receive a mandated minimum level of service at an affordable price. As a self-financing entity, the Postal Service is expected to achieve its public mission through revenue from the sale of postal products and services rather than through appropriations from Congress.

To help support the cost of the USO, the Postal Service has congressionally mandated delivery and mailbox monopolies. The letter mail delivery monopoly, a version of which was first implemented in 1792, is the Postal Service's exclusive right to deliver non-expedited, addressed letter mail under 12.5 ounces and catalogs under 24 pages. It is codified in criminal and civil laws known as the Private Express Statutes. It does not cover the delivery of extremely urgent letters. The mailbox monopoly, which dates to the early 1930s, states that only the Postal Service can deposit any item into delivery mailboxes.[10]

In this section, we detail how the Postal Service's USO shapes the services it must offer and highlight that, in recent years, the letter and mailbox monopolies are covering a decreasing proportion of the costs of providing universal service (See Figure 1).

Figure 1: The Service Mission of the Postal Service vs. Private Competitors

THE POSTAL SERVICE		PRIVATE COMPETITORS
Service Mission	The Universal Service Obligation (USO) requires a minimum level of service at an affordable price regardless of where recipients may live or work.	No obligations in terms of service level or price.

8 The comprehensive 2007 Federal Trade Commission (FTC) study requested by the PAEA discussed the impact of the unique regulatory environment in which the Postal Service operates on the agency's finances and operations. FTC, "Accounting for laws that apply differently to the United States Postal Service and its private competitors," December 2007, https://www.ftc.gov/sites/default/files/documents/reports/accounting-laws-apply-differently-united-states-postal-service-and-its-private-competitors-report/080116postal.pdf.

9 In 2017 GAO analyzed the postal monopolies and discussed how the effects of laws that apply differently to USPS and its private sector competitors could be estimated. U.S. Government Accountability Office, "U.S. Postal Service – Key Considerations for Potential Changes to USPS's Monopolies," GAO-17-543, June 22, 2017, https://www.gao.gov/products/gao-17-543, pp.17-27.

10 For a discussion of the policy issues surrounding the scope and funding of the USO, see OIG, "Reevaluating the Universal Service Obligation," RISC-WP-20-004, May 6, 2020, Reevaluating the Universal Service Obligation | Office of Inspector General OIG (uspsoig.gov). For a detailed history and description of the monopolies, see Postal Service, "Report on Universal Postal Service and the Postal Monopoly," October 2008, usps-uso-report.pdf, and Postal Regulatory Commission, "Report on Universal Postal Service and the Postal Monopoly," December 2008, https://prc.gov/sites/default/files/reports/USO%20Report.pdf.

	THE POSTAL SERVICE	PRIVATE COMPETITORS
Letter Delivery and Mailbox Monopoly	Valued at $4.2 billion in FY 2022.	Cannot deposit mail into mailboxes and cannot deliver non-expedited addressed letter mail under 12.5 ounces and catalogs under 24 pages.
Financial Implications	Since at least FY 2018, the annual cost of the USO has exceeded the value of the monopolies.	Can concentrate on optimizing the most profitable customer segments, products and markets.

Source: OIG Analysis.

The Universal Service Obligation Prescribes the Public Services USPS Must Provide

The USO encompasses legal and regulatory requirements to ensure that all postal customers, regardless of their location, receive a legally mandated minimum level of service at an affordable price.[11] Absent public service missions, a post or other carrier may decide to deliver less frequently, limit service to remote areas, or focus on the most profitable customers — even more so in a period of declining mail volume. It may also decide not to maintain post offices in less profitable areas.

The PRA and PAEA outlined USO requirements through general principles on the regulation of prices, service standards, access to facilities, and the process for the closure and consolidation of post offices and processing facilities. The PSRA codified six day a week delivery and required the Postal Service to maintain an integrated network of mail and package delivery rather than separating its regular mail and parcel networks into independently operating entities.[12] With the exception of the six-day mandate, the USO is defined in broad qualitative terms in postal law. (See Table 1.) This gives the Postal Service leeway to adjust key USO parameters to balance high-quality public service and financial sustainability, subject to review by its regulatory body, the Postal Regulatory Commission (PRC).

Table 1: Key Operational Requirements Pertaining to the Universal Service Obligation (USO)

Category	Main Provisions
General principles – USO	USPS is required to render postal services to all communities; provide prompt, reliable, and efficient services to patrons in all areas; and serve as nearly as practicable the entire population of the United States. USPS is specifically required to receive, transmit, and deliver written and printed matter, parcels, and like matter throughout the United States, its territories and possessions, and throughout the world (39 U.S.C. §§ 101(a)403(a)).
General principles – pricing	Postal rates must "be established to apportion the costs of all postal operations to all users of the mail on a fair and equitable basis" (39 U.S.C. § 101(d)). Rates must be "fair and reasonable." "Unreasonable discrimination among users" and "undue or unreasonable preferences to any such user" are proscribed (39 U.S.C. § 403(c)). The law also includes rate uniformity requirements, as well as reduced rate or no charge (mail free of postage) requirements for some categories of users (39 U.S.C. §§ 404(c)3626, and 3683).

11 OIG, "Variations and Trends in Postal Regulatory Oversight," RISC-WP-24-003, https://www.uspsoig.gov/reports/white-papers/variations-and-trends-postal-regulatory-oversight.

12 Another difference relates to the funding of the USO. Many countries have abolished the mailbox and letter delivery monopoly but may provide direct subsidies to cover the cost of the USO. See discussion in OIG, "Funding the Universal Service Obligation," RARC-WP-16-005, March 21, 2016, https://www.uspsoig.gov/sites/default/files/reports/2023-01/RARC-WP-16-005.pdf.

Category	Main Provisions
Degree of service and post office closings	USPS is required to provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office can be closed solely for operating at a deficit (39 U.S.C. § 101(b)). Statutory and regulatory requirements specify the process and criteria for post office closings, including appellate review by the Postal Regulatory Commission (39 U.S.C. § 404(d)).
Mail delivery quality and frequency	In determining all policies for postal services, USPS is required to give the highest consideration to the requirement for the most expeditious collection, transportation, and delivery of important letter mail (39 U.S.C. § 101(e)). In selecting modes of transportation, USPS is required to give the highest consideration to the prompt, economical, and reliable delivery of all mail (39 U.S.C. § 101(f)).
Six-day delivery mandate	The PSRA codified that delivery of mail shall occur six days a week by the Postal Service, with an allowance for exceptions in areas where there is already a policy of delivery less than six days a week. Prior to the PSRA, six-day delivery was mandated by Congress in annual appropriations bills.
Service standards	USPS is required to establish modern service standards for each Market Dominant product. These standards are defined in the Code of Federal Regulations.*
Access to facilities	USPS is required to establish and maintain postal facilities of such character and in such locations, that postal patrons throughout the nation will, consistent with reasonable economies of postal operations, have ready access to essential postal services.
Processing/ logistics facilities	USPS is required to provide public information and opportunities for public input and comment before closing or consolidating any mail processing or logistics facilities and take comments into account when making a final decision.
Single delivery network	The Postal Service must have an integrated network for the delivery of Market Dominant and Competitive letter and package products.

*See current standards in 39 CFR Part 121, "Service Standards for Market Dominant Mail Products," https://www.ecfr.gov/current/title-39/chapter-I/subchapter-C/part-121.
Source: OIG analysis, based on GAO, "U.S. Postal Service – Key Considerations for Potential Changes to USPS's Monopolies," GAO-17-543, June 22, 2017, pp.19-21.

Like the United States, many countries have passed laws outlining a postal USO and mandating posts to provide it. The USO in the U.S. differs in that it applies to all letter mail and parcel products, while in many countries it may apply to a fraction of the postal volume, for example, only to single piece letters and single piece packages, or may exclude advertising mail from the USO.

Monopolies Cover a Decreasing Part of Universal Service Obligation Costs

The letter mail delivery and mailbox monopolies help the Postal Service protect its revenue and cover some of the cost of fulfilling the universal service outlined above. Each year, the PRC estimates the Postal Service's financial benefits deriving from these monopolies and the cost of providing the USO (See details about the PRC's methodology in Appendix C).[13]

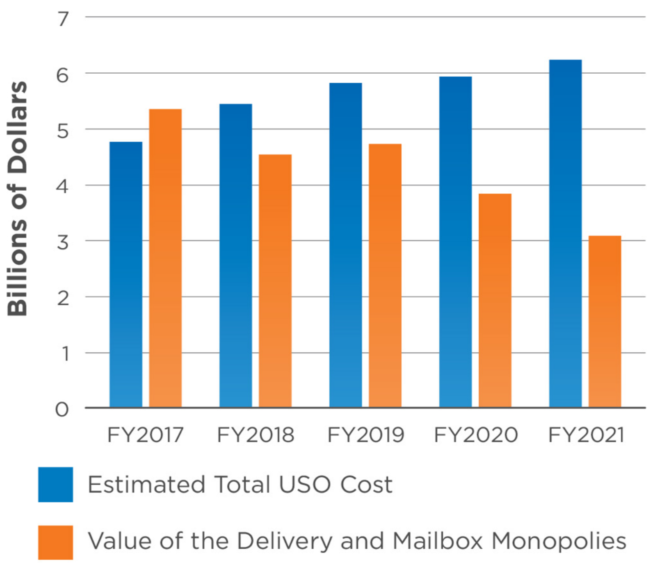
On average, the cost of providing the USO increased 2.7 percent per year from FY 2018 to FY 2022, while the value of the postal monopolies has on average declined 1.7 percent annually.

The cost of the USO, as estimated by the PRC, increased an average of 2.7 percent a year from FY 2018 to FY 2022, while the value of the monopolies has on average declined 1.7 percent annually.[14] Since at least FY 2018, the annual cost of the USO has exceeded the value of the monopolies.[15] In FY 2022, USO costs exceeded the value by $1.8 billion (see Figure 2). The Postal Service has previously stated that the PRC's evaluation of the cost of providing

13 See Chapter 4 "Universal Service Obligation & Postal Monopoly," in Postal Regulatory Commission, "Annual Report 2023 to the President and Congress," February 21, 2024, https://www.prc.gov/sites/default/files/reports/ARFY2023FINAL_web.pdf, pp. 50-60.
14 During the same period, the Postal Service's total expenses grew at 1.7 percent a year on average.
15 The scope of the services the PRC includes in the calculation of the total USO cost changed in 2018. Results for previous years show conflicting trends: from FY 2011 to FY 2013, total USO costs exceeded the value of the monopoly, while from FY 2014 to FY 2017 the value of the monopoly exceeded total USO costs.

public services or activities should be expanded to include the broader range of "mandates that Congress or the President has imposed upon the Postal Service, to the extent that the Postal Service might not otherwise perform the mandated services or activities, or might perform the mandated services or activities in a different way."[16]

FIGURE 2: TOTAL COST OF THE USO VS. VALUE OF THE LETTER MAIL DELIVERY AND MAILBOX MONOPOLIES (FYS 2018-2022, IN BILLIONS)



Source: OIG analysis based on PRC Annual Reports to the President and Congress.

Different Regulations Apply to Market Dominant and Competitive Prices

The PRC reviews and approves the Postal Service's prices before their implementation.[17] Although statutory requirements differ for Market Dominant and Competitive products, the PRC approves both types of prices before they take effect.

- **Market Dominant products.** Market Dominant products include categories such as First-Class Mail, Marketing Mail, and Periodicals, which together represent an estimated 95 percent of the Postal Service's total volume in FY 2023.[18] In 2006, PAEA initially limited Market Dominant price increases to the rate of inflation, providing a price cap.[19] In fact, price caps are still used as a method of price regulation in other U.S. sectors, such as interstate pipelines. (See Figure 3.) At the end of its first review of the ratemaking system in December 2020, the PRC decided to maintain the inflation-based cap but introduced additional price increase authorities related to mail density, non-compensatory products, and employee retirement benefit funding.[20] The law provides that the Market Dominant (letter) ratemaking system must balance business goals — ensuring USPS's financial stability, increasing efficiencies, promoting pricing flexibility — with the interest of mailers and customers.[21]
- **Competitive products.** The prices of Competitive products (for example, packages) are not subject to a price cap.[22] However, the prices are subject to a price floor and must meet requirements to ensure the Postal Service does not keep package prices artificially low, which could damage competition. These requirements relate to cost coverage — each product must recover its attributable costs — and contribution to institutional costs. While the PRC does not oversee the prices that Postal Service's competitors charge, it ensures that USPS complies with the statutory requirement that Competitive products are not cross-subsidized by Market Dominant products.[23]

16 Postal Service, "Postal Service Analysis of Additional Postal Service Activities that Could Qualify for Reporting Under 39 U.S.C. 3651(b)(1)(c)," Docket No. PI2014-1, August 22, 2014, https://prc.arkcase.com/portal/docket-search/advanced/filing-details/51026, pp.2-3.
17 The PRC also assesses Postal Service rates through its Annual Compliance Determination Report, which is a review of the USPS Annual Compliance Report.
18 See OIG, "Variations and Trends in Postal Regulatory Oversight," RISC-WP-24-003, March 4, 2024, https://www.uspsoig.gov/reports/white-papers/variations-and-trends-postal-regulatory-oversight, p.13.
19 The rate of inflation is measured by the Consumer Price Index for All Urban Consumers (CPI-U). The PAEA asked that the PRC first review the system after 10 years, which it did from 2017 to 2020, then whenever needed.
20 For a discussion of the impact of the choice of CPI-U compared to other inflation indices in the price cap, see OIG, "Examining Inflation Indices for Regulating Market Dominant Services," RISC-WP-24-001, November 6, 2023, https://www.uspsoig.gov/reports/white-papers/examining-alternative-inflation-indices-regulating-market-dominant-price.
21 See 39 U.S.C. § 3622(d)(3). In addition to the price cap, postal legislation prescribes that Market Dominant prices meet other conditions: an alignment of workshare discounts with the costs avoided as a result of workshare activity, and an alignment of revenue at class and product level to attributable costs (the costs that can be clearly associated with a particular mail product).
22 The Postal Service may ask the PRC that a product be transferred from one category to the other, if it satisfies requirements set out in 39 U.S.C. § 3642. Transferring a Market Dominant product to the Competitive category may provide more pricing flexibility.
23 To ensure compliance, the PRC verifies that revenue from Competitive products as a whole exceeds incremental costs.

Figure 3: Price Regulation in Other Sectors
While market liberalization has reduced its scope over the past decades price regulation still exists in some sectors

The Federal Energy Regulatory Commission (FERC) uses cap based on the Producer Price Index (PPI) to set a ceiling on interstate oil pipeline rates.

The Federal Communications Commission uses price cap regulations for broadband and long-distance telecommunications providers in areas it deems non-competitive.

In the electricity sector, many state public utilities commissions use cost of service price regulations.

Additionally, some states are moving towards performance-based regulations, for example, by providing financial incentives or penalties based on the achievement of the state's clean energy goals.

Source: OIG Analysis.

The Postal Service has stated that it intends to continue to make full use of its price authorities to help grow revenue. In previous years, the agency has also called for the repeal of the price cap. In April 2024, the PRC started its next review of price regulations earlier than initially planned as a result of "stakeholder concerns, as well as the deteriorating financial condition [of the Postal Service] accompanied with overall volume declines".[24]

Laws Impacting the Postal Service's Revenue

To pay for operating expenses — such as labor, materials, and investment in network improvement and vehicles — the Postal Service relies almost entirely on the cash generated from the sale of products and services, interest income, and borrowing. (See Figure 4.) Its flexibility to generate revenue through each of these channels is limited by specific laws and regulations.

Figure 4: Funding Sources of the Postal Service vs. Private Competitors

	THE POSTAL SERVICE	PRIVATE COMPETITORS
Revenue and Price Regulations		
Revenue Source	Sales of products and services.	Sales of products and services.
Revenue Source	Appropriations from Congress represent 0.1 percent of revenue.	
Pricing Regulations	Letter mail is subject to a price cap and Competitive products, such as packages, must meet statutory requirements.	None.

24 Postal Regulatory Commission, "Statutory Review of the System for Regulating Rates and Classes," Order No. 7032, April 5, 2024, https://prc.arkcase.com/portal/docket-search/daily-listings/filing-details/128406.

	THE POSTAL SERVICE	PRIVATE COMPETITORS
Borrowing and Debt		
Lending Source	Loans from the Federal Financing Bank (FFB).	Loans from traditional banking institutions or through issuing debt (corporate bonds).
Debt Cap	A $3 billion cap on annual borrowing authority and a $15 billion cap on total debt.	No predetermined limits.
Interest Rate	Typically lower than market rates.	At market rates.

Source: OIG Analysis.

The Postal Service Generates Most of Its Own Revenue Through Sales

Like private sector companies, the Postal Service uses almost exclusively revenue generated from the sale of its products and services — $78 billion in FY 2023 — to fund its operations. Appropriations represent only about 0.1 percent of its revenue.[25] Although USPS does not receive significant annual appropriations, Congress can provide the agency with funding in other ways. In recent years, USPS received two major one-time funding packages from Congress: $10 billion in financial reimbursement for services rendered during the COVID-19 pandemic and a $3 billion capital contribution for electric vehicles and supporting infrastructure. Under the PRA, USPS could also ask Congress to reimburse up to $460 million a year towards the cost of providing service in remote areas.[26] However, every year since 1982, it has chosen not to claim reimbursement for these costs.[27]

Pricing Regulations Aim to Balance Public Service and Business Goals

Most companies are free to set their prices, as long as they do not violate antitrust laws intended to ensure fair competition. In fact, the scope of regulated prices in the U.S. is limited. For the most part, such controls apply to public utilities like electrical power and sewage — natural monopolies that in theory would have market power to set rates at any level they wish. The Postal Service's current price regulation system was introduced by Congress in PAEA to establish stability and predictability and to encourage cost reduction and efficiency within the Postal Service. When considering changes to price regulations, the law requires the PRC to strive to ensure price flexibility and adequate revenue for the Postal Service while also considering the effect of rate increases upon the public and business mail users.[28] As the Postal Service must rely on the sale of its products and services to fund its operations, price increases are one of the main sources of additional revenue.

Laws on Debt and Borrowing Create Both Benefits and Restraints

Issuance of debt and interest income represent substantial sources of cash for the Postal Service, but here again, a unique statutory framework governs these activities. USPS is allowed to borrow from the Federal Financing Bank (FFB) — a government-owned corporation supervised by the Department of the Treasury. The Postal Service is required to notify Treasury of its intent to issue debt and allow Treasury the first option to purchase notes issued by USPS.[29] However, the law sets a $3 billion cap on Postal Service's annual borrowing authority and a $15 billion cap on its total debt.[30] For example, in FY 2023 USPS borrowed $3 billion and had $13 billion in

25 For instance, the law allows the Postal Service to claim appropriated funds to cover the cost of the mandated provision of free postage for blind and disabled persons as well as for overseas voting. (In FY 2023, the Postal Service received $42 million to compensate for revenue forgone in providing these services.) In addition, USPS receives about $30 million annually to provide service in small Pacific island countries as part of their long-term agreements called Compacts of Free Association with the United States. On March 8, 2024, Congress approved the renewal of this agreement for the next 20 years (2024-2043). The PRC does not include activities for which the Postal Service receives appropriated funds in its measurement of USO costs.
26 This amount is lower than the cost of maintaining the smallest post offices, which, according to the PRC was $700 million in FY 2022. The Commission estimated the amount the Postal Service would save if rural carriers provided the same services as those provided at small (class K and L) post offices, as well as the amount of revenue lost from the potential closure of these offices.
27 The subsidy would help cover the cost of providing service in "communities where post offices may not be deemed self-sustaining". See 39 U.S.C. § 2401(b)(1).
28 See the Postal Accountability and Enhancement Act of 2006, Pub. L. No. 109-435, § 701, 120 Stat. 3242.
29 The Federal Financing Bank lends to federal agencies and private entities that have federal guarantees.
30 See 39 U.S.C. § 2005(a).

debt by the end of the year.[31] Additionally, in FY 2023 USPS generated $923 million in interest income from investments of cash available and not immediately necessary for operations.[32]

In contrast, private sector competitors have more options to choose from for issuance of debt. They can borrow money through traditional loans through a bank or other lender, or publicly through a debt issue (corporate bonds). They have no specific caps placed on their debt obligations. The Postal Service's debt limit has not changed in over 30 years and does not adjust with inflation.[33]

By borrowing from the FFB, the Postal Service pays lower interest rates than private sector companies when they borrow from the private debt market.[34] While the FFB estimated that its lending activities generated $109 million in total savings in FY 2023 for the agencies it supports, it did not state how much the Postal Service saved in interest payments by borrowing from the FFB.[35]

Price Controls Apply to Commercial Agreements and International Pricing

Aside from the price cap itself, the PRC regulates other aspects of the Postal Service:

- **Commercial agreements.** Negotiated Service Agreements (NSAs) are the contracts between the Postal Service and a mailer setting customer-specific rates, fees, or terms of service. The law mandates that the PRC determine whether a proposed NSA would either improve the net financial position of the Postal Service or enhance its operational performance.[36] In 2023, the PRC recognized the complexity and workload involved in handling Competitive NSAs and proposed new rules intended to streamline procedures.[37]
- **Terminal dues.** For the bilateral exchanges of international mail between the Postal Service and foreign postal operators, USPS, as the United States' universal postal service provider, is bound by the Universal Postal Convention and regulations of the Universal Postal Union (UPU), a specialized agency of the United Nations. These regulations apply to all posts worldwide — but not to private sector competitors.[38] USPS benefited for decades from the generally low prices (called terminal dues) it could pay foreign posts for the delivery of international letters and lightweight packages. Symmetrically, the low terminal dues foreign posts paid to the Postal Service penalized its growing international inbound ecommerce packets business, which did not cover its processing and delivery costs.

  New UPU regulations passed in 2019 and subsequent changes to international ecommerce supply chains have largely reduced the distortions of competition between the Postal Service and international competitors that these regulations generated, in particular for lightweight cross-border ecommerce packages.[39] The GAO recently found that these new UPU rules had also made Postal Service's international outbound products more expensive, less competitive, and contributed to a decline of its international mail volume.[40]

Laws Impacting the Postal Workforce

The U.S. Postal Service is one of the nation's largest civilian employers with over 640,000 employees

31 Quasi-governmental entities operate under slightly different funding systems. Fannie Mae and Freddie Mac, the two government-sponsored enterprises that guarantee mortgages, issue debt securities but have a debt cap set by regulator Federal Housing Finance Agency. Amtrak issues notes and also uses government's Railroad Rehabilitation and Improvement Financing program to fund the purchase of new equipment.
32 See USPS, Form 10-K FY 2023, https://about.usps.com/what/financials/10k-reports/fy2023.pdf, p.36.
33 A $10 billion debt cap set in the PRA was later increased to $15 billion, starting in FY 1992.
34 While like-for-like comparisons are difficult, the weighted average interest rate for the Postal Service's outstanding debt was 4.2 percent as of September 30, 2023, which is at least 1 percent below rates on comparable corporate bond rates.
35 Federal Financing Bank, Annual Report FY 2023, https://ffb.treasury.gov/assets/files/AnnualReport2023.pdf. The FFB charges lower interest rates than commercial banks because it borrows directly from Treasury and charges agencies only one eighth of a percentage point in addition to Treasury rates.
36 See 39 U.S.C. § 3622(c)(10) and 39 C.F.R. § 3010.40. This would be a non-issue in many other countries. For example, European regulators typically do not review and approve commercial agreements between large mailers and the post.
37 PRC, "Advance Notice of Proposed Rulemaking on Regulations Pertaining to Competitive Negotiated Service Agreements," Order No. 6446, February 24, 2023, https://prc.arkcase.com/portal/docket-search/advanced/filing-details/84722.
38 In addition, national posts are directly involved in the UPU decision-making processes, while private sector companies only recently gained a limited consultative role in UPU activities.
39 The new regulations also allowed USPS to receive higher terminal dues, enabling full cost coverage on lightweight cross-border ecommerce packages shipped to the U.S. For an in-depth discussion of terminal dues, see OIG, "Terminal Dues in the Age of Ecommerce," RARC-WP-16-003, December 14, 2015, https://www.uspsoig.gov/reports/white-papers/terminal-dues-age-ecommerce, and OIG, "The International Package Market – Trends and Opportunities for the Postal Service," RISC-WP-23-006, May 15, 2023. https://www.uspsoig.gov/reports/white-papers/international-package-market-trends-and-opportunities-postal-service.
40 GAO, "Effects of Rate Increases and Other Factors on USPS and Domestic Stakeholders," GAO-24-107383, March 28, 2024, https://www.gao.gov/products/gao-24-107383.

in FY 2023.[41] This large workforce operates under a complex series of laws and regulations that govern labor contracts, workers' compensation, and retirement programs. Some laws are specific to the Postal Service, while others apply — in whole or in part — to other federal agencies or private sector companies (See Figure 5 and a more detailed list of applicable laws in Appendix D).

Figure 5: The Postal Service's Legal and Regulatory Labor Environment vs. the Private Sector

	THE POSTAL SERVICE	PRIVATE COMPETITORS
Applicable Labor Laws	Combination of private and public sector laws and laws specific to the Postal Service, including a binding arbitration process in lieu of right to strike.	Private sector laws. Right to strike protected by the National Labor Relations Act (NLRA).
Employee Pay	Cap on executive pay. Must maintain overall pay comparability with the private sector.	No cap on executive pay.
Workers' Compensation Program	Must comply with the Federal Employees' Compensation Act (FECA). Incurred 31 percent to 41 percent higher compensation costs per workhour than private sector companies between 2017 and 2022.	Have a choice between offering self-insurance or using a private insurer to handle compensation claims (in most states).
Workers' Compensation Program	Claims are never settled, and there is no limitation on dollar amount or duration of benefits covered.	Flexibility to settle claims.
Retirement	Offers defined benefit programs administered by the U.S. Office of Personnel Management (OPM) and the U.S. Department of Treasury.	Offer a choice of retirement systems and investment fund strategies, a majority of which are defined contribution plans that transfer risk to retirees.
Retirement	Retirement costs have increased by 85 percent (FYs 2013-2023), creating an unfunded liability amounting to $122 billion.	Retirement costs for defined benefit pension plans sponsored by large US companies were fully funded in 2023.

Source: OIG Analysis.

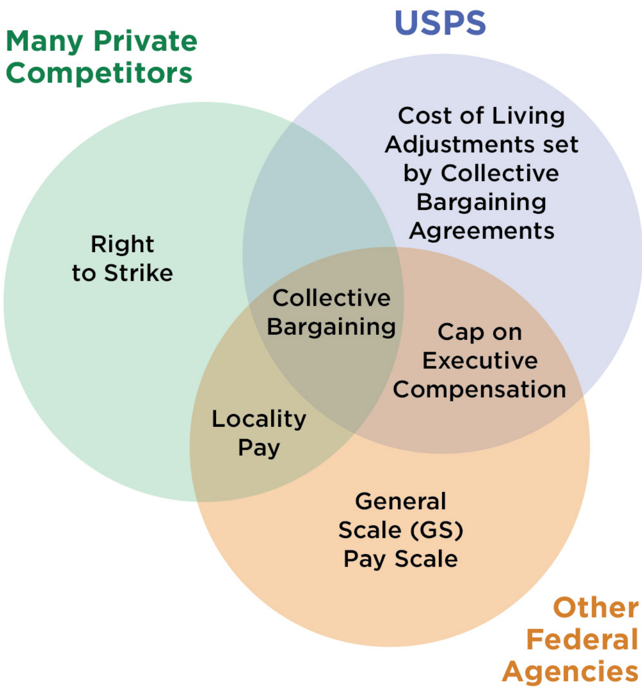
USPS is Subject to a Unique Combination of Labor Laws

In FY 2023, labor costs represented approximately 74 percent of Postal Service's total operating expenses. Operating as both a public agency and business, the Postal Service is subject to a unique combination of applicable private and public sector labor laws, ranging from collective bargaining to a cap on executive compensation (See Figure 6).

41 See United States Postal Service, Fiscal Year 2023 Annual Report to Congress, https://about.usps.com/what/financials/annual-reports/fy2023.pdf, p.3.

FIGURE 6: KEY DIFFERENCES IN LABOR LAWS, REGULATIONS, AND POLICIES

The Postal Service functions under a unique combination of applicable private and public sector labor laws.



Source: OIG Analysis

Notable points of departure between USPS and private sector companies include:

- **Collective bargaining agreements.** Like many other delivery companies, USPS has a unionized workforce and collective bargaining agreements that shape pay and working conditions.[42] For example, the National Labor Relations Act's provisions pertaining to collective bargaining apply to both the Postal Service and the private sector, but not to other federal agencies.[43] Pay increases (including cost of living adjustments) for unionized Postal Service employees are mostly set by collective bargaining agreements.[44] However, unlike private sector employees, postal employees are not allowed to strike. In lieu of the right to strike, the 1970 PRA established a binding arbitration process for resolving contract disputes.[45]
- **Salary scales.** The PRA mandated the Postal Service to maintain pay comparability for its employees with the private sector. In practice, USPS uses its own Rate Schedule Codes (RSC) in place of the General Schedule (GS) and Federal Wage System (FWS) used by much of the federal government. However, unlike both other federal agencies and many private sector national employers, the Postal Service does not adjust wages to reflect local pay rates through a "locality pay" system (although it could legally do so).[46]
- **Executive compensation.** Annual employees and executive compensation is legally set not to exceed Level 1 of the Executive Schedule for federal employees ($235,600 in calendar year 2023.)[47] The PAEA, however, established two exceptions. A bonus exception allows USPS to grant bonuses and awards to executives as long as their total compensation does not exceed that of the Vice President of the United States as of the end of the calendar year in which the bonus or award is paid ($272,100 in calendar year 2023). Another exception allows for executives in 12 critical positions to receive a total compensation exceeding that limit by up to 20 percent, or $326,500 in calendar year 2023. In FY 2023, the Postmaster General, Louis DeJoy, received a

42 Unionization rate in the federal government (including the Postal Service) is about 24 percent versus 6 percent in the private sector in FY 2022. Congressional Research Service, "A Brief Examination of Union Membership Data," June 16, 2023, https://crsreports.congress.gov/product/pdf/R/R47596.
43 Unlike most federal departments and agencies, the Postal Service has the authority to bargain collectively over compensation and benefits, in addition to other conditions of employment.
44 While they appear to be rare today in private sector collective bargaining agreements, cost of living adjustments can be found in agreements negotiated between unions and a number of state and local governments.
45 Arbitration as a mechanism for resolving a bargaining dispute is rare in the private sector and utilized only upon mutual agreement by both parties. Most frequently, when collective bargaining negotiations reach an impasse, a private employer can unilaterally implement its latest contract proposals.
46 OIG, "Locality Pay," RARC-WP-14-22, February 14, 2014, https://www.uspsoig.gov/sites/default/files/reports/2023-01/rarc-wp-14-008_0.pdf.
47 Each member of the Postal Service Board of Governors receives an annual salary of $30,000 in addition to $300 per day and travel expenses for not more than 42 days of meetings each year.

$322,055 salary.[48] In contrast, the median annual total compensation of a CEO in a U.S. S&P 500 company stood at $14.3 million in 2022-2023.[49]

Limited Control Over Retirement Programs Has Resulted in Increased Liabilities

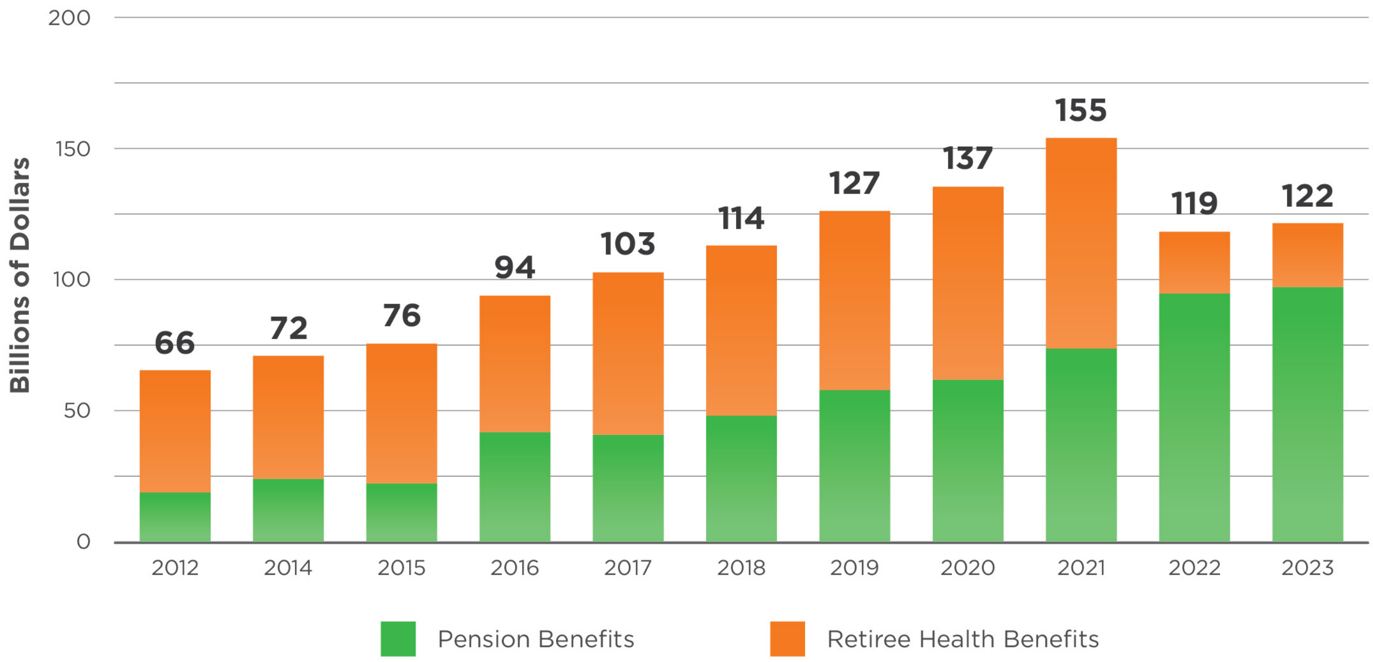
Unlike private sector competitors, the Postal Service does not control and is statutorily limited in its investment strategy for retirement assets. And unlike other federal agencies, funding comes from revenue rather than appropriations. This unique environment has resulted in significant retirement expenses that are rapidly increasing. In FY 2023, the costs for retirement programs reached 11.7 percent of the agency's total operating expenses, or over $10 billion, which is nearly on par with the Postal Service's costs for transportation.[50] From FY 2013 to FY 2023, retirement costs have also increased by 85 percent, creating an unfunded liability amounting to an estimated $122 billion (see Figure 7).

The Postal Service has several plans for retirement funds. The Civil Service Retirement System (CSRS) and the Federal Employee Retirement System (FERS) are federally defined benefit pension programs, and the Postal Service Retiree Health Benefit Fund (RHBF) provides additional funds for employees who are eligible to remain enrolled in the Federal Employees Health Benefits (FEHB) program after retirement.[51] Established by the 2022 PSRA, the Postal Service Health Benefits (PSHB) program is a new, separate program within the FEHB, which will provide health

FIGURE 7: UNFUNDED RETIREMENT LIABILITY, FYS 2012 – 2023

Retirement Costs are Unfunded, Substantially Increasing over the Last Ten Years

In FY 2023, the total unfunded retirement liabilities amounted to $122 billion, an increase of 84 percent from FY 2013 to 2023. Despite the PSRA reforms of 2022 lessening the prefunding of retiree health benefits, the unfunded liability of retirement costs remains on an upward trajectory.



Source: OIG Analysis

48 The FY 2023 amount does not reflect the amount paid to the Postmaster General for the calendar year of 2023. Postal Service, Form 10-K FY 2023, https://about.usps.com/what/financials/10k-reports/fy2023.pdf, pp.79-89. See also OIG, "Compensation, Benefit, and Bonus Authority in Calendar Year 2022," 23-084-R23, August 7, 2023, https://www.uspsoig.gov/sites/default/files/reports/2023-08/23-084_r23.pdf.

49 The components of private sector CEOs' compensation are pay, bonus and incentive payouts, and stock awards. ISS Corporate Solutions, Inc., "2023 Filings Show U.S. CEO Pay Increases Tapering, ICS Analysis Finds," April 24, 2023, https://insights.issgovernance.com/posts/2023-filings-show-u-s-ceo-pay-increases-tapering-ics-analysis-finds/#:~:text=The%20ICS%20analysis%2C%20which%20examined,of%2013.2%20percent%20for%20the.

50 See USPS, Form 10-K FY 2023, https://about.usps.com/what/financials/10k-reports/fy2023.pdf, p. 25 and p.35.

51 Defined benefit plans are a type of pension which provides a specified payment or benefit that depends on an employee's earnings history, tenure of service and age, rather than on individual investment returns.

insurance to eligible Postal Service employees, retirees, and eligible family members starting in 2025. All these programs are administered by the U.S. Office of Personnel Management (OPM) and the U.S. Department of Treasury.

USPS does not have the flexibility to change any part of its retiree benefit plans. As a federal employer, the Postal Service is required to participate in CSRS and FERS. Employer contribution amounts are set by law.[52] The Postal Service, however, differs from other federal agencies in that retiree benefit programs are paid through revenue generated by the sale of postal products and services and not appropriations.[53] Similarly, USPS does not have the flexibility to change any part of its retiree health benefits programs. Allowing more flexibility would require Congressional action.

Retiree assets are mandated by law to be invested in low-risk U.S. Treasury bonds.[54] The Postal Service cannot diversify investments, which could potentially decrease the deficit. OIG analysis conducted in 2023 found that if a 60 percent stock and 40 percent bond investment took place from 2007 to 2022, the Postal Service would have had an estimated surplus of $797 billion rather than a deficit of $96 billion in FY 2022.[55] The Postal Service's retirement liabilities underwent a major reform in 2022 but continue to face financial challenges.

Despite Reform, the Postal Service Still Faces Significant and Growing Retirement Costs

In April 2022, the PSRA provided financial relief when it reformed the Postal Service's retirement liabilities. Congress removed an obligation established under PAEA in 2006 to prefund requirements for retiree health benefits, resulting in the removal of more than $57 billion in unfunded liabilities from the USPS's financial balance sheet. Through the PSRA, Congress also passed provisions integrating retirees into Medicare, decreasing an estimated $5.5 billion of spending on health benefit premiums for current USPS employees, retirees, and their dependents between 2025 and 2031.[56]

Despite the financial relief provided by the PSRA, the retirement benefits expenses incurred by the Postal Service for pension and retiree health costs are expected to rise over the next decade, increasing to nearly $18 billion in FY 2032, compared to $10 billion in FY 2023.[57] Analysis in 2024 estimated that the RHBF will be depleted by 2031, requiring annual payments from the Postal Service thereafter to cover retirees' annual health premiums.[58] As the Postal Service is intended to be self-funded, these payments will divert funds away from operational expenses, including capital investments.

In addition, the Postal Service must make annual amortization payments to cover the unfunded FERS and CSRS retirement liabilities shown in Figure 7. The Postal Service is seeking to address CSRS retirement-related costs as part of its Delivering for America plan. Specifically, USPS has asked OPM to revise how CSRS liabilities are divided between USPS and the federal government, which could save $3 billion a year in amortization expenses. According to the Postal Service, OPM has determined that it does not have the authority to make this change without statutory change and the Office of Legal Counsel of the Department of Justice concurred.[59]

Private Sector Companies Have a Choice of Retirement Systems and Fund Investment Strategies

While the Postal Service is bound to comply with the retirement systems set by Congress, private sector companies have a choice of systems. In fact, over the last few decades, many companies have shifted from defined benefit — broadly comparable to government's CSRS or FERS — to less risky defined contribution plans. Whereas most U.S.

52 See Civil Service Retirement Act of 1920, Ch. 233, 41 Stat. 614 and the Federal Employees' Retirement System Act of 1986, H.R.2672.
53 Additionally, for other agencies the U.S. Treasury makes amortization payments to cover any CSRS or FERS payments not funded by congressional appropriations.
54 See 5 U.S.C. § 8909(a),(c).
55 OIG, "Historical Analysis of USPS Retirement Fund Returns," RISC-WP-23-005, April 26, 2023, https://www.uspsoig.gov/reports/white-papers/historical-analysis-usps-retirement-fund-returns.
56 For more on how PSRA impacted the Postal Service, see OIG, "Primer on Postal Reform," RISC-WP-23-002, December 20, 2022, https://www.uspsoig.gov/sites/default/files/reports/2023-01/RISC-WP-23-002.pdf.
57 See OIG, "Postal Retirement Funds in Perspective: Historical Evolution and Ongoing Challenges" RISC-WP-24-002, January 8, 2024, https://www.uspsoig.gov/reports/white-papers/postal-retirement-funds-perspective-historical-evolution-and-ongoing, p.1.
58 OIG, "Postal Retirement Funds in Perspective: Historical Evolution and Ongoing Challenges."
59 U.S. Department of Justice, "Whether the United States Postal Service Bears Responsibility for the Cost of Certain Civil Service Retirement Benefits Paid to Its Employees," March 26, 2024, https://www.justice.gov/olc/media/1348126/dl?inline#:-:text=The%20United%20States%20Postal%20Service%20is%20responsible%20for%20the%20full,in%20benefits%20accrued%20during%20those.

private industry workers (84 percent) were enrolled in defined benefit plans in 1980, only 15 percent had access to a defined benefit plan in 2023. In contrast 67 percent had access to defined contribution programs such as 401(k) plans.[60]

While the Postal Service's retirement programs are heavily under-funded, U.S. private sector defined benefit pension plans were fully funded in 2023.

One main reason for the shift is a reduction in costs and risks for the employer. In a defined benefit plan, retirees receive a specified amount in retirement. This means that the company bears the investment risk. With a defined contribution plan, if assets decrease, so do the benefits: future benefits fluctuate based on investment earnings, transferring the risk to retirees.[61] This eliminates liability risks such as the need to set aside sufficient funds to fully cover future pension benefits.

Investment diversification is also the norm for private sector, state, and local government pension funds. For example, UPS invests its retirement assets in a mix of low-risk and higher-risk securities including hedge funds.[62] As of the end of 2023, only 41 percent of its U.S. plans assets were invested in U.S. government securities.[63] This flexibility helps retiree funds managers improve the funding status of their plans. In 2023, boosted by a record 10.4 percent return on investment, defined benefit pension plans sponsored by large US companies were, in the aggregate, fully funded for the first time in 16 years.[64]

Workers' Compensation Program Inflexibilities Increase Costs for the Postal Service

Workers' compensation programs provide monetary assistance and medical benefits needed to cover employees who have sustained work-related injuries or contracted occupational diseases, facilitating their ability to return to work. There are both differences and similarities between the Postal Service's workers' compensation program to those in other federal agencies or in the private sector. Unlike other agencies, the Postal Service does not receive appropriations and typically pays over $1.2 billion a year in claim costs and administrative fees.[65] The program functions like a company's self-insurance arrangement in that all claim costs are paid from revenue and USPS assumes all financial risk.

As with other federal agencies, the Postal Service must comply with the Federal Employees' Compensation Act (FECA). FECA is administered by the U.S. Department of Labor's (DOL) Office of Workers' Compensation Programs (OWCP). Unlike most private sector companies, therefore, the Postal Service cannot select a workers' compensation system. Companies in most states can select a private insurer to handle workers' compensation claims or opt for self-insurance.[66] For employers that are self-insured, the company assumes all financial risk and covers the cost of all eligible claims. Many companies, however, use private insurance or pay into a state-run compensation program. They pay premiums to an insurer who manages the claims process and pays out benefits to employees.[67]

Differences among workers' compensation programs have several financial implications for the Postal Service:

- **Limited cost savings.** FECA compliance limits the Postal Service from pursuing certain cost containment options available to private sector companies. Under FECA, settlements and buyouts are not allowed, the use of generic drugs is not

60 U.S. Department of Labor, Bureau of Labor Statistics, The Economics Daily, April 19, 2024 https://www.bls.gov/opub/ted/2024/15-percent-of-private-industry-workers-had-access-to-a-defined-benefit-retirement-plan.htm, and U.S. Department of Labor, Bureau of Labor Statistics, "Employee Benefits in Industry, 1980," Bulletin 2107, September 1981, https://www.bls.gov/ebs/publications/pdf/bulletin-2107-september-1981-employee-benefits-in-medium-and-large-private-industry-establishments-1980.pdf.

61 International posts have had to deal with comparable funding issues. For example, in the UK (in 2018) and Australia (in 2012) the national post closed access to their defined benefit pension plans to new hires and enrolled them into less favorable defined contribution plans.

62 UPS also has a number of defined contribution and defined benefit plans, depending on the category of workers.

63 United Postal Service, Form 10-K 2023, https://investors.ups.com/sec-filings/annual-filings##document-4141-0001090727-24-000008-2, p.88.

64 WTW, "Funded status of largest U.S. corporate pension plans ends 2023 at 100%," press release, January 2, 2024, https://www.wtwco.com/en-us/news/2024/01/funded-status-of-largest-us-corporate-pension-plans-ends-2023-at-100-per.

65 For example, from FY 2017 to FY 2022, costs were over $1.2 billion a year. See OIG, "Workers' Compensation Program Update," 22-121-R23, May 11, 2023, https://www.uspsoig.gov/reports/audit-reports/workers-compensation-program-update, p. 4.

66 North Dakota, Ohio, Puerto Rico, the U.S. Virgin Islands, Washington, and Wyoming, for example, have a monopoly on workers' compensation programs. Companies in these states may also be required to purchase separate liability insurance that is not covered in the state-run workers' compensation coverage. Alternatively, Texas has no requirement for workers' compensation coverage.

67 Some companies use a hybrid system — they are self-insured but purchase insurance covering exceptional workers' compensation risks.

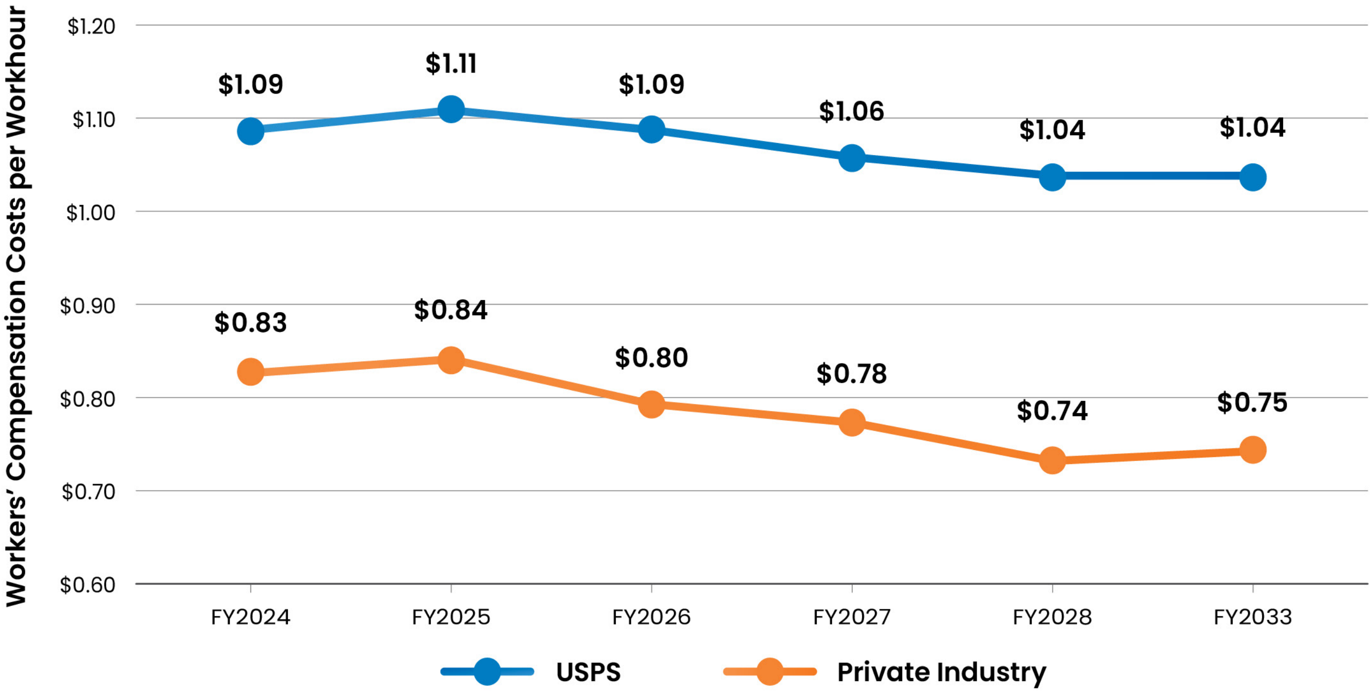
required, and there is no limitation on dollar amount or duration of benefits covered. The OIG reported that program cost reimbursements to the DOL resulted in an estimated 31 percent to 41 percent higher costs per workhour than private industry between 2017 and 2022 (See Figure 8). Adopting private sector practices — if allowed — could have saved the Postal Service an estimated $693 million from July 2020 to June 2022.[68]

- **Dependency on interest rates and inflation forecasts.** Like all companies that self-insure workers' compensation risks, the Postal Service must record its workers' compensation liability in its financial statements to capture the estimated cost of the payments USPS will have to make in the future for existing claims.[69] In practice, the Postal Service uses a discount rate — based on Treasury securities interest rates — to calculate the amount of funding that would be required today to fully fund those future costs. Changes in interest rates directly impact this amount. From October through December of 2023, the portion of workers' compensation expense driven by interest (discount) rate changes increased $1.1 billion compared to the same period of 2022.[70] The liability also varies according to assumptions of how much wages and medical costs, which are based on inflation forecasts, will increase in the long term.

Laws Impacting Postal Service's Operations

Unlike for many other businesses and posts, the Postal Service has a statutorily defined scope of products and services that it can offer, and the agency is limited in its ability to diversify beyond nonpostal products. Additionally, as a federal

FIGURE 8: WORKERS' COMPENSATION PROGRAM REIMBURSEMENT COSTS ARE HIGHER THAN THE PRIVATE SECTOR



Source: OIG, "Workers' Compensation Program Update," 22-121-R23, May 11, 2023, https://www.uspsoig.gov/reports/audit-reports/workers-compensation-program-update.

68 OIG, "Workers' Compensation Program Update," 22-121-R23, May 11, 2023, https://www.uspsoig.gov/reports/audit-reports/workers-compensation-program-update.
69 Over the last ten years, the unfunded liability of worker's compensation programs has remained high, decreasing from $17 billion in FY 2013 to $14 billion in FY 2023.
70 See Postal Service, Form 10-Q FY 2024, https://about.usps.com/what/financials/financial-conditions-results-reports/fy2024-q1.pdf, p. 28.

entity, the Postal Service also engages in specific procurement processes that are not applicable to the private sector, potentially impacting its operations (See Figure 9).

Figure 9: The Postal Service's Operational Freedoms vs Private Competitors'

	THE POSTAL SERVICE	PRIVATE COMPETITORS
Diversification	**Mostly limited to postal services and services provided to local, state and federal governments.**	**Can diversify into nonpostal products and services.**
Product Testing	**PRC approval is required for the testing of new products.**	**Can freely test new products.**
Procurement	**Exempted from the Federal Acquisition Regulation but subject to other federal procurement rules.**	**Less stringent procurement laws.**

Source: OIG Analysis

"Postal-Only" Product Restraints Limit Business Expansion

Private sector delivery companies and European postal operators can freely decide their lines of postal and nonpostal products and services. In contrast, PAEA limited the scope of the Postal Service's offerings to postal services as well as a limited set of grandfathered nonpostal services.

- In 2008, the PRC finalized the list of nonpostal services the Postal Service was allowed to continue offering, such as photocopying.[71] In addition, the Postal Service kept the authority to offer nonpostal services for federal agencies, such as passport services for the Department of State.
- The 2022 PSRA extended the scope of admissible services to those provided to any state, local, or tribal governments, to the extent some conditions are met. For example, these services must provide a net financial contribution to the Postal Service and must not harm the quality or cost of postal services.[72]

Business diversification — mostly in logistics, banking, or insurance services — is a key element of foreign posts' long-term strategies, developed partly in response to declining mail volumes and revenue. The pandemic amplified the need for posts to find alternative sources of income. Profits of highly diversified postal operators often come mostly from nonpostal lines of business they have developed over the past 20 to 25 years. For example, in 2023, the Italian Post's mail and parcels division was not profitable, and all profits ($2.8 billion) came from its banking, insurance, and payment businesses. Highly diversified posts usually outperform peers, seeing stronger revenue growth and higher profitability on average. Such profits can be used to invest in postal operations, funding services that may not be financially sustainable on their own.

From another perspective, however, diversification may potentially divert resources from a more needed transformation of their core "postal" business. Establishing and developing services not related to postal operations requires funds that could be invested into optimizing postal services. Canada Post, for example, sold its logistics arm, SCI, in early 2024, citing how it financially and operationally diverted away from its "core" postal business. Additionally, postal operators' past diversification into areas such as digital communications has often failed.[73]

Due in part to the statutory restrictions described above, the Postal Service has long been among the least diversified postal operators in the world.

71 Nonpostal service is defined to mean any service that is not a postal service. A postal service is defined as the delivery of letters, printed matter, or mailable packages, including acceptance, collection, sorting, transportation, or other ancillary functions.
72 The Postal Service did not report any agreement with state, local or tribal governments in FY 2023. Postal Service, "Annual Compliance Report FY 2023," https://prc.arkcase.com/portal/docket-search/advanced/filing-details/127620?, p.109.
73 For a discussion of the lessons learned from postal diversification, see Arthur D. Little, "Postal Operators: The Need for Transformation and Corresponding Strategic Moves," August 2022, https://www.adlittle.com/en/insights/viewpoints/postal-operators-need-transformation-and-corresponding-strategic-moves.

According to the International Post Corporation, mail and parcels in 2022 represented only 54 percent of global posts' revenue, while they accounted for over 99 percent of the Postal Service's total revenue.[74] In the 2010s, several OIG papers discussed the pros and cons of USPS potentially diversifying into digital services and postal financial services, and the legal and regulatory hurdles it would need to overcome to expand into these markets.[75] Restrictions on diversification limited the scope of its potential strategies. However, it is difficult to speculate on what the agency would have done — or would do any differently in today's environment — absent statutory limitations to diversification.

Finally, when testing new postal products ("experimental products"), the Postal Service, unlike its competitors, must seek the PRC's approval.[76] While the PAEA authorized the Postal Service to conduct such tests, the agency must provide evidence that several conditions are met. For example, USPS must demonstrate that the product is significantly different from those offered within the past two years and will not cause market disruption. In addition, unless the PRC grants an exemption, USPS's total anticipated revenue may not exceed $10 million per year and the test's total duration may not exceed 24 months. For example, Connect Local was first approved as an experimental product for January 2022 through 2024; the PRC then granted a one-year extension until January 2025. In the past ten years, the PRC has generally approved market test requests from the Postal Service, and the extension of these tests.

Acquisition Regulations May Result in a Competitive Disadvantage

Unlike its private sector competitors, the Postal Service must comply with some, but not all, federal contracting requirements. The Federal Acquisition Regulation (FAR), which sets government procurement rules such as standard solicitation provisions and contract clauses, applies to the military and to most federal agencies — but not to USPS. Instead, the Postal Service uses the Supplying Principles & Practices (SP&P). Past OIG audit reports stated that FAR requirements were generally more stringent than Postal Service's own SP&P.

However, a number of procurement laws governing the Postal Service's procurement practices — but not applicable to the private sector — may put USPS at a competitive disadvantage. One example is the laws that apply to the use of contractors, which USPS uses to move mail, repair its fleet, or maintain its facilities. Specifically, several procurement laws mandate minimum wages or restrict the choice of vendors (See Appendix E for a summary of the primary laws). Postal Service management told the OIG that the Service Contract Act of 1965 (SCA) has had the greatest impact.[77] This Act requires that contractors performing specific types of service contracts be paid above set wage rates and fringe benefits based on locality and the classification of work being performed. The Postal Service asserted that SCA increases the cost of doing business with USPS and has historically limited competition for USPS trucking business mainly to companies willing to work exclusively in the public sector.[78]

Another example of a statute that has restrained the Postal Service's acquisition strategy specifically relates to international air transportation contracts. The Postal Service must first seek proposals from "certificated air carriers" (American flag carriers) for the transportation of mail by aircraft between any of the points in foreign air transportation.[79]

Implicit Subsidies to the Costs of Operations Are Relatively Negligible

Another category of differences relates to what the Federal Trade Commission (FTC) refers to as "implicit subsidies" the Postal Service may enjoy over its competitors by reducing the cost of some of its operations. These benefits include advantages

74 International Post Corporation, "Global Postal Industry Report 2023 Key Findings," December 2023, https://www.ipc.be/services/markets-and-regulations/market-intelligence/global-postal-industry-report, p.12.
75 For example, see OIG, "Bridging the Digital Divide: Overcoming Regulatory and Organizational Challenges," RARC-WP-12-004, November 22, 2011, https://www.uspsoig.gov/sites/default/files/reports/2023-01/rarc-wp-12-004_0.pdf and OIG, "Providing Non-Bank Financial Services for the Underserved," RARC-WP-14-007, January 27, 2014, https://www.uspsoig.gov/reports/white-papers/providing-non-bank-financial-services-underserved.
76 During the test the product will not be subject to the standard pricing and costing regulations that apply to Market Dominant and Competitive products.
77 The Postal Service also highlighted that Executive Order 11246, which addresses nondiscrimination in employment by government contractors and subcontractors and in federally assisted construction contracts, creates another significant disadvantage.
78 In March 2021, the Postal Service requested an exemption from the SCA. The Department of Labor denied the request and argued that USPS did not provide sufficient support that the SCA's requirements were negatively affecting its ability to engage contractors.
79 See 39 U.S.C. § 5402(b).

arising from its federal status, such as the exemption from state and local tax, property and real estate taxes, parking tickets for delivery vehicles, vehicle registration fees, and tolls. The value of these benefits was first estimated by the FTC in 2007, then updated by the PRC, most recently in 2022. In 2022, the Postal Regulatory Commission found that the range of "implicit subsidies" was relatively negligible — from $39 million to $74 million a year.[80]

Laws and Regulations That May Impact USPS Decision-making Processes

The Postal Service has a complex governance and oversight structure and a set of stakeholders with varying interests. Congress aimed to give the Postal Service the management of private enterprise by creating a Board of Governors to oversee USPS, similar to a corporate board of directors. However, like other government or public organizations, several laws and regulations prescribe a level of formal and informal scrutiny of the Postal Service's business and operations that very few private sector companies are subject to. This oversight helps ensure good and transparent governance principles, identifies fraud, waste, and abuse, informs public discussion and debate, and influences strategic decision making. It is distinct, however, from private sector companies where such issues and discussions may remain internal (See Figure 10). The Postal Service has often argued that, in many situations, roles and responsibilities of these different stakeholders overlap and are not sufficiently clear and impact its flexibility in shaping and implementing its strategies.[81]

Figure 10: Oversight of the Postal Service vs. Private Competitors

	THE POSTAL SERVICE	PRIVATE COMPETITORS
Governance	The Board of Governors represents "the public interest."	A Board of Directors represents the interests of shareholders.
Governance	Governors are appointed by the President of the United States and confirmed by the U.S. Senate. They have set term limits.	Directors are typically appointed by the board and may not have set term limits.
Oversight	Mostly conducted by external agencies and many results are required to be made available to the public.	Mostly conducted internally and many results are confidential.

Source: OIG Analysis

Specific Rules Apply to the Nomination and Tenure of Postal Service Governors

In 1970, the PRA created the Board of Governors (BOG) as a buffer between the political establishment and the U.S. Postal Service to enable USPS to act in a less politicized, more businesslike manner. In practice, the BOG is largely patterned after a private sector board of directors. Like the private sector, Governors must "oversee, approve and direct."[82] However, unlike a private sector board of directors which represents shareholders, the BOG must represent "the public interest" and not a particular set of constituents.

80 PRC, "Notice and order providing an opportunity to comment on the Commission's Section 703(d) analysis," Order No. 6269, September 7, 2022, https://prc.arkcase.com/portal/docket-search/advanced/filing-details/55432, p.13. Some economists have criticized the FTC's and PRC's approach to evaluating implicit subsidies. For example, the consulting firm Sonecon has argued that based on a "fair market value" approach, the immunity of real estate and property tax, and state and local taxes and fees provided the Postal Service a subsidy worth $3 billion in 2016.

81 See "Competition for the Governors' Responsibilities," in OIG, "Governance of the U.S. Postal Service," RARC-WP-17-002, https://www.uspsoig.gov/reports/white-papers/governance-us-postal-service, p.8.

82 See 39 USC § 202. For a detailed description of the roles of Postal Service Governors, see OIG, "Governance of the U.S. Postal Service," pp.7-11.

Postal Service Governors have term limits and the average tenure of a Governor in recent years is, on average, half that of a private sector director. Each term is seven years, and a Governor is limited to two terms. The average estimated tenure of the Governors who have joined the Board since 2018 is about 4.6 years.[83] At the time of writing, the seven non-postal Governors who currently serve on the Board have served an average of 3 years in their tenure to date. In contrast, the average tenure for directors in large publicly-traded US companies is slightly below 10 years.[84]

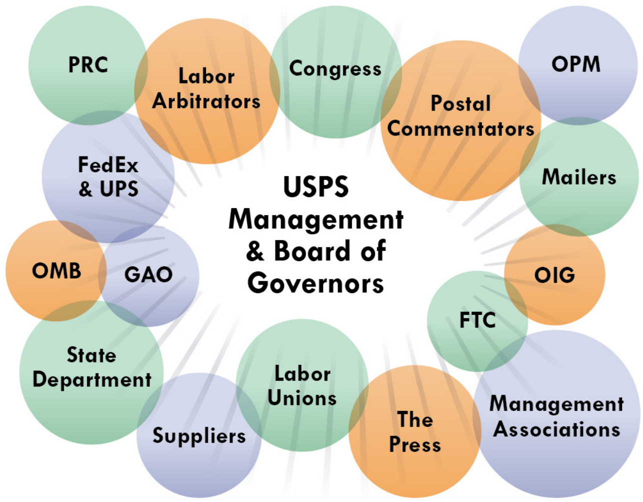
One main reason for directors' longer tenure is that term limits, or mandatory retirement policies based on tenure, are very uncommon in the private sector. Companies' bylaws usually set the duration of a term, but rarely set term limits — the maximum number of years a director can serve on a board. In effect, many publicly-traded companies prefer to retain valuable board members — regardless of their tenure. Given the complexity and uniqueness of the Postal Service's environment, term limits may affect the retention of institutional knowledge and create a competitive disadvantage.

In addition to tenure, the appointment and termination process for Governors differs from other sectors. In a private sector company or a nonprofit entity, while the actual processes may vary depending on companies' bylaws, members are typically confirmed or removed by a vote of the board of directors. New Postal Service Governors are appointed by the President of the United States and confirmed by the U.S. Senate — a process which often takes several months.[85] Additionally, mechanisms exist for the President to remove Governors for cause who fail to fulfill obligations or demonstrate incompetence.[86]

USPS is Subject to Oversight by Public Bodies and Scrutiny from Multiple Stakeholders

The operations and performance of the Postal Service are subject to oversight from a variety of public bodies, including the OIG, the PRC, the GAO, Congress, and other stakeholders with varying missions (Figure 11).[87] The formal opinions and binding recommendations of these public bodies may impact the Postal Service's direction when addressing business challenges.

FIGURE 11: THE CROWDED FIELD OF POSTAL STAKEHOLDERS



Source: OIG, "Governance of the U.S. Postal Service," RARC-WP-17-002, November 10, 2016.

The external oversight of the Postal Service differs from private sector competitors. For a publicly-traded company, most oversight is done internally, and supervised by the leadership team, the board of directors, and board's committees such as its audit committee. While U.S. legislation requires publicly-traded companies to make accurate disclosures of their financial health to shareholders, audit reports are typically not made available to the public.

83 The OIG made the simplifying assumption that current Governors would leave the Board at the end of their current term (or holdover year).
84 Matteo Tonello, "Corporate Board Practices in the Russell 3000 and S&P 500," Harvard Law School Forum on Corporate Governance, October 18, 2020, https://corpgov.law.harvard.edu/2020/10/18/corporate-board-practices-in-the-russell-3000-and-sp-500/#:~:text=US%20public%20company%20directors%20are,the%20broader%20Russell%203000%20index.
85 A different process applies to the Postmaster General and Deputy Postmaster General, who are voting members of the BOG but are not Presidentially appointed Governors. The Governors elect the Postmaster General, the Governors and the Postmaster General elect the Deputy Postmaster General.
86 Removal of a Governor would legally require a decision of the President of the United States.
87 Other agencies whose regulations impact the Postal Service include the National Labor Relations Board (NLRB), the U.S. Merit Systems Protection Board (MSPB), the Department of Labor (DOL), the Occupational Safety and Health Administration (OSHA), the Equal Employment Opportunity Commission (EEOC), the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Environmental Protection Agency (EPA), and the Council on Environmental Quality (CEQ).

In contrast, external reviews of the Postal Service are generally made public or are accessible to the public. Its oversight agencies, such as the GAO, the PRC, or the OIG, must publish their reports and generally keep Congress and the public fully informed of their analysis, decisions or recommendations.[88] In addition, the Freedom of Information Act (FOIA) gives the public the right to request access to records of various federal agencies, including public oversight bodies. Public debates around internal operations reflect good governance principles for a government-owned agency, helping ensure its efficiency and effectiveness, and providing accountability to the executive and legislative branches and to the public. From a business perspective, however, it may fuel controversies over USPS management's decisions and strategies.

There is at least one audit area to which the same publicity obligations apply to USPS and private sector companies. The 2006 PAEA required that the Postal Service comply with Section 404 of the Sarbanes Oxley Act of 2002.[89] The Act mandates publicly-traded companies to publish details about their internal accounting controls and their procedures for financial reporting, and have them reviewed by an external auditor. The internal controls and external auditor's reports are presented in the Postal Service's annual financial reports.

FIGURE 12: SUMMARY: LEVEL OF POSTAL SERVICE'S CONTROL OVER ITS OPERATIONS AND FINANCIAL IMPACT

		USPS's Control on Parameters			Direct Financial Impact (Annual)		
		No / very low	Medium	High	Burden	Benefit	Not quantified
Public Service Obligations and Funding	***Universal Service Obligation***				$6 Billion		
	Six-Day Delivery	✓					✓
	Other obligations		✓				✓
	Price Authorities						✓
	Market Dominant products		✓				✓
	Competitve products			✓			✓
	Monopolies	✓				$4 Billion	
	Appropriations	✓				$80 million	
Labor, Materials, and Capital	***Labor Laws***		✓				✓
	Retirement Programs	✓					✓
	CSRS allocation rule	✓			$3 Billion		
	Investment of retiree assets	✓			Very high		
	Workers' Compensation Programs		✓		$350 million		
	Procurement Laws		✓				✓
	Implicit (tax) benefits	✓				<74 million	
	Debt and borrowing laws	✓					✓
Governance and Oversight	***Freedom to Diversify into nonpostal***	✓					✓
	Control by multiple stakeholders	✓					✓

Source: OIG Analysis

88 As an illustration of the legally mandated reporting requirements an oversight agency must comply with, see OIG, "Semiannual Report to Congress April 1 — September 30, 2023," https://www.uspsoig.gov/sites/default/files/reports/2023-10/FY2023_Fall_SARC.pdf, p.60.

89 See 39 U.S.C. § 3654(a)(3). The purpose of Sarbanes Oxley (SOX) Act is to reduce corporate fraud risk by increasing the stringency of requirements for financial reporting.

Conclusion

The framework of postal laws and regulations creates a unique, dual role for the Postal Service as both a business and a public service. This framework was established over 50 years ago, and the postal market has evolved dramatically in that time. In many cases, laws and regulations limit, to varying degrees, the flexibility of the Postal Service in its operations and its strategic decision making, when compared with the private sector. At the same time, the framework creates the USO, which ensures the American public has minimum standards of affordable access to the postal network. Figure 12 summarizes the areas where the legal and regulatory framework limits and grants direct USPS control over its operations.

The different aspects of the legal framework create burdens and, in some cases, benefits for the Postal Service. They may negatively impact the Postal Service's finances, as demonstrated by the cost of the USO not compensated by the value of the monopolies, or the mandated use of the FECA workers' compensation system. However, it is difficult to determine what the Postal Service would do differently absent a particular restraint and what the financial and competitive implications would be.[90] In addition, in areas such as procurement rules or labor laws, differences between USPS and private sector legal frameworks are easily noticeable but their overall impact is difficult to evaluate. Such an assessment may require the delineation of alternative models for the Postal Service, involving different degrees of business freedoms or different public missions for the Postal Service. This exercise is well outside the scope of this paper.

Over the years, the inherent tension between public service obligations and financial sustainability has been intensified by increased operating costs, the substantial liability of health and retirement programs, and declining mail volumes and revenue. This tension raises questions over whether the "business like" model established by Congress in 1970 is optimally tailored to fulfill its public service mission.[91] Consequently, the long-term viability of the current U.S. postal model warrants thoughtful examination and consideration.

As a result of the tension between public service obligations and financial sustainability, the long-term viability of the current U.S. postal model warrants thoughtful examination and consideration.

90 The Postal Service's current legislative agenda does not include specific proposals for significant alterations its operating model. Instead, the agenda focuses on the importance of maintaining a balance between its public service obligations, operational flexibility, and financial viability in the current environment.

91 For a discussion of alternative policy models, see OIG, "Fundamental Questions for the Future of the Postal Service," RARC-WP-11-001, February 2, 2011, https://www.uspsoig.gov/sites/default/files/reports/2023-01/rarc-wp-11-001_0_0.pdf.

Appendices

Appendix A: Additional Information

Objective(s), Scope, and Methodology

The objectives of the research paper were to provide a high-level overview of the different laws and regulations that uniquely apply to the Postal Service and to create a detailed analysis of the most critical regulations and their impact on the Postal Service's business agility.

The scope of this paper is the specific laws and regulations that apply to the Postal Service and not to other businesses. Some of these laws result from its status as a federal agency, while others arose from different waves of postal legislation, such as the Postal Reorganization Act (PRA) of 1970, the Postal Accountability and Enhancement Act of 2006 (PAEA), and the Postal Service Reform Act of 2022 (PSRA). These laws are codified in Title 39 of the United States Code, which outlines the U.S. postal policy, the organization and general authority of the Postal Service, and the role of the Postal Regulatory Commission.

We focused on two types of impacts:

- Provisions that create a direct financial burden (or benefit) on the Postal Service's bottom line by increasing costs or creating financial advantages.
- Provisions that impact the Postal Service's business agility — its freedom to conduct business the way other businesses can (for example, an ability to launch new products or update operations).

Where available, the OIG used existing estimates of the financial impact of these provisions but did not attempt to update them or develop its own calculations.

Our methodology included desk research complemented by interviews with the Postal Service. We conducted a document review of the specific laws and regulations that are unique to the Postal Service. We also reviewed relevant prior work from the U.S. Government Accountability Office (GAO), the Federal Trade Commission (FTC), the Postal Regulatory Commission (PRC), Congressional testimonies, stakeholder reports, academic articles, and past OIG white papers and audit reports.

The inspection was conducted in accordance with the Council of the Inspectors General on Integrity and Efficiency's Quality Standards for Inspection and Evaluation. We discussed our observations and conclusions with management on July 3, 2024 and included their comments where appropriate.

Prior Coverage

Title	Objective	Report Number	Final Report Date	Monetary Impact
Variations and Trends in Postal Regulatory Oversight	Provide an overview of the main oversight activities of the Postal Regulatory Commission (PRC) and postal regulators in selected countries with developed postal markets. Examine current and future trends and challenges in postal regulation and regulatory oversight.	RISC-WP-24-003	March 4, 2024	$0
Postal Retirement Funds in Perspective: Historical Evolution and Ongoing Challenges	Review the history and legislative evolution of the Postal Service's retirement funds in CSRS, FERS, and PSRHBF. Assess the current challenges experienced by the Postal Service's retirement funds and consider future challenges.	RISC-WP-24-002	January 8, 2024	$0

Title	Objective	Report Number	Final Report Date	Monetary Impact
Workers' Compensation Program Update	Review and analyze workers' compensation data from the Injury Compensation Performance Analysis System and Headquarters Occupational Safety and Health Management from FY 2017 through FY 2022.	22-121-R23	May 11, 2023	$0
Primer on Postal Reform	Review the key provisions of the Postal Service Reform Act of 2022 (PSRA) and identify potential opportunities and challenges they present for the Postal Service.	RISC-WP-23-002	December 20, 2022	$0
Uncompensated and Undercompensated Services	Determine whether the Postal Service is appropriately compensated for selected government and business services.	20-208-R21	April 5, 2021	$0
Reevaluating the Universal Service Obligation	Provide an overview of the Postal Service's current universal service obligation (USO) and the challenges faced in continuing to provide services that meet its USO. Identify recent changes in foreign posts' USOs that may provide valuable insights for the U.S. Postal Service. Assess the importance of gathering information on stakeholder needs prior to redefining the USO.	RISC-WP-20-004	May 6, 2020	$0
Governance of the U.S. Postal Service	Explore the history of the Board, its rationale, and barriers to effective operation.	RARC-WP-17-002	November 10, 2016	$0
Fundamental Questions for the Future of the Postal Service	Pose eight fundamental questions that we believe are critical for determining the role of the Postal Service in the 21st century.	RARC-WP-11-001	February 2, 2011	$0

Appendix B: Main Laws Applying Differently to the Postal Service and Private Competitors: GAO Analysis

The U.S. Government Accountability Office has classified the many laws that apply differently to USPS and its competitors into 21 categories.

Scope	Citation(s)	Description	Applicability to private competitors
Letter mail monopoly	18 U.S.C. §§ 1693-99 and 39 U.S.C. §§ 601-06	USPS's letter delivery monopoly is codified in criminal and civil laws knowns as the Private Express Statutes. These laws generally prohibit anyone from establishing, operating, or using a private company to carry letters for compensation on regular trips or at stated periods over postal routes or between places where mail regularly is carried.	Private delivery companies can only deliver items (e.g., packages) not covered under this monopoly.
Mailbox monopoly	18 U.S.C. § 1725	Restricts access to mailboxes by prohibiting anyone from intentionally placing mailable matter without postage in any mailbox, essentially granting USPS exclusive access to mailboxes.	USPS's private competitors cannot deposit such items in mailboxes.
Assumed federal income tax on competitive products	39 U.S.C. § 3634	USPS is required to annually compute its assumed federal income tax on competitive products income, which represents the amount of net income that would be imposed if USPS were assessed such taxes, and transfer this amount from its Competitive Products Fund to its Postal Service Fund.	According to the Federal Trade Commission's 2007 report, USPS's competitors are subject to federal income tax—a tax that is to be paid to the U.S. Treasury.
Tax/fee exemptions	U.S. Const. art. VI,cl. 2.	Generally, states may not impose taxes directly on the federal government, thus exempting USPS from state taxes. According to FTC's 2007 report, various state and local taxes have not been applied to USPS, such as state and local income taxes, property and real estate taxes for USPS-owned properties, sales and use taxes, vehicle registration fees, tolls, state franchise taxes, business licensing fees, franchise fees, and business taxes.	The Federal Trade Commission further noted that these state and local taxes can be applied to USPS's competitors.
Borrowing authority	39 U.S.C. § 2005	USPS has the authority to borrow up to $15 billion from the U.S. Treasury. However, although the Treasury is authorized to approve the issuance of USPS obligations to private creditors, it does not do so, as a matter of policy, according to USPS.	Private competitors are not authorized to borrow from Treasury.
Regulatory authority	39 U.S.C. § 401(2)	USPS has the authority to issue federal postal regulations. For example, USPS has issued regulations further defining the scope of its mailbox monopoly.	Private competitors do not have the authority to issue federal postal regulations.
Power of eminent domain/ payment of debt priority	39 U.S.C. § 401(9)	USPS has the authority to exercise the power of eminent domain and the possession of the priority of the United States with respect to the payment of debts out of bankruptcies, insolvencies, and estates.	USPS's private competitors are not authorized to exercise eminent domain.

Scope	Citation(s)	Description	Applicability to private competitors
Protection from damages related to U.S. mail delivery	28 U.S.C. § 2680(b)	No claims can be made arising out of the loss, miscarriage, or negligent transmission of letters or postal matter—that is, items handled by USPS.	This specific restriction does not apply to items handled by USPS's competitors.
Postal law enforcement	39 U.S.C. § 204, 18 U.S.C. § 3061	The U.S. Postal Inspection Service—the law enforcement, crime prevention, and security arm of USPS—investigates postal-related crimes including mail theft, mail fraud, and postal robberies, among others.	Other law enforcement agencies also investigate theft of items being handled by USPS, as well as its competitors.
Geographic scope of service	39 U.S.C. §§ 101(a), 403(a)	USPS is required to provide prompt, reliable, and efficient services to patrons in all areas, to render postal services to all communities, and to service as nearly as practicable the entire population of the United States. USPS is specifically required to receive, transmit, and deliver written and printed matter, parcels, and like matter throughout the United States, its territories and possessions, and pursuant to international agreements, throughout the world.	These specific requirements do not apply to USPS's private competitors.
Degree of service	39 U.S.C. § 101(b)	USPS is required to provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office can be closed solely for operating at a deficit.	These specific requirements do not apply to USPS's private competitors.
Mail delivery	39 U.S.C. § 101(e), (f); Pub. L. No. 114-113 (2015)	In determining all policies for postal services, USPS is required to give the highest consideration to the requirement for the most expeditious collection, transportation, and delivery of important letter mail. In selecting modes of transportation, USPS is required to give the highest consideration to the prompt and economical delivery of all mail.	These specific requirements do not apply to USPS's private competitors.
Uniform rates	39 U.S.C. §§ 404(c), 3683	USPS is required to provide uniform postal rates for certain types of mail, including at least one class of mail sealed against inspection (which traditionally has been fulfilled by First-Class Mail), Media Mail, and Library Mail.	Such requirements do not apply to USPS's private competitors.
Nonprofit rate discount	39 U.S.C. § 3626	USPS is required to provide reduced rates for nonprofit periodicals and for advertisements sent by nonprofit organizations and qualifying national and state political committees.	Such requirements do not apply to USPS's private competitors.
Alaska Bypass mail	39 U.S.C. § 5402	USPS is required to provide Alaska Bypass service, which allows mailers to ship goods and other cargo on pallets directly to rural customers in Alaska, bypassing USPS's network. USPS pays for the cost of air transportation from hub airports to Alaska bush sites.	Such requirements do not apply to USPS's private competitors.
Collective bargaining	39 U.S.C. §§ 1004,1206-07	USPS negotiates collective bargaining agreements with its labor unions. If they are unable to agree, binding arbitration by a third-party panel will ultimately be used to establish agreement. USPS is also statutorily required to consult with postal supervisory and managerial organizations concerning changes in pay, benefits, and other programs that affect their membership.	These specific requirements for the collective bargaining process do not apply to USPS's private competitors.

Scope	Citation(s)	Description	Applicability to private competitors
Benefit programs	5 U.S.C. §§ 8301 et seq., 8401 et seq., and Chapter 89; 39 U.S.C. §§ 1005(d), 1005(f)	USPS is required to participate in federal pension and health benefit programs, with specific provisions regarding the required level of USPS's funding of these programs. The law requires USPS's fringe benefits to be at least as favorable as those in effect when the Postal Reorganization Act of 1970 was enacted.	These specific requirements governing pension and health benefits do not apply to USPS's private competitors.
Pricing restrictions	39 U.S.C. § 3622(d)	An inflation-based price cap generally limits rate increases for Market Dominant products, including First-Class Mail, USPS Marketing Mail, Periodicals and Package Services such as Bound Printed Matter, Media Mail, and Library Mail.	Such requirements do not apply to USPS's private competitors.
Funding of regulatory/ oversight agencies	39 U.S.C. §§ 504(d), 2003(e)	USPS is required to fund the Postal Regulatory Commission, the Postal Inspection Service, and the USPS Office of the Inspector General.	USPS's private competitors are not required to fund the federal agencies that have authority to regulate and investigate them.
Federal purchase laws	39 U.S.C. § 410	USPS is required to comply with specific laws that relate to federal purchases of products and services, such as the Davis-Bacon Act.	Such requirements do not apply to USPS's private competitors.
Workers' compensation	5 U.S.C. §§ 8101 et seq.; 39 U.S.C. § 1005(c)	USPS is required to participate in the federal workers' compensation program, which covers postal and other federal and provides compensation to federal employees, as well as dependents, in the event of an employee's death.	USPS's private competitors and employees are covered by state-based workers' compensation laws and programs.

Source: GAO, "U.S. Postal Service – Key Considerations for Potential Changes to USPS's Monopolies," Report to Congressional Requesters, GAO-17-543, June 22, 2017, https://www.gao.gov/assets/gao-17-543.pdf, pp.19-21.

Appendix C: The Cost of the USO and Value of Monopolies: PRC Assumptions

The Value of the Monopolies

To measure the value of monopolies, the PRC estimates the profit that the Postal Service would potentially lose if both the mailbox and letter monopolies were lifted. In practice, the estimate quantifies the amount of Postal Service volume that a new competitor could capture based on assumptions about its delivery costs and postage prices relative to those of the Postal Service. The PRC then derives the impact on Postal Service's revenue and costs and, therefore, profits. As already mentioned, the combined value of the monopolies has decreased significantly but inconsistently from $4.5 billion in FY 2018 to $4.2 billion in FY 2022.[92]

The Cost of the USO

Every year, the PRC estimates the Postal Service's costs in providing three types of public services:[93]

- **Postal services to areas of the nation the Postal Service would not otherwise serve.** Estimates include cost savings from potentially closing small post offices (those that fall in the smallest revenue classes),[94] the cost of the Alaska Air Subsidy,[95] and the cost of the free "Group E" Post Office Boxes.[96]
- **Services for which USPS would not otherwise provide reduced rates.** Organizations such as institutions of higher education or political committees are legally entitled to a discount on some of their mailings. The PRC calculates the revenue the Postal Service lost as a result of granting these lower rates on USPS Marketing Mail, Periodicals, and Library Mail.[97] The calculation also includes Periodicals losses incurred as a result of the price cap on Market Dominant products.
- **Services the Postal Service would not provide if not mandated by law.** Included in this category are six-day delivery (rather than five-day delivery), uniform rates for First-Class Mail and Media Mail/Library Mail, and the net cost of the U.S. Postal Inspection Service.

92 The PRC has stated that this decline was mainly due to the decrease in the volume of "contestable" mail. Contestable mail refers to the segments of the market competitors may be more interested in serving because they do not require nationwide transportation and processing networks. This category includes Periodicals, select USPS Marketing Mail prepared in carrier route sequence, and Parcel Select.
93 The Postal Service told the OIG that these categories of cost vastly understate the cost to the Postal Service of the obligations imposed upon them by Congress or others by virtue of the fact that it is a part of the Executive Branch.
94 In particular, post offices that generate the least amount of revenue fall within the Cost Ascertainment Group's (CAG) K and L classifications. The Postal Service uses CAG classification ranging from A to L based on revenue.
95 The Alaska Air Subsidy is the difference between the cost of air transportation from hub airports to bush sites and the average cost of ground transportation, if it were available.
96 Group E Post Office Boxes are provided free of charge to customers in areas where USPS does not deliver to their physical address.
97 See 39 U.S.C. § 3626 ("Preferred rates").

Appendix D: Key Labor Laws Applicable to the Postal Service

Key Laws	Scope	Description
39 USC § 1202-05	Employment and labor law requirements	The Postal Service's union representation and collective bargaining requirements are governed by the National Labor Relations Act.
39 USC § 1004, 1206-07	Unionization	Employees cannot establish union shops and do not have the right to strike but can by majority vote select a labor organization as their bargaining unit and negotiate collective bargaining agreements with the Postal Service. USPS negotiates collective bargaining agreements with its labor unions. If the parties are unable to reach an agreement, binding arbitration by a third-party panel will ultimately be used to establish agreement. USPS is also required to consult with postal supervisory and managerial organizations concerning changes in pay, benefits, and other programs that affect their membership.
39 USC § 1005 (general requirements) and specific provisions (5 USC § 8348, 5 USC § 8423, and 5 USC § 8909a)	Benefits programs	USPS is required to participate in pension and health benefit programs, with specific provisions regarding the required level of USPS's funding of these programs.
39 U.S.C. § 1005(c)	Workers' compensation	USPS is required to participate in the Federal Employees' Compensation Act (FECA) program, which provides, among other benefits, compensation to federal employees or their dependents in the event of an employee's disability or death resulting from work-related injuries or diseases.
39 USC § 1005(f)	Level of fringe benefits	On the whole, USPS's fringe benefits should be at least as favorable as those in effect when the Postal Reorganization Act of 1970 was enacted.
39 USC §§ 101 (c), 1003(a)	Pay comparability	The Postal Service shall achieve and maintain compensation for its officers and employees comparable to the rates and types of compensation paid in the private sector of the economy of the United States.
39 U.S.C. § 1003(a) and 39 U.S.C. § 3686(a) and (b)	Caps on executive pay	No officer or employee shall be paid compensation at a rate in excess of the rate for level I of the Executive Schedule, with two exceptions: 1) total compensation including bonus and rewards should not exceed the salary of the U.S Vice President; 2) the Postal Service may exceed the salary of the U.S. Vice President by 20 percent for up to 12 critical senior executives.

Source: OIG Analysis.

Appendix E: Primary Laws Applicable to the Utilization of Contractors by the Postal Service

Service Contract Act of 1965 (Public Law 89-286, 41 U.S.C. § 351 et seq.)	Sets minimum wage and benefits requirements for contractors and subcontractors performing specific types of service contracts.
Davis-Bacon Act (40 U.S.C. § 276(a) et seq.)	Mandates contractors working on the construction or repair of public buildings or public works to pay no less than the locally prevailing wages and fringe benefits.
The Copeland Anti-Kickback Act (18 U.S.C. § 874 and 41 U.S.C. § 276(c))	Prohibits contractors from inducing an employee to give up any part of the compensation to which they are entitled. Regulates contractors' and sub contractors' labor practices, including payroll reports, payroll deductions, and forms of wage payments.
Randolph-Sheppard Act (20 U.S.C. § 107 et seq., made applicable by 39 U.S.C. § 410(b)(3))	Mandates that people who are blind be given precedence over the operation of vending facilities on Federal property.
Miller Act (40 U.S.C. § 270(a)-(f))	Requires that prime contractors for the construction, alteration, or repair of Federal buildings post a "payment bond" and a "performance bond" for contracts above a certain amount.
Contract Work Hours and Safety Standards Act (40 U.S.C. § 327-333)	Requires contractors pay laborers and mechanics employed in the performance of contracts covered by the Act at least one and one-half times their basic rate of pay for all hours worked over 40 in a workweek.
Prohibition on Convict Labor (under 39 U.S.C. § 2201)	The Postal Service may not make a contract for the purchase of equipment or supplies to be manufactured by convict labor.
Walsh-Healey Public Contracts Act (41 U.S.C. § 35-45, made applicable by 410(b)(5)(A))	Establishes minimum wage, maximum hours, and safety and health standards for work on contracts exceeding $15,000 for the manufacturing or furnishing of materials, supplies, articles, or equipment to federal agencies.
Administrative Dispute Resolution Act of 1996 (ADRA) (28 U.S.C. § 1491(b))	Offers prompt, expert, and inexpensive means of resolving disputes such as arbitration as an alternative to litigation in the Federal courts, including government contract claims.
Rehabilitation Act of 1973 (29 U.S.C. § 702 et seq.), including Section 508	Prohibits discrimination based on disability in federal employment, by federal contractors, in programs conducted by federal agencies, or in programs receiving federal financial assistance.
The Javits-Wagner-O'Day Act (41 U.S.C. § 46-48)	Requires certain supplies and services be purchased from qualified workshops employing people who are blind or severely disabled.
Vietnam Era Veterans Readjustment Assistance Act of 1972 (38 U.S.C. § 4212)	Prohibits federal contractors and subcontractors from discriminating against protected veterans and requires employers take affirmative action to recruit, hire, promote, and retain these individuals.
Contract Disputes Act (41 U.S.C. § 601 et seq.)	Sets forth a comprehensive system for resolving disputes between a contractor and a procuring agency relating to the performance of most procurement contracts.
Prompt Payment Act of 1974, as amended (31 U.S.C. § 3901 et. seq.)	Requires federal agencies to pay their bills on a timely basis, to pay interest penalties when payments are made late, and to take economically justified discounts only when payments are made by the discount date.

Source: Postal Service and OIG Analysis.

Appendix F: Management's Comments

UNITED STATES POSTAL SERVICE

July 26, 2024

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SUBJECT: Management Response: Business or Public Service? Insights into the Unique Laws and Regulations Applying to the Postal Service – White Paper (2024RISC003)

Thank you for the opportunity to review and comment on the Office of Inspector General's (OIG's) white paper: *Business or Public Service? Insights into the Unique Laws and Regulations Applying to the Postal Service.*

The white paper, which is well done as far as it goes, provides an overview of the statutory and regulatory framework under which the Postal Service operates, and notes that the Postal Service has been unable to achieve financial sustainability under the current business model for a variety of reasons, including declining mail volumes and onerous retirement benefit obligations. Indeed, the Postal Service faces long-standing financial, operational, and service-expectation challenges which have directly led to mounting monetary losses and significant organizational and operational deterioration.

Within this context, it might have been useful for you to explore the origins of the current statutory business model of the Postal Service, and to evaluate what actions would be required for the Postal Service to succeed under that statutory business model. In that regard, and as the white paper correctly recognizes, the Postal Service is required by law to exercise business-like judgment while balancing the provision of quality service (which is intentionally expressed in the postal laws primarily in qualitative terms) with the need to be financially self-sufficient, in order to ensure that both goals can be achieved over time as circumstances change and the needs of the American people evolve. As we discussed, the Delivering for America (DFA) Plan seeks to accomplish this balance, by enabling us to provide prompt, reliable, and efficient universal postal services to all Americans, and to do so in a financially sustainable manner.

By way of further explanation, while the Postal Service previously lacked any systematic plan to reverse our precipitous institutional decline and to effectively balance the two critical elements of our statutory business model to provide and promote adequate and efficient postal services that are both high quality and financially self-sufficient, the Postal Service has now developed the DFA Plan. Through the DFA Plan we are pursuing a comprehensive and balanced set of initiatives to improve our operating precision and efficiency, reduce our cost of performance, increase our service reliability, grow our business through more rational pricing and enhanced products and services to enable us to compete effectively in today's marketplace, and enhance the working conditions and career paths of our employees.

The Plan therefore seeks to enable the Postal Service to fulfill the obligations set forth in our current business model. To do so, and as we also discussed, it is critical that we move forward with the initiatives in the DFA Plan to cut costs and grow revenue, without unnecessary and counterproductive political or regulatory restraints.

In that regard, an important observation from your white paper with which we fully agree, and that we would like to underscore, relates to the many layers of oversight and stakeholder influence that directly "impact the Postal Service's direction when addressing business challenges." As the white paper suggests, this dynamic has impeded financial and operational solutions in the past, and it continues to exert significant tension as we pursue our current strategic efforts through the DFA Plan to build momentum in our quest to achieve both high-quality service and financial health. It bears repeating and re-emphasizing that if the Postal Service is prevented from pursuing these long overdue transformative changes because of competing stakeholder self-interests that do not adequately reflect the delicate balance between service and efficiency that is required under the law, then we would lose any possibility of achieving financial self-sufficiency under the current business model. Congress would therefore need to consider an alternative funding approach or other more drastic measures.

Thank you once again for your work on this matter, and for giving us the opportunity to express our views on this subject.

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cc: Corporate Audit Response Management

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