OPTIONS TO BRING THE POSTAL SERVICE BACK FROM INSOLVENCY

HEARING

BEFORE THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

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OPTIONS TO BRING THE POSTAL SERVICE BACK FROM INSOLVENCY

Wednesday, April 17, 2013

HOUSE OF REPRESENTATIVES,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, D.C.

The committee met, pursuant to call, at 9:35 a.m., in Room 2154, Rayburn House Office Building, Hon. Darrell E. Issa [chairman of the committee] presiding.

Present: Representatives Issa, Mica, Duncan, Chaffetz, Walberg, Lankford, Amash, DesJarlais, Gowdy, Farenthold, Collins, Bentivolio, Cummings, Maloney, Norton, Tierney, Clay, Connolly, Cartwright, Pocan, Duckworth, Welch, Cardenas, and Lujan Grisham.

Staff Present: Ali Ahmad, Majority Communications Advisor; Molly Boyl, Majority Parliamentarian; Lawrence J. Brady, Majority Staff Director; Adam P. Fromm, Majority Director of Member Services and Committee Operations; Linda Good, Majority Chief Clerk; Justin LoFranco, Majority Digital Director; Mark D. Marin, Majority Director of Oversight; Jeffrey Post, Majority Professional Staff Member; Laura L. Rush, Majority Deputy Chief Clerk; Scott Schmidt, Majority Deputy Director of Digital Strategy; Peter Warren, Majority Legislative Policy Director; Rebecca Watkins, Majority Deputy Director of Communications; Kevin Corbin, Minority Professional Staff Member; Jennifer Hoffman, Minority Press Secretary; Elisa LaNier, Minority Deputy Clerk; Lucinda Lessley, Minority Policy Director; Safiya Simmons, Minority Press Secretary; and Mark Stephenson, Minority Director of Legislation.

Chairman ISSA. The committee will come to order.

The Oversight Committee exists to secure two fundamental principles: first, Americans have a right to know that the money Washington takes from them is well spent, and I might say the money the Postal Service takes from them is well spent, and, second, Americans deserve an efficient, effective Government that works for them.

Our duty on the Oversight and Government Reform Committee is to protect these rights. Our solemn responsibility is to hold Government accountable to taxpayers, because taxpayers have a right to know what they get from their Government. Our job is to work tirelessly in partnership with citizen watchdogs to deliver the facts to the American people and bring genuine reform to the Federal bureaucracy.

Today we are going to have two panels. First, the General Accountability Office is going to characterize the insolvency, the dire situation with the post office. I personally see that today's hearing said insolvency. I say so because there is no such thing as bankruptcy of a Federal entity. The post office, although required to be solvent, required to be self-funding, is in fact neither self-funding nor solvent.

The Postmaster reported in the neighborhood of $16 billion in losses last year. Although there is controversy over the so-called prefunding that which is being paid in against the inevitable health care requirements in retirement by postal workers, even if you take away that $11.1 billion default over two years, the fact is, in the real world, by any standard, the post office is bleeding red ink. They are doing so not because the Postmaster General has failed to propose changes, not because the GAO will not testify that these changes are material and work; not because the CBO has failed to score what these savings will be; not because some of those savings have been statutorily possible since the 1970s; not because the American people failed to support these meaningful changes by clear majorities in each category.

And I want to reiterate the majority of Americans see six day as not essential; the majority of Americans are perfectly happy going to a cluster box, a corner box, or a lockbox near their home to get their mail while $6.6 billion continues to be lost because some get it in the chute at a greater cost of labor by far.

Even the Alaskans admit that although bypass mail is wonderful and convenient, and they believe it has become an entitlement, but it clearly is expensive and they understand it is a subsidy from the post office.

As we try to balance all of these and more, we find ourselves back here again and again. The legislation is heralded by almost every newspaper in America; it is supported by the business community. But behind the scenes lobbying continues to make it impossible. Recently, the postmaster announced that he would in fact go from six day to a new six day that would provide different service. Legal opinions varied, but he certainly had a right to try and be challenged. He had other avenues. He was supported by the President, who called for five day both in last year's and this year's Congress's budget, but he backed down. He backed down on the pressure of an inevitable lawsuit. He backed down because, in fact, the postal unions do not want to have these reforms at this time because it will reduce their revenue. They do not want to have these reforms even though they are vastly supported.

That is the problem we are here to talk about today, is insolvency and a failure to make the changes that are agreed on that can be made or to support legislation that would allow further changes.

I want to thank everyone for being here. There will be two panels. I am going to split my time with the chairman of the subcommittee, Mr. Farenthold.

The gentleman is recognized for the rest of my time.

Mr. FARENTHOLD. Thank you, Mr. Chairman, for allowing me to give this brief opening statement.

The United States Postal Service is an institution founded in our Constitution. Before the age of Internet and cell phones, it was the key mode of communication between loved ones separated by distances and between businesses and their customers and with the Government. We live in a different time today than when Benjamin Franklin was Postmaster General.

Today's hearing is about ways the Postal Service can modernize, work harder and work smarter, and prepare for the future. While I am a strong proponent of the benefits of the Internet, the loss of business to email and electronic bill payments is a real problem for the Postal Service. We need an infrastructure in this Country for moving matter, not just bits of data.

For the post office, it is not just about cutting cost, but finding innovative solutions that will bring the USPS back from the brink of financial collapse and make it stronger for the future. There is no doubt the Postal Service is in need of reform. Even without the prefunding requirement, which I am sure we will hear a lot about today, the Postal Service is losing roughly $5 billion a year.

To start off the conversation on postal reform in the 113th Congress, I chaired a hearing of the House Oversight Committee on the Federal Workforce, Postal Service and Census last week that focused on the Postal Service customers and what they need. Any elementary business course tells you, when business is struggling, the first thing they should do is go to their customers. Today we will hear more from the postal side and how they can become a more efficient 20th century mail provider.

My concern as a government watchdog and as a taxpayer is that, without reform, the American people are going to be left footing the bill for a taxpayer bailout. That is the last thing we need right now. I agreed with the U.S. Postal Service's plan to modify Saturday delivery, as did nearly 70 percent of Americans. Unfortunately, the board of governors has decided not to pursue this common sense cost-saving measure. The Postal Service's reversal on this calls into question their ability to move forward with desperately needed reforms. I truly believe there are smart ways that the Postal Service can lower its costs and improve its service, and I hope we can bring them to light today.

Thank you very much.

Chairman ISSA. I thank the gentleman.

We now recognize the ranking member for his opening statement.

Mr. CUMMINGS. Thank you very much, Mr. Chairman. I am grateful to you for convening today's hearing and I want to thank you for agreeing to my request to invite Mr. Fred Rolando, the President of the National Association of Letter Carriers, to be a part of this hearing.

Labor is the foundation on which our Postal Service is built, and we must honor the employees who have served this institution for decades by ensuring that labor representatives are central partners to our reform efforts. Delivering mail to more than 150 million addresses, operating 32,000 post offices nationwide, the Postal Service remains a vital link that binds our great Nation together.

Last year, however, the Postal Service reported losses of approximately $16 billion and it lost $1.3 billion in the most recent quarter. Ladies and gentlemen, this is simply unacceptable. It continues to lose approximately $25 million a day and it has borrowed all of the $15 billion it is authorized to borrow from the Treasury.

Obviously, such losses are unsustainable. However, much of this loss is attributable to the burden the Postal Service faces in prefunding its retiree health costs, a requirement not imposed on any other agency or business in the Country.

The Postal Service has taken numerous steps to reduce its costs, including offering buyouts to employees, reducing operating hours at thousands of post offices, and closing dozens of mail processing centers.

I often am reminded of a statement that I said many times: you can lose what you have by trying to hang on to what you used to be. You can lose what you have by trying to hang on to what you used to be. Things are changing and the Postal Service has to change.

In addition, in January the Postal Service's board of governors directed the Postal Service to eliminate delivery of all Saturday mail except packages. This change effectively would have ended six day delivery. Every appropriations measure enacted since 1984 has included a rider requiring six day mail delivery. It states that six day delivery and rural delivery of mail shall continue at not less than the 1983 level. The plain language of this rider clearly prohibits the changes ordered by the board of governors.

Now, let me be clear. No matter what my position might be on five or six day, I can tell you that the postmaster would catch hell if he went against what the Congress voted for. We voted for that. So, Mr. Postmaster, I can understand the problems that would come when you have a Congress saying do one thing and then you turn around and do something else.

In March, Congress extended this rider in the appropriations measure to fund the government for the remainder of fiscal year 2013. As a result, the board rightly reversed course and delayed implementation of five day delivery until Congress passes legislation authorizing such a change. Again, this is Congress that did this. We did this, not the postmaster. We did it.

As I have said repeatedly, Congress needs to pass comprehensive reform legislation that addresses not only delivery standards, but the full range of reforms needed to re-engineer the Postal Service for the next century. This legislation must amend the schedule for retiree health payments, recalculate the Postal Services's FERS surplus using postal-specific characteristics, and provide key tools to right-size the Postal Service workforce.

As I propose in my Innovate to Deliver Act, we should also create a new chief innovation officer position in the Postal Service. Too many people argue that the Postal Service should be self-sustaining like a business, while at the same time arguing it should be banned from competing against the private sector. I believe we must allow the Postal Service to expand into new business lines and my bill would do just that.

Finally, and unfortunately, the most significant challenge facing the Postal Service today remains what it has been for the last two years: Congress's failure to act. We have to do something, us up here. Although the Senate passed a comprehensive and bipartisan bill during last Congress, the House failed to consider any postal reform legislation whatsoever. Last fall, the House and the Senate did come together to negotiate potential solutions in a serious and sustained manner. We did not resolve a bill but, as I stated when Chairman Issa and I testified before the Senate Homeland Security and Government Affairs Committee in February, I believe we can quickly finalize legislation that puts the Postal Service on the path to a sustainable financial future. This legislation is urgently needed and we should begin work on it immediately, and I am sure we will.

So, Mr. Chairman, I want to thank you. I want to thank you for holding this hearing. It is a very, very important hearing and I look forward to hearing from our witnesses.

With that, I yield back.

Chairman ISSA. I thank the gentleman.

I would like to swear in the panel at this time. Since they appear to both be present, could we have both the first and second panel, and we will swear you in together? Then we won't have to do it twice. So, postmaster and Mr. Rolando, if you will step up also, and please rise. We have to be efficient in a committee that demands efficiency. Please raise your right hand.

Do you solemnly swear that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?

[Witnesses respond in the affirmative.]

Chairman ISSA. Let the record reflect that both the first and second panel answered in the affirmative.

Please take your seats.

Additionally, there is another sworn witness here today. And it is the first time I have done this, so there is no script for it. Mr. James Bilbray, another member of the board of governors, is effectively on the first panel. For health reasons, he was not able to attend; however, yesterday he did give us a rather thorough, about a 90-minute interview, sworn interview. So I have dispersed his question and answers on the record. It will be available to those on the dais. You may use it as though it is live testimony. However, it will not be placed in the record officially—and this is almost for the press to understand—until Mr. Bilbray reviews it and signs it. This is an oddity of—although he did it yesterday, we have to give him time to review it. For purposes of being a witness, though, you normally don't get to revise and extend every answer.

So we are going to treat it as much as we can as a live witness. Specific questions and answers may be used. Those will be in the record but, of course, they will be subject to any additional signature; along with the signature, any additional remarks he makes that may clarify it. I think that is the best way to have the record, at least several days from now, be thorough and complete.

Mr. CUMMINGS. Mr. Chairman, just one quick thing.

Chairman ISSA. Of course.

Mr. CUMMINGS. It is my understanding that Mr. Bilbray, just for clarification, Mr. Bilbray did say that he is willing to come at a later date, is that right?

Chairman ISSA. He was willing to come at the next board of governors meeting, but he was also willing to do, in advance of this, a live interview. The live interview, I think, was bipartisan and really, I think, reflected what we wanted to do, was have the information as clearly on time as possible. So we are appreciative that he adjusted his schedule; did it yesterday. There will not be a need, as far as I can see, for him to come back separately. I think his testimony pairs well with Mr. Barnett, and Mr. Bilbray, of course, is the vice chair.

Mr. CUMMINGS. I just wanted to make sure that, in fairness to him, that he did volunteer.

Chairman ISSA. Oh, absolutely. He was accommodating both by offering to come at an alternate date or, in spite of some health problems that he is having, he was able to do it yesterday. So that is why, to be honest, Micky, he beat you to the testimony by a whole day.

With that, we now recognize the Honorable Gene Dodaro for his opening statement.

WITNESS STATEMENTS

STATEMENT OF THE HONORABLE GENE DODARO

Mr. DODARO. Thank you very much, Mr. Chairman, Ranking Member Mr. Cummings, members of the committee. I am very pleased to be here today to talk about the Postal Service's financial condition.

The Postal Service's financial condition has been on our high-risk list since 2009. The situation is dire. In the last five years the Postal Service has added $10 billion to its debt to the Treasury, reaching the $15 billion debt limit. Declining mail volumes have not generated the revenues necessary to meet expenses and financial obligations of the Postal Service. Its debt and unfunded benefit liabilities now stand at $96 billion. As a percent of revenues, they have grown from 83 percent of revenues in 2007 to 147 percent of revenues in 2012.

Looking ahead, the Postal Service projects that first class mail, which is one of the most profitable products that they have, will continue to decline in volume through 2020. Also, they have pointed out that they have severe liquidity problems right now and have challenges in making capital investments in their delivery fleet, which many of the vehicles are approaching the end of their useful lives.

These are not the ingredients of a successful, sustainable business model going forward. The Postal Service needs to act and the Congress needs to act in order to address this situation. We have recommended a comprehensive legislative package be passed. From the Postal Service's standpoint, what we think they need to do is to continue to reduce their costs. They need to continue to look at their delivery and processing structure; they need to reduce their workforce. Eighty percent of their total costs are workforce related costs. They need to reexamine the benefits paid to the workforce in a compassionate and thorough manner.

The Postal Service also needs to reexamine products that are not covering their costs. Periodicals, for example, and standard flat mail, in terms of catalogs, have not covered their costs last year, in 2012, by $1.5 billion. So they need to make some adjustments. We believe they could be done within the price caps that currently exist.

Also, as the Postal Service has done, they need to continue to look for new revenue sources, as well.

Now, with regard to the Congress, as part of the legislative comprehensive package, there are at least three things I would point out in my opening statement it should address: one, it needs to modify the prepayment of post-retirement health care costs in a fiscally responsible manner. It is very important that this be dealt with in that way so that costs are not deferred down the line, particularly in light of the declining mail volume that portends revenue challenges going forward.

Secondly, the Congress should modify the collective bargaining agreement statutes to require that the Postal Service's financial condition be considered in binding arbitration. It has been 40 years since the legislation has been passed, and it was at a time when the Postal Service was in a different competitive position at that time. So we think it needs to be modernized and we think the requirement that the financial condition be considered as part of binding arbitration would be helpful in addressing this situation.

Lastly, and perhaps not inconsequentially, the most important thing in my opinion is that the Congress give the Postal Service the flexibility both in pricing and delivery methods in order to react to changes in the marketplace and declining mail volume. Its biggest competition is technology. Technology is changing rapidly and the Postal Service is unable to make those changes in a very nimble and quick fashion.

So we believe these are the type of changes that ought to be considered by the Congress, and I think it is very important for the Congress to act soon on this legislation to prevent unintended consequences both for the Postal Service, the American people, and for the finances of that entity, as well as the Federal Government.

So thank you very much, Mr. Chairman. I am happy to entertain questions at the appropriate time.

[Prepared statement of Mr. Dodaro follows:]

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Highlights

Highlights of GAO-13-562T, a testimony before the Committee on Oversight and Government Reform, U.S. House of Representatives

April 17, 2013

U.S. POSTAL SERVICE

Urgent Action Needed to Achieve Financial Sustainability

Why GAO Did This Study

USPS is in a serious financial crisis as its declining mail volume has not generated sufficient revenue to cover its expenses and financial obligations. First-Class Mail—which is highly profitable and generates the majority of the revenues used to cover overhead costs—declined 33 percent since it peaked in fiscal year 2001, and USPS projects a continued decline through fiscal year 2020. Mail volume decline is putting USPS's mission of providing prompt, reliable, and efficient universal services to the public at risk.

This testimony discusses (1) USPS's financial condition, (2) initiatives to reduce costs and increase revenues, and (3) actions needed to improve USPS's financial situation. The testimony is based primarily on GAO's past and ongoing work, its analysis of USPS's recent financial results, and recent information on USPS's proposal for a change in delivery service.

In previous reports, GAO has provided strategies and options that USPS and Congress could consider to better align USPS costs with revenues and address constraints and legal restrictions that limit USPS's ability to reduce costs and improve efficiency. GAO has also stated that Congress and USPS need to reach agreement on a comprehensive package of actions to improve USPS's financial viability.

View GAO-13-562T. For more information, contact Lorelei St. James at (202) 512-2834 or stjamesl@gao.gov.

What GAO Found

The U.S. Postal Service (USPS) continues to incur unsustainable operating deficits, has not made required payments of $11.1 billion to prefund retiree health benefits, and has reached its $15 billion borrowing limit. Thus far, USPS has been able to operate within these constraints, but now faces a critical shortage of liquidity that threatens its financial solvency and ability to finance needed capital investment. USPS had an almost 25 percent decline in total mail volume and net losses totaling $40 billion since fiscal year 2006 (see table). While USPS achieved about $15 billion in savings and reduced its workforce by about 168,000 over this period, its debt and unfunded benefit liabilities grew to $96 billion by the end of fiscal year 2012. USPS expects mail volume and revenue to continue decreasing as online bill communication and e-commerce expand.

Table: USPS Financial and Operational Information, Fiscal Years 2006 through 2012

Fiscal year	Net income ($ in billions)	Annual savings ($ in billions)	Total mail volume (billions)	Career employees (thousands)
2006	$0.9	$0.3	213	696
2007	(5.1)	1.2	212	685
2008	(2.8)	2.0	203	663
2009	(3.8)	6.1	177	623
2010	(8.5)	3.0	171	584
2011	(5.1)	1.4	168	557
2012	(15.9)	1.1	160	528

Source: USPS.

USPS has several initiatives to reduce costs and increase its revenues. To reduce costs, USPS announced a 5-year business plan in February 2012 with the goal of achieving $22.5 billion in annual cost savings by the end of fiscal year 2016, which included a proposed change in the delivery schedule. USPS has now put all changes in delivery service on hold, which will reduce its ability to achieve the full 5-year business plan savings. USPS has begun implementing other parts of the plan, which includes needed changes to its network. To achieve greater savings, USPS's Board of Governors recently directed postal management to accelerate these efforts. To increase revenue, USPS is pursuing 55 initiatives. While USPS expects shipping and package services to continue to grow, such growth is not expected to fully offset declining mail volume.

USPS needs to reduce its expenses to avoid even greater financial losses, repay its outstanding debt, continue funding its retirement obligations, and increase capital for investment, including replacing its aging vehicle fleet. Also, Congress needs to act to (1) modify USPS's retiree health benefit payments in a fiscally responsible manner; (2) facilitate USPS's ability to align costs with revenues based on changing workload and mail use; and (3) require that any binding arbitration resulting from collective bargaining takes USPS's financial condition into account. No one action in itself will address USPS's financial condition; GAO has previously recommended a comprehensive package of actions. If Congress does not act soon, USPS could be forced to take more drastic actions that could have disruptive, negative effects on its employees, customers, and the availability of postal services. USPS also reported that it may need to prioritize payments to employees and suppliers ahead of those to the federal government.

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Chairman Issa, Ranking Member Cummings, and Members of the Committee:

We appreciate the opportunity to be here today to discuss the status of U.S. Postal Service's (USPS) financial condition and actions needed to address USPS's financial challenges. We added USPS's financial condition to our High Risk List in 2009, and USPS continues to face a serious financial crisis as its mail volume declines. USPS has not generated sufficient revenue to cover its expenses and financial obligations. While USPS must continue its efforts to align costs with revenues, congressional action is needed to facilitate necessary changes and help USPS begin to transition to financial sustainability.

This testimony discusses (1) USPS's financial condition, (2) USPS's initiatives to reduce costs and increase revenues, and (3) actions needed to improve USPS's financial situation. This testimony is based primarily on our past and ongoing work examining various aspects of USPS's operations and our analysis of USPS's recent financial results, and recent information on USPS's proposal for a change in delivery service that we reviewed from February 2013 to April 2013. This testimony is based on work conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

USPS's Financial Condition

USPS faces a dire financial situation and does not have sufficient revenues to cover its expenses, putting its mission of providing prompt, reliable, and efficient universal services to the public at risk.[1] USPS continues to incur operating deficits that are unsustainable, has not made required payments of $11.1 billion to prefund retiree health benefit liabilities,[2] and has reached its $15 billion borrowing limit. Moreover, USPS lacks liquidity to maintain its financial solvency or finance needed

[1] 39 U.S.C. § 101(a).

[2] The Postal Accountability and Enhancement Act (PAEA) required USPS to make fixed annual payments (ranging from $5.4 billion to $5.8 billion per year from fiscal years 2007 through 2016) to begin prefunding the cost of future retiree health benefits accrued by current employees and retirees. Pub. L. No. 109-435, § 803, 120 Stat. 3198 (Dec. 20, 2006).

capital investment. As presented in table 1, since fiscal year 2006, USPS has achieved about $15 billion in savings and reduced its workforce by about 168,000, while also experiencing a 25 percent decline in total mail volume and net losses totaling $40 billion.

Table 1: USPS Financial and Operational Information, Fiscal Years 2006 through 2012

Fiscal year	Net income ($ in billions)	Annual savings ($ in billions)	Total mail volume (billions)	Career employees (thousands)
2006	$0.9	$0.3	213	696
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2012	(15.9)	1.1	160	528

Source: USPS

Note: Annual savings are those reported by USPS.

As a result of significant declines in volume and revenue, USPS reported that it took unprecedented actions to reduce its costs by $6.1 billion in fiscal year 2009. Also in 2009, a cash shortfall necessitated congressional action to reduce USPS's mandated payment to prefund retiree health benefits from $5.4 billion to $1.4 billion.[3] In 2011, USPS's $5.5 billion required retiree health benefit payment was delayed until August 1, 2012.[4] USPS missed that payment as well as the $5.6 billion that was due by September 30, 2012.

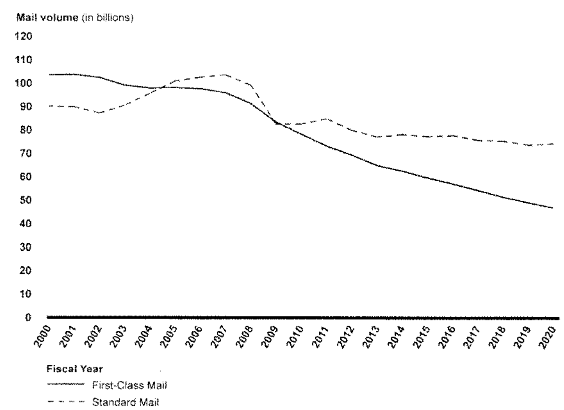
USPS continues to face significant decreases in mail volume and revenues as online communication and e-commerce expand. While remaining among USPS's most profitable products, both First-Class Mail and Standard Mail volumes have declined in recent years as illustrated in figure 1. First-Class Mail—which is highly profitable and generates the majority of the revenues used to cover overhead costs—declined 33 percent since it peaked in fiscal year 2001, and USPS projects a continued decline through fiscal year 2020. Standard Mail (primarily

[3]Pub. L. No. 111-68, § 164(a), 123 Stat. 2053 (Oct. 1, 2009).

[4]Pub. L. No. 112-74, § 632, 125 Stat. 786, 928 (Dec. 23, 2011).

advertising) has declined 23 percent since it peaked in fiscal year 2007, and USPS projects that it will remain roughly flat through fiscal year 2020. Standard Mail is profitable overall, but it takes about three pieces of Standard Mail, on average, to equal the profit from the average piece of First-Class Mail. First-Class Mail and Standard Mail also face competition from electronic alternatives, as many businesses and consumers have moved to electronic payments over the past decade in lieu of using the mail to pay bills. For the first time, in 2010, fewer than 50 percent of all bills were paid by mail.

Figure 1: Actual and Projected First-Class Mail and Standard Mail Volume, Fiscal Years 2000 through 2020



Source: USPS

In addition to lost mail volume and revenue, USPS also has incurred financial liabilities, that totaled $96 billion at the end of fiscal year 2012, that included unfunded pension and retiree health benefit liabilities. Table 2 shows the amounts of these liabilities over the last 6 fiscal years. One of these liabilities, USPS's debt to the U.S. Treasury, increased over this period from $4 billion to its statutory limit of $15 billion. Thus, USPS can no longer borrow to maintain its financial solvency or finance needed capital investment. USPS continues to incur unsustainable operating deficits. In this regard, the USPS Board of Governors recently directed postal management to accelerate restructuring efforts to achieve greater savings.

Table 2: Selected USPS Liabilities and Unfunded Pension and Health Benefit Liabilities, Fiscal Year End 2007 through 2012

(Dollars in billions)

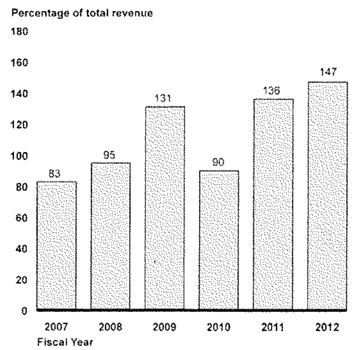
	Liabilities		Unfunded retiree health benefit and pension liabilities			
Fiscal Year	Outstanding debt at the end of the fiscal year	Workers' compensation liabilities	Unfunded liabilities for retiree health benefits	Unfunded CSRS liabilities (surplus)[a]	Unfunded FERS liabilities (surplus)[a]	Total
2007	4.2	7.7	55.0	3.1	(8.4)	61.6
2008	7.2	8.0	53.5	3.3	(8.8)	63.2
2009	10.2	10.1	52.0	9.6	(6.8)	75.1
2010	12.0	12.6	48.6	7.3	(6.9)	73.6
2011	13.0	15.1	46.2	(1.7)	(11.4)	61.2
2012	15.0	17.6	47.8	18.7	(3.0)	96.1

Source: USPS.

[a]The Civil Service Retirement System (CSRS), which became effective on August 1, 1920, established a retirement system for certain federal employees. It was replaced by the Federal Employees Retirement System (FERS) for federal employees who first entered covered service on and after January 1, 1987. FERS and CSRS projections are sensitive to the economic and demographic assumptions used and have fluctuated from year to year due to actual economic and demographic outcomes (such as investment returns, salary increases, and mortality) being different than those predicted by the assumptions, and to changes in the assumptions themselves.

These selected USPS liabilities increased from 83 percent of revenues in fiscal year 2007 to 147 percent of revenues in fiscal year 2012 as illustrated in figure 2. This trend demonstrates how USPS liabilities have become a large and growing financial burden.

Figure 2: Selected USPS Liabilities and Unfunded Pension and Health Benefit Liabilities as a Percentage of USPS Revenues



Source: USPS

USPS's dire financial condition makes paying for these liabilities highly challenging. In addition to reaching its limit in borrowing authority in fiscal year 2012, USPS did not make required prefunding payments of $11.1 billion for fiscal year 2011 and 2012 retiree health benefits. At the end of fiscal year 2012, USPS had $48 billion in unfunded retiree health benefit liabilities.

Looking forward, USPS has warned that it suffers from a severe lack of liquidity. As USPS has reported: "Even with some regulatory and legislative changes, our ability to generate sufficient cash flows from current and future management actions to increase efficiency, reduce costs, and generate revenue may not be sufficient to meet all of our financial obligations."[5] For this reason, USPS has stated that it continues to lack the financial resources to make its annual retiree health benefit prefunding payment. USPS has also reported that in the short term, should circumstances leave it with insufficient liquidity, it may need to prioritize payments to its employees and suppliers ahead of those to the

[5]United States Postal Service, *2012 Report on Form 10-K* (Washington, D.C.: Nov. 15, 2012) 10.

federal government. For example, near the end of fiscal year 2011, in order to maintain its liquidity, USPS temporarily halted its regular contributions for the Federal Employees Retirement System (FERS) that are supposed to cover the cost of benefits being earned by current employees. However, USPS has since made up those missed FERS payments. USPS's statements about its liquidity raise the issue of whether USPS will need additional financial help to remain solvent while it restructures and, more fundamentally, whether it can remain financially self-sustainable in the long term.

USPS has also raised the concern that its ability to negotiate labor contracts is essential to maintaining financial stability and that failure to do so could have significant adverse consequences on its ability to meet its financial obligations. Most USPS employees are covered by collective bargaining agreements with four major labor unions which have established salary increases, cost-of-living adjustments, and the share of health insurance premiums paid by employees and USPS. When USPS and its unions are unable to agree, binding arbitration by a third-party panel is used to establish agreement. There is no statutory requirement for USPS's financial condition to be considered in arbitration. In 2010, we reported that the time has come to reexamine USPS's 40-year-old structure for collective bargaining, noting that wages and benefits comprise 80 percent of its costs at a time of escalating losses and a dramatically changed competitive environment.[6] We also reported that Congress should consider revising the statutory framework for collective bargaining to ensure that USPS's financial condition be considered in binding arbitration.

USPS Initiatives to Reduce Costs and Increase Revenues

USPS has several initiatives to reduce costs and increase its revenues to curtail future net losses. In February 2012, USPS announced a 5-year business plan with the goal of achieving $22.5 billion in annual cost savings by the end of fiscal year 2016. This plan included savings from a change in the delivery schedule; however, USPS has now put all changes in delivery service on hold, which will reduce its ability to achieve the full 5-year business plan savings. USPS has begun implementing other parts of the plan, which includes initiatives to save:

[6] GAO, *U.S. Postal Service: Strategies and Options to Facilitate Progress toward Financial Viability*, GAO-10-455 (Washington, D.C.: Apr. 12, 2010).

- $9 billion in mail processing, retail, and delivery operations, including consolidation of the mail processing network, and restructuring retail and delivery operations;
- $5 billion in compensation and benefits and non-personnel initiatives; and
- $8.5 billion through proposed legislative changes, such as eliminating the obligation to prefund USPS's retiree health benefits.
    - $2.7 billion of this $8.5 billion was estimated savings from moving to a 5-day delivery schedule for all types of mail.
    - USPS subsequently proposed a modified reduction in its delivery schedule, maintaining package delivery on Saturday, with estimated annual savings of $2 billion, but as noted, USPS has now put even this proposed change in service delivery on hold.

Simultaneously, USPS's 5-year plan would further reduce the overall size of the postal workforce by roughly 155,000 career employees, with many of those reductions expected to result from attrition. According to the plan, half of USPS's career employees are currently eligible for full or early retirement. Reducing its workforce is vital because as noted compensation and benefits costs continue to generate about 80 percent of USPS's expenses. Compensation alone (primarily wages) exceeded $36 billion in fiscal year 2012, or close to half of its costs. Compensation costs decreased by $542 million in fiscal year 2012 as USPS offered separation incentives to postmasters and mail handlers to encourage more attrition. This fiscal year, separation incentives were offered to employees represented by the American Postal Workers Union (e.g., mail processing and retail clerks) to encourage further attrition as processing and retail operations are redesigned and consolidated to more closely correspond with workload.

Another key area of potential savings included in the 5-year plan focused on reducing compensation and benefit costs. USPS's largest benefit payments in fiscal year 2012 included:

- $7.8 billion in current-year health insurance premiums for employees, retirees, and their survivors (USPS's health benefit payments would have been $13.4 billion if USPS had paid the required $5.6 billion retiree health prefunding payment[7]);

- $3.0 billion in FERS pension funding contributions;
- $1.8 billion in social security contributions;
- $1.4 billion in workers' compensation payments; and
- $1.0 billion in Thrift Savings Plan contributions.

USPS has proposed administering its own health care plan for its employees and retirees and withdrawing from the Federal Employee Health Benefits (FEHB) program so that it can better manage its costs and achieve significant savings, which USPS has estimated could be over $7 billion annually. About $5.5 billion of the estimated savings would come from eliminating the retiree health benefit prefunding payment and another $1.5 billion would come from reducing health care costs. We are currently reviewing USPS's proposal including its potential financial effects on participants and USPS.

To increase revenue, USPS is working to increase use of shipping and package services. With the continued increase in e-commerce, USPS projects that shipping and package volume will grow by 7 percent in fiscal year 2013, after increasing 7.5 percent in fiscal year 2012. Revenue from these two product categories represented about 18 percent of USPS's fiscal year 2012 operating revenue. However, USPS does not expect that continued growth in shipping and package services will fully offset the continued decline of revenue from First-Class Mail and other products.

We recently reported that USPS is pursuing 55 initiatives to generate revenue.[8] Forty-eight initiatives are extensions of existing lines of postal products and services, such as offering Post Office Box customers a suite of service enhancements (e.g., expanded lobby hours and earlier pickup times) at selected locations and increasing public awareness of the availability of postal services at retail stores. The other seven initiatives included four involving experimental postal products, such as prepaid postage on the sale of greeting cards, and three that were extensions of nonpostal services that are not directly related to mail delivery. USPS

[7]The $5.6 billion is the amount originally due in fiscal year 2012, before the fiscal year 2011 required payment of $5.5 billion was deferred and added to fiscal year 2012.

[8]GAO, *U.S. Postal Service: Overview of Initiatives to Increase Revenue and Introduce Nonpostal Services and Experimental Postal Products*, GAO-13-216 (Washington, D.C.: Jan. 15, 2013).

offers 12 nonpostal services including Passport Photo Services, the sale of advertising to support change-of-address processing, and others generating a net income of $141 million in fiscal year 2011.[9] Another area of potential revenue generation is USPS's increased use of negotiated service agreements[10] that offer competitively priced contracts as well as promotions with temporary rate reductions that are targeted to retain mail volume. We are currently reviewing USPS's use of negotiated service agreements.

As USPS attempts to reduce costs and increase revenue, its mission to provide universal service continues. USPS's network serves more than 152 million residential and business delivery points. In May 2011, we reported that many of USPS's delivery vehicles were reaching the end of their expected 24-year operational life and that USPS's financial challenges pose a significant barrier to replacing or refurbishing its fleet.[11] As a result, USPS's approach has been to maintain the delivery fleet until USPS determines how to address longer term needs, but USPS has been increasingly incurring costs for unscheduled maintenance because of breakdowns. The eventual replacement of its vehicle delivery fleet represents yet another financial challenge facing USPS. We are currently reviewing USPS's investments in capital assets.

Actions Needed to Improve USPS's Financial Situation

We have issued a number of reports on strategies and options for USPS to improve its financial situation by optimizing its network and restructuring the funding of its pension and retiree health benefit liabilities.

Network Optimization

To assist Congress in addressing issues related to reducing USPS's expenses, we have issued several reports analyzing USPS's initiatives to optimize its mail processing, delivery, and retail networks.

[9]Such services were grandfathered by the Postal Regulatory Commission (PRC) after enactment of PAEA. PAEA eliminated USPS's authority to offer nonpostal services unless such services were offered as of January 1, 2006, and expressly grandfathered by PRC. USPS may, however, offer new nonpostal services and products if they are related to the grandfathered nonpostal services. It may also offer experimental postal products that meet certain conditions.

[10]Negotiated service agreements are customized postal rate contracts with individual companies that generally provide lower prices on specific mail products in exchange for meeting volume targets and mail preparation requirements.

[11]GAO, *United States Postal Service: Strategy Needed to Address Aging Delivery Fleet*, GAO-11-386 (Washington, D.C.: May 5, 2011).

Mail Processing

In April 2012, we issued a report related to USPS's excess capacity in its network of 461 mail processing facilities.[12] We found that USPS's mail processing network exceeds what is needed for declining mail volume. USPS proposed consolidating its mail processing network, a plan based on proposed changes to overnight delivery service standards for First-Class Mail and Periodicals. Such a change would have enabled USPS to reduce an excess of 35,000 positions and 3,000 pieces of mail equipment, among other things. We found, however, that stakeholder issues and other challenges could prevent USPS from implementing its plan for consolidating its mail processing network. Although some business mailers and Members of Congress expressed support for consolidating mail processing facilities, other mailers, Members of Congress, affected communities, and employee organizations raised concerns. Key issues raised by business mailers were that closing facilities could increase their transportation costs and decrease service. Employee associations were concerned that reducing service could result in a greater loss of mail volume and revenue that could worsen USPS's financial condition. We reported that if Congress preferred to retain the current delivery service standards and associated network, decisions will need to be made about how USPS's costs for providing these services will be paid.

Delivery

Over the past several years, USPS has proposed transitioning to a new delivery schedule. Most recently, in February of this year, USPS proposed limiting its delivery of mail on Saturdays to packages—a growing area for USPS—and to Express Mail, Priority Mail, and mail addressed to Post Office Boxes.[13] Preserving Saturday delivery for packages would address concerns previously raised by some stakeholders, such as delivery of needed medications. USPS estimated that this reduced Saturday delivery would produce $2 billion in annual savings after full implementation, which would take about two years to achieve, and result in a mail volume decline of less than one percent. Based on our 2011 work,[14] and recent information from USPS on their February 2013 estimate, we note that the previous and current estimates

[12]GAO, *U.S. Postal Service: Mail Processing Network Exceeds What Is Needed for Declining Mail Volume*, GAO-12-470 (Washington, D.C.: Apr. 12, 2012).

[13]Under USPS's February proposal, post offices open on Saturdays would remain open.

[14]GAO, *U.S. Postal Service: Ending Saturday Delivery Would Reduce Costs, but Comprehensive Restructuring Is Also Needed*, GAO-11-270, (Washington, D.C.: March 29, 2011).

are primarily based on eliminating city and rural carrier work hours on Saturdays. In our prior work, stakeholders raised a variety of concerns about these estimates, several of which are still relevant. For example, USPS's estimate assumed that most of the Saturday workload transferred to weekdays would be absorbed through more efficient delivery. USPS estimated that its current excess capacity should allow it to absorb the Saturday workload on Monday. If that is not the case, some of the projected savings may not be realized. Another concern stakeholders raised was that USPS may have underestimated the size of the potential volume loss from eliminating Saturday delivery due to the methodology used to develop its estimates. Since mail volume has declined from the prior estimate, the accuracy of the estimated additional impact of eliminating Saturday delivery is unclear. The extent to which USPS would be able to achieve its most recent estimate of $2 billion in annual savings depends on how well and how quickly it can realign its workforce and delivery operations. Nevertheless, we agree that such a change in USPS's delivery schedule would likely result in substantial savings.[15]

A change to 5-day service would be similar to changes USPS has made in the past. USPS is required by law to provide prompt, reliable, and efficient services, as nearly as practicable. The Postal Regulatory Commission (PRC) has reported that delivery frequency is a key element of universal postal service. The Postal Service's universal service obligation is broadly outlined in multiple statutes and encompasses multiple dimensions including delivery frequency. Other key dimensions include geographic scope, range of products, access to services and facilities, affordable and uniform pricing, service quality, and security of the mail.[16] The frequency of USPS mail delivery has evolved over time to account for changes in communication, technology, transportation, and postal finances. The change to 5-day service would be a similar change. Until 1950, residential deliveries were made twice a day in most cities. Currently, while most customers receive 6-day delivery, some customers receive 5-day or even 3-day-a-week delivery, including businesses that are not open 6 days a week; resort or seasonal areas not open year-round; and areas not easily accessible, some of which require the use of boats, airplanes, or trucks.

Following USPS's most recent proposed change in delivery in February 2013, we issued a legal opinion concerning the proposal in response to a

[15]GAO-11-270.

[16]GAO-10-455.

congressional request. As requested, we addressed whether a requirement contained in the USPS's annual appropriations acts for the past three decades and contained in its fiscal year 2012 appropriations act[17]—that it continue 6-day delivery of mail "at not less than the 1983 level"—was still in effect under the partial year Continuing Appropriations Resolution.[18] We concluded that the Continuing Resolution carried forward this requirement, explaining that absent specific legislative language, a continuing resolution maintains the *status quo* regarding government funding and operations. Although the 6-day delivery proviso is an operational directive, not an appropriation, we saw no language in the Continuing Resolution to indicate that Congress did not expect it to continue to apply. The full-year 2013 Continuing Resolution that Congress then enacted on March 21, shortly after we issued our opinion, which provided funding through the end of fiscal year 2013, likewise has continued the effectiveness of the 6-day proviso.

On April 10, 2013, the USPS Board of Governors announced that based on the language of the March 21, 2013, Continuing Resolution, it would delay implementation of USPS's proposed delivery schedule until legislation is passed that provides it with the authority "to implement a financially appropriate and responsible delivery schedule." By statute, the Board directs the exercise of the power of the Postal Service, directs and controls the Postal Service's expenditures, and reviews its policies and practices.[19] Thus, the Board, which has the lead responsibility for taking actions within the scope of the Postal Service's existing statutory authority to maintain its financial solvency, has determined that full 6-day service will continue for the present time.

Retail

In April 2012, we reported that USPS has taken several actions to restructure its retail network—which included almost 32,000 postal managed facilities in fiscal year 2012—through reducing its workforce and its footprint while expanding retail alternatives.[20] We also reported on concerns customers and other stakeholders have expressed regarding

[17]Pub. L. No. 112-74, 125 Stat. 786, 923 (Dec. 23, 2011).

[18]As requested, we considered only whether, during the period of the partial-year Continuing Resolution, USPS continued to be bound by the 6-day provision in its 2012 Appropriations Act, whatever its scope. We did not consider whether the planned service changes USPS had announced would comply with that provision.

[19]39 U.S.C. §§ 202, 205.

[20]GAO, *U.S. Postal Service: Challenges Related to Restructuring the Postal Service's Retail Network*, GAO-12-433 (Washington, D.C.: Apr. 17, 2012).

the impact of post office closures on communities, the adequacy of retail alternatives, and access to postal services, among others. We discussed challenges USPS faces, such as legal restrictions and resistance from some Members of Congress and the public, that have limited USPS's ability to change its retail network by moving postal services to more nonpostal-operated locations (such as grocery stores), similar to what other nations have done.[21] The report concluded that USPS cannot support its current level of services and operations from its current revenues. We noted that policy issues remain unresolved related to what level of retail services USPS should provide, how the cost of these services should be paid, and how USPS should optimize its retail network.

In November 2011, we reported that USPS had expanded access to its services through alternatives to post offices in support of its goals to improve service and financial performance and recommended that USPS develop and implement a plan with a timeline to guide efforts to modernize USPS's retail network, and that addresses both traditional post offices and retail alternatives as well.[22] We added that the plan should also include:

(1) criteria for ensuring the retail network continues to provide adequate access for customers as it is restructured;

(2) procedures for obtaining reliable retail revenue and cost data to measure progress and inform future decision making; and

(3) a method to assess whether USPS's communications strategy is effectively reaching customers, particularly those customers in areas where post offices may close.

In November 2012, we reported that although contract postal units (CPUs)—independent businesses compensated by USPS to sell most of the same products and services as post offices at the same price—have declined in number, they have supplemented post offices by providing additional locations and hours of service.[23] More than 60 percent of CPUs

[21]GAO, *U.S. Postal Service: Foreign Posts' Strategies Could Inform U.S. Postal Service's Efforts to Modernize*, GAO-11-282 (Washington, D.C.: Feb. 16, 2011).

[22]GAO, *U.S. Postal Service: Action Needed to Maximize Cost-Saving Potential of Alternatives to Post Offices*, GAO-12-100 (Washington, D.C.: Nov. 17, 2011).

[23]GAO, *Contract Postal Units: Analysis of Location, Service, and Financial Characteristics*, GAO-13-41 (Washington, D.C.: Nov. 14, 2012).

are in urban areas where they can provide customers nearby alternatives when they face long lines at post offices. In fiscal year 2011, after compensating CPUs, USPS retained 87 cents of every dollar of CPU revenue. We found that limited interest from potential partners, competing demands on USPS staff resources, and changes to USPS's retail network posed potential challenges to USPS's use of CPUs.

Addressing USPS Benefit Liabilities

To assist Congress in addressing issues related to funding USPS's liabilities, we have also issued several reports that address USPS's liabilities, including its retiree health benefits, pension, and workers' compensation.

Retiree Health Benefits

In December 2012, we reported that USPS's deteriorating financial outlook will make it difficult to continue the current schedule for prefunding postal retiree health benefits in the short term, and possibly to fully fund the remaining $48 billion unfunded liability over the remaining decades of the statutorily required actuarial funding schedule.[24] However, we also reported that deferring funding could increase costs for future ratepayers and increase the possibility that USPS may not be able to pay for some or all of its liability. We stated that failure to prefund these benefits is a potential concern. Making affordable prefunding payments would protect the viability of USPS by not saddling it with bills later on, when employees are already retired and no longer helping it generate revenue; it can also make the promised benefits more secure. Thus, as we have previously reported, we continue to believe that it is important for USPS to prefund these benefits to the maximum extent that its finances permit. We also recognize that without congressional or further USPS actions to align revenue and costs, USPS will not have the finances needed to make annual payments and reduce its long term retiree health unfunded liability. No funding approach will be viable unless USPS can make the required payments.

FERS Pension Benefits

We reported on options with regard to the FERS surplus, noting the degree of uncertainty inherent in this estimate and reporting on the implications of alternative approaches to accessing this surplus.[25] The estimated FERS surplus decreased from 2011 to 2012, and at the end of

[24]GAO, *U.S. Postal Service: Status, Financial Outlook, and Alternative Approaches to Fund Retiree Health Benefits*, GAO-13-112 (Washington, D.C.: Dec. 4, 2012).

[25]GAO, *U.S. Postal Service: Allocation of Responsibility for Pension Benefits between the Postal Service and the Federal Government*, GAO-12-146 (Washington, D.C.: Oct. 13, 2011).

fiscal year 2012, USPS had an estimated FERS surplus of $3.0 billion and an estimated CSRS deficit of $18.7 billion.[26]

Workers' Compensation Benefits

In 2012, we reported on workers' compensation benefits paid to both postal and nonpostal beneficiaries under the Federal Employees' Compensation Act (FECA).[27] USPS has large FECA program costs. At the time of their injury, 43 percent of FECA beneficiaries in 2010 were employed by USPS. FECA provides benefits to federal workers who sustained injuries or illnesses while performing federal duties and benefits are not taxed or subject to age restrictions. Various proposals to modify FECA benefit levels have been advanced. At the request of Congress, we have provided information to assist them in making decisions about the FECA program.

Concluding Observations

In summary, to improve its financial situation, USPS needs to reduce its expenses to close its gap between revenue and expenses, repay its outstanding debt, continue funding its retirement obligations, and increase capital for investment, such as replacing its aging vehicle fleet. In addition, as noted in prior reports, congressional action is needed to (1) modify USPS's retiree health benefit payments in a fiscally responsible manner; (2) facilitate USPS's ability to align costs with revenues based on changing workload and mail use; and (3) require that any binding arbitration resulting from collective bargaining takes USPS's financial condition into account. As we have continued to underscore, Congress and USPS need to reach agreement on a comprehensive package of actions to improve USPS's financial viability. In previous reports, we have provided strategies and options, to both reduce costs and enhance revenues, that Congress could consider to better align USPS costs with revenues and address constraints and legal restrictions that limit USPS's ability to reduce costs and improve efficiency; we have also reported on implications for addressing USPS's benefit liabilities. If Congress does not act soon, USPS could be forced to take more drastic actions that could

[26]USPS is required by law to make certain payments to the Civil Service Retirement and Disability Fund to fund its share of CSRS and FERS pension costs. The same federal fund finances both CSRS and FERS.

[27]GAO, *Federal Employees' Compensation Act: Analysis of Proposed Program Changes*, GAO-13-108 (Washington, D.C.: Oct. 26, 2012), *Federal Employees' Compensation Act: Analysis of Proposed Changes on USPS Beneficiaries*, GAO-13-142R (Washington, D.C.: Nov. 26, 2012), and *Federal Employees' Compensation Act: Effects of Proposed Changes on Partial Disability Beneficiaries Depend on Employment After Injury*, GAO-13-143R (Washington, D.C.: Dec. 7, 2012).

have disruptive, negative effects on its employees, customers, and the availability of reliable and affordable postal services.

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Chairman Issa, Ranking Member Cummings, and Members of the Committee, this concludes my prepared statement. I would be pleased to answer any questions that you may have at this time.

GAO Contact and Staff Acknowledgments

For further information about this statement, please contact Lorelei St. James, Director, Physical Infrastructure, at (202) 512-2834 or stjamesl@gao.gov. Contact points for our Congressional Relations and Public Affairs offices may be found on the last page of this statement. In addition to the contact named above, Frank Todisco, Chief Actuary; Samer Abbas, Teresa Anderson, Barbara Bovbjerg, Kyle Browning, Colin Fallon, Imoni Hampton, Kenneth John, Hannah Laufe, Kim McGatlin, Amelia Shachoy, Andrew Sherrill, and Crystal Wesco made important contributions to this statement.

Chairman ISSA. Thank you.
Mr. Barnett.

STATEMENT OF THE HONORABLE MICKEY BARNETT

Mr. BARNETT. Good morning, Chairman Issa, Ranking Member Cummings, and members of the committee. I serve as chairman of the board of governors of the United States Postal Service. I am honored to be asked to testify and I thank you for inviting me today.

The Postal Service plays an incredibly important role in the American economy. It provides a national delivery platform that every business and residence relies on. It directly supports an $800 billion mailing industry that employs 8 million people.

America needs a financially healthy Postal Service. It needs a Postal Service that can adapt to changes in technology and the habits of American consumers. It needs a Postal Service that inspires confidence in its future.

Today, the Postal Service faces tremendous financial challenges. Its business model is inflexible and its future is uncertain. We lack sufficient authority to fulfill our responsibilities to our great Nation.

Unfortunately, the laws that control the actions of the Postal Service do not provide the authority or the flexibility for it to continue as a self-sustaining organization. We simply lack the tools under the law to solve the problems we face. If we are given the authority and the flexibility to quickly address our problems, we will do so.

The board has directed that the management of the Postal Service explore and act upon every opportunity to generate new revenue and to reduce costs. Postmaster General Donahoe and his team have pursued these opportunities aggressively. They have achieved tremendous results, but they are limited in the actions they can pursue. Our board strongly supports the five-year business plan developed by postal management. It is a responsible plan that will close our large and growing budget gap. We believe it provides the only realistic roadmap to long-term financial stability.

I know that this morning we will be discussing our national delivery schedule. Based on the chairman and the vice chairman's opening statements, there are differing opinions about the limits of the law passed by Congress. Last week the board acted upon legal guidance that says the recently passed continuing resolution prevents changes to our delivery schedule. It is a roadblock that stands in the way of a financially responsible action to reduce approximately $2 billion in costs. We need to remove that particular roadblock and many others.

I look forward to discussing this issue and the authorities we need under the law to implement our plan. The board of governors is eager to support the efforts of the committee to pass comprehensive postal reform legislation. We would be pleased to help in any way we can.

Thank you again for the opportunity to testify. This concludes my remarks.

Chairman ISSA. Thank you. I will now recognize myself for a first round of questioning.

Mr. Dodaro, you went through what the postmaster should do, and he has done a lot. Six day delivery, you have looked at the legal opinion. Does, in your opinion, the legal opinion have a path of suggestions if, even though it questions whether this alternative is legal, does it have a path of alternatives that could be pursued?

Mr. DODARO. Thank you for that question, Mr. Chairman. I think it is important to understand what our legal opinion did address and what it didn't address. What it did address was the provision that was in the first continuing resolution passed by the Congress covering the first half of the fiscal year.

Chairman ISSA. And the second CR was substantially the same; it was a partial year set of language.

Mr. DODARO. Right.

Chairman ISSA. Previously used.

Mr. DODARO. Right. But the rationale by the Postal Service for saying the provision didn't apply was the fact that there was not an appropriation attached to the provision in the first six month continuing resolution, and they argued that since there was not an appropriation of funds, that the provision did not apply——

Chairman ISSA. Isn't it true that the legal opinion—and I will be asking the postmaster—the legal opinion says you have two alternatives, regardless? You can ask for the President to ask for recision of this puny $100 million piece of appropriations that creates the legitimacy for the rider, and clearly you can also plan October 1st because there isn't a rider in effect. So they have two ways to go to five day. One is to ask the President to act consistent with his five day budget request, which is take back the $100 million so we can save $2 billion or, in the alternative, simply announce that October 1st, if there isn't a rider, they will be doing five day. Didn't the legal opinion say in both cases that they could do that?

Mr. DODARO. Basically, we held in the legal opinion that it wasn't explicitly tied to the appropriation of funds, so we did not agree with that. We thought——

Chairman ISSA. Okay, so you disagreed with the legal opinion on which the postmaster made his decision not to go to five day?

Mr. DODARO. That is correct.

Chairman ISSA. Okay, Mr. Barnett, you have read the legal opinion. I will mention that Mr. Bilbray apparently had not, because he didn't seem, in our interviews with him, to understand the nuances of the alternatives. Did you look, in the last pages of the legal opinion on which the board acted, at those two alternatives that were very clear: don't take the money in the future or ask for a recision to get to the rest of the year? Weren't both of those in the legal opinion?

Mr. BARNETT. They were, Mr. Chairman.

Chairman ISSA. Okay. And I believe the legal opinion is in the record already. Okay, well, I will ask unanimous consent that it be in the record, in case it isn't. Without objection, so ordered.

Chairman ISSA. One of the things that I wanted to get out from Mr. Bilbray is he was asked: Have you or any other board members received direct pressure, to your knowledge, of trying to exert pressure to protect a specific mail processing plant?

Answer: I only had one call; that was Senator Reid called me about the Reno processing center.

Okay. And did he ask that you not close that?

He did.

And he goes on.

Mr. Barnett, isn't there a pattern of pressure on all of you governors and on the postmaster from U.S. Senators to protect processing centers that have been deemed to be excess and wasteful?

And, by the way, and perhaps some House members, too, that have the guts to call you.

Mr. BARNETT. Mr. Chairman, it is true that we occasionally are contacted by Senators or Representatives, and maybe one of the advantages of being from New Mexico, without any processing centers, I have not received any such calls.

Generally speaking, the board has very little political pressure. We received one letter on the six day closing from Publishers Clearing House, the only letter that I received as a governor in regard to the six to five day.

Chairman ISSA. Isn't it true that Publishers Clearing House ships at an extremely low rate, such that they are part of that group that doesn't cover their own cost?

Mr. BARNETT. That would be correct. But I didn't get pressure either, Mr. Chairman.

Chairman ISSA. Well, we will get to the postmaster in a minute and I will get to the political stuff, but I want to be very quick.

Mr. Dodaro, the nature of this legislation not going through, there is a piece of language in the 2006 bill—and I want both of you answer to the extent you can—exigent circumstances. According to the law, there are a number of things the postmaster can do and the board of governors can do if they are in dire situation—exigent, dire, insolvent, they all seem to be pretty similar to me—including raising postal rates to cover that $1.5 billion you mentioned. Isn't it true that they have authority they have not used if they are willing to trigger the fact that when you lose $16 billion on $64 billion of revenue, that is exigent circumstances to trigger things to save money or to gain revenue, isn't it?

Mr. DODARO. I am aware of the provision, became aware recently, but we haven't really looked at it to know the full extent of it, that it can occur under the circumstances that you mentioned, so that those decisions, though, would have to be balanced against what potential mail volume might decline as a result of the raises in rates. So I would be happy to provide a more detailed answer for the record, Mr. Chairman.

Chairman ISSA. Mr. Barnett, as I ask you to answer the same question, I might mention I am from the consumer electronics industry some years ago. We understand that if you lose money on every sale in order to make it up in volume, and thinking volume will take care of you, it will at your bankruptcy. So as you answer whether or not increasing the price and thus losing volume on something you are losing money on, how would you address that?

Mr. BARNETT. We have had numerous board discussions on this in the seven years I have been on the board and we have discussed exigent rate cases at many of those board meetings. I might add I am the dissenting vote; I was the only board member to vote against the last three rate increases, based primarily on my colleagues' statement that I am more concerned about loss of volume than I am increasing revenue, although both are important. Our infrastructure depends on volume, and if we raise prices, we had great concerns on the board that volume would then decline even further, leading to further deficits.

We have directed, at our last board meeting last week, that management look at every other option available. Once we made the vote to not go to five day delivery on August the 5th, we asked that they look at everything else available to us, which would be to reopen the labor negotiations, to look at the filing of an exigent rate case, and then accelerate, if possible, the consolidations in the processing plants as quickly as we can expeditiously do it.

Chairman ISSA. Thank you very much.

Recognize the ranking member.

Mr. CUMMINGS. Thank you very much.

Let's not kid ourselves, Mr. Dodaro. If Congress says we want you to do something a certain way, and the postmaster came back and said, no, I am doing it my way, the postmaster would catch hell. I am telling you everybody up here knows that and everybody out there knows that. So he was caught in a hell of a bind. And I want to go back to something that Mr. Bilbray said in his testimony so we will be real clear. He said this, and I quote from his transcript on page 58, "Let me tell you, this is a tough job, and we have to deal with a lot of bureaucracy in the Administration, the Postal Regulatory Commission and Congress, and they are all our bosses. And we try to do the best we can, but we are really restricted on what we can do, when we can do it and what, you know, like I say, what we can do, and it's tough. I mean, I was a congressman; I understand when you try to close a post office in my district. I was just as bad as everybody else out there and I understand them totally, and I wish I had served on the board of governors before I went to Congress because I think I would have been a hell of a lot better congressman in dealing with the post office."

I just want to make sure that is a part of the record.

But let me go back to you, Mr. Dodaro. Does the GAO believe that the six day rider apply even if no money is appropriated?

Mr. DODARO. Yes. We said the Congress has the ability to give operational guidance through the appropriations thing and, yes, that is what our legal opinion held.

Mr. CUMMINGS. Because I am getting confused. Does that mean that the postmaster did the right thing consistent with that opinion or he did the wrong thing? Consistent with what you just said.

Mr. DODARO. Right. I think initially the decision by the Postmaster General to go forward based on the first six month CR provision, we disagreed with that.

Mr. CUMMINGS. Okay. And then when he reversed, what happened?

Mr. DODARO. Well, we haven't looked at the issue since then.

Mr. CUMMINGS. I see. I see. Now, I would like to ask you about the Postal Service's cash position and its financial outlook, Mr. Barnett. Is the board of governors given a routine update of the Postal Service's financial condition?

Mr. BARNETT. We are.

Mr. CUMMINGS. And for the year ending September 30, 2012, the Postal Service wrote in its financial statement: "Although our cost reduction and revenue generation initiatives are expected to possibly impact cash flow, we project that they may not, in the aggregate, be sufficient to offset potential cash shortfalls which could occur in the second half of 2013.''

Now, Mr. Barnett, in your board meetings this year, has the Postal Service indicated that it may experience a cash shortfall in the second half of 2013?

Mr. BARNETT. We have discussed it extensively at every board meeting and the answer is yes, the cost-cutting has possibly pushed that date off. But the manner in which we are cash flowing now is by not paying our prefunded RHB payments and we are not planning to make the one that is due on September 30th.

Mr. CUMMINGS. So there will be a shortfall.

Mr. BARNETT. There will be a shortfall.

Mr. CUMMINGS. And when will that be? When do you predict?

Mr. BARNETT. Well, we are already in the shortfall. As you know, we haven't made the last two years' payments and we are not going to make this year's payment. If you are saying will there be sufficient monies to make payroll without making the payments——

Mr. CUMMINGS. Yes.

Mr. BARNETT.—I believe we will through this calendar year.

Mr. CUMMINGS. Now, in its financial statement for the year ending September 30, 2011, the Postal Service indicated that it ''ended 2011 with $1.5 billion of total cash and $2 billion of remaining borrowing capacity on its $15 billion debt facility.'' For the year ending September 30, 2012, the Postal Service wrote: ''We ended 2012 with $2.3 billion of total cash and no remaining borrowing capacity on our $15 billion debt facility.'' In a recent financial briefing to the committee staff, the Postal Service indicated that its cash position has continued to improve.

Mr. Barnett, do you know how much cash the Postal Service currently has on hand?

Mr. BARNETT. I do. We have approximately nine days in operating income, Mr. Vice Chairman.

Mr. CUMMINGS. And about how much money is that?

Mr. BARNETT. Just approximately $2 billion.

Mr. CUMMINGS. All right. Now, Mr. Barnett, do you agree with this report, do you agree that the growth in the shipping and package product is improving the Postal Service's financial condition?

Mr. BARNETT. It is.

Mr. CUMMINGS. And despite the growth in the Postal Service's shipping and package service, the Postal Service still reported a loss of $1.3 billion in the most recent quarter. Mr. Barnett, how much of that loss is attributable to the prefunding payment due to the Retiree Health Benefit Plan, do you know?

Mr. BARNETT. I do not know.

Mr. CUMMINGS. Can you get me that information?

Mr. BARNETT. I am sure the Postal Service can get you that information. What is attributable to anything is a relative question. You could say all of it is due because all of it is, the $5.5 billion, but the answer is we don't have sufficient cash to make any payment on the prefunding of the Retiree Health Benefit.

Mr. CUMMINGS. So if the Postal Service did not have to make the RHB payment, its financial outlook would be better, would you agree on that?

Mr. BARNETT. It would be better, but we would not be solvent, no.

Mr. CUMMINGS. Finally, while the Postal Service's financial position is certainly concerning, it appears that the Postal Service will continue to remain solvent through the rest of this year and that the RHB payments are significant factors in the Postal Service's operating losses. Do you agree with that, Mr. Barnett?

Mr. BARNETT. Mr. Vice Chairman, I don't. I think my learned colleague here would say if we are not making our payments that are due, we are not solvent; and we are not making the payments that are due.

Mr. CUMMINGS. I see my time has expired.

Thank you very much, Mr. Chairman.

Chairman ISSA. We now recognize the gentleman from Florida, Mr. Mica.

Mr. MICA. And I yield first.

Chairman ISSA. Very briefly. Thank you.

Mr. Barnett, prefunding is a statutory requirement. You are bound by law to do that, aren't you?

Mr. BARNETT. That is correct.

Chairman ISSA. And six day delivery, we have established, although it comes with no money, or virtually no money, is a statutory requirement you are required to do.

Mr. BARNETT. That is correct, Mr. Chairman.

Chairman ISSA. So why does the board obey one law and ignore another? You obey a law that costs you $2 billion and you ignore a law that says you owe us $5.5 billion a year, and you have done it for two years. Why would you pick one law to obey, that you choose to obey, that actually costs you $2 billion? Where is the fiduciary balance there? If you are going to break a law, why is that the law you broke or didn't break?

Mr. BARNETT. Mr. Chairman, thanks for that question, because we do have a reason. The board has discussed it extensively. The real problem with the going from six to five day, knowing it will be challenged in court and not knowing what the result would be, is the tens of thousands of dollars that many, many businesses would have to implement in software updates and changes in their procedures. It also involves approximately 23,000 employees that would be directly affected by their futures and transfers and changes in work hours.

Chairman ISSA. Okay, I get it, Mr. Barnett. I appreciate the gentleman. I think we got the answer: the union wanted to keep six day and they didn't mind not paying their just debts pursuant to the law.

Mr. MICA. Well, you know, this little exercise here I think points out the situation we find ourselves in, and Mr. Dodaro, our GAO representative, I think he summed it up only partially. He said the situation is dire. I think it is beyond dire, and it is probably going to get even worse. I think we are headed for a total meltdown in the postal system. Probably the only thing worse than the Federal Government, as far as its fiscal shape, is the United States Post

Office, and there is not much to be said there. And we have some of the same difficulty in facing our fiscal challenges, and, quite frankly, I am not sure if the board of governors can resolve this. I was just checking and we were able to pass some legislation out of the committee that could never pass the House, and probably wouldn't pass the Senate, and all the interests here at play, making certain that nothing gets done or bad choices. I feel sorry for the board of governors because with the CR we didn't provide the flexibility and the authority, put you on hold. So I think it is going to get worse. Maybe that will help us resolve it.

But two of the primary areas that we are going to have to address, one is personnel, and I notice that personnel and infrastructure are your big cost items. First of all, personnel. I don't know what you are doing at headquarters, but I actually thought I saw the number rise to 3,008 in the figures that I have of personnel right down the street. Not to mention that is just headquarters, but around these districts. So that is one thing, Mr. Barnett. Do you have a plan to reduce some of the overhead as far as management?

Mr. BARNETT. Mr. Chairman, representative, yes.

Mr. MICA. And they don't have union contracts or do they?

Mr. BARNETT. There are certain management contracts.

Mr. MICA. Okay. But, again, you are going to have to address that. You need a plan to come back with far fewer. I remember visiting over there some years ago in one of the RIFs that you all did, and there were hundreds of vacant desks. I don't know if that building is partially empty. Is it now?

Mr. BARNETT. There are empty desks in that building, from my observation.

Mr. MICA. But there are still 3,000 people just in D.C. So that is one thing.

Then facilities. You have 32,904 facilities, and I asked how many are vacant. Now, they said 166 was what I got this morning. I don't think that is accurate. They may be vacant, but there are thousands that are underutilized. I know my experience just in my district, in trying to consolidate or change out, there are post office locations in my district, I could give you five of them, that are so out of date, so expensive, in such poor areas for service. The problem is the postal authorities are totally mindless. No one can come up with a solution.

Now, I have in one instance given you a solution and we were able to turn that into a valuable property, but it is a mindless mentality in the post office not willing to move forward in some of these. Do you think that can be changed?

Mr. BARNETT. It is changing. There have been tremendous strides the last two years going to village post offices and reducing the hours they are open to two, four, six hours.

Mr. MICA. Well, we will be doing some hearings in some of the empty facilities to highlight the lack of progress, just to give you advanced notice. And I am not just picking on you; we have done this and we will be doing it next week in our fourth building in Washington, D.C., the Nation's capital, under other jurisdictions than the post office.

But personnel and management, some things we can tackle, and then consolidation of the facilities and changing them out.

Yield back.

Chairman ISSA. I thank the gentleman.

We now recognize the gentlelady from the District of Columbia, Ms. Norton.

Ms. NORTON. Thank you very much, Mr. Chairman. I may not be here when the Postal Service witnesses themselves come forward. I realize you are here, Mr. Barnett, but I do want to say for the record, and I am certain that members of the committee would agree with me, that we are enormously indebted to Postal Service workers for catching the letter that contained ricin and kept it from coming to the Congress. I think this indicates once again the dedication of Postal Service employees and their vigilance, and the risk today to being a Postal Service employee. They now become not only Postal Service employees who see that the mail gets delivered, but they have a security function and they carried that security function out with great excellence yesterday, and I thank you for that.

The Senate passed a bill last year; this side did not. If I may say so, instead of going through these same issues every year in these hearings, five day, six day, why don't we just pass a bill and then we will iron out the differences? This gets to be very repetitive and nonproductive. My major concern, as I think about the new model that Mr. Dodaro spoke about, is the need to treat the postal service like the independent business we spun it off to be, including the ability to use its extraordinary infrastructure to sell non-postal products. But let me get to the issues that are before us today.

First let me lay the predicate for this question. I think they are going into their third year of default on prefunding of health benefits, and I suppose that is a kind of civil disobedience that they have been forced to. The third year, by the way, is coming up in September. One effect of these prepayments, Mr. Dodaro, is it not, is to offset the Federal deficit?

Mr. DODARO. On the prepayments for health care?

Ms. NORTON. Yes.

Mr. DODARO. No, it is basically to provide the money in advance for the Postal Service.

Ms. NORTON. I know what it does. Does it have the effect, though, of offsetting the deficit or making the deficit look smaller?

Mr. DODARO. I would have to go back and look at that. I am not sure offhand. I think the money is segregated in a different account for the Postal Service, but I would have to check and give you a definitive answer.

Ms. NORTON. Well, I believe it is in a trust account and is used, and I wish you would look at that because I think that its disguise of the deficit is one of the reasons that the Postal Service is seen as having to do what nobody else has to do; and, of course, that is what I want to get to.

Is 75 years of prefunding health care considered a best practice?

Mr. DODARO. Prefunding is considered a best practice.

Ms. NORTON. That was not my question, sir. This is the only business and the only Federal Government that is prefunding ——

Mr. DODARO. Actually, the Defense Department is prefunding.

Ms. NORTON. How much are they prefunding?

Mr. DODARO. They have prefunded $150 billion already.

Ms. NORTON. How much has the Postal Service prefunded?

Mr. DODARO. I believe it is about 48. About 43, 46.

Ms. NORTON. So would you recommend that for the Federal Government? And, if so, why haven't you recommended it for other Federal agencies? Is this the best practice? Is this what we should be doing. And, if so, how many years in advance should agencies be doing what the post office alone is doing today?

Mr. DODARO. Basically, the prefunding is not 75 years, it is 50 years.

Ms. NORTON. Oh, so you recommend 50 years of prefunding for every agency?

Mr. DODARO. I am not saying what we recommend, I am saying what the law requires.

Ms. NORTON. Do you think prefunding for Federal agencies, like the prefunding we require of the Postal Service, is to be recommended to the Federal Government? And, if so, why have you not recommended it for other Federal agencies?

Mr. DODARO. Well, first of all, the Postal Service is supposed to be self-sustaining.

Ms. NORTON. That is my point.

Mr. DODARO. Right.

Ms. NORTON. And, of course, whenever Congress wants to interfere, it can. Is that how you treat a private business? Do you think the post office is being treated like other private businesses?

Mr. DODARO. Well, it is not exactly a private business; it is still a part of the Federal Government, set up as an independent agency. We have a lot of these organizations that have been set up. Fannie Mae and Freddie Mac are other examples, and Government corporations, whether it is FDIC or whatever. So there are a lot of entities like that.

Ms. NORTON. Of course, with Fannie Mae and Freddie Mac, we bailed them out to the cost of billions of dollars. Do you think that is what we should do with the Postal Service as it now becomes insolvent?

Mr. DODARO. I think that is a policy matter for the Congress.

Ms. NORTON. But isn't that the direction we are going?

Mr. DODARO. Our recommendations are to make changes so that it doesn't get into that.

Ms. NORTON. It is already into that, Mr. Dodaro. It is time for somebody to recommend some changes that helps them get out of it. Now, the GAO itself issued a report in which it talked about alternative approaches to fund health care benefits. Which of those alternatives would you suggest?

Mr. DODARO. We would suggest moving to an actuarial-based prefunding operation, as opposed to the fixed payment schedule. We have recognized that the fixed payment schedule that was set up in 2006 had large up-front costs, more than you would have in an actuarial-based system. So we think that would be a good move, which is what the Senate version of the bill would have done.

Ms. NORTON. Thank you. Thank you, Mr. Dodaro.

Chairman ISSA. I thank the gentlelady.

We now go to the gentleman from Utah, Mr. Chaffetz. Could I have five seconds?

Mr. CHAFFETZ. Sure.

Chairman ISSA. Mr. Dodaro, simple yes or no. Isn't it true that Congress, long ago, passed laws requiring at least a minimum that actuarial prefunding by every pension plan in America held by private companies? It is the law. You go to jail for not doing it, right?

Mr. DODARO. Yes.

Chairman ISSA. Thank you

Mr. Chaffetz.

Mr. CHAFFETZ. Thank you.

Appreciate you both being here.

Mr. Barnett, what does the White House suggest that you do?

Mr. BARNETT. I have not talked to the White House; they haven't called me, so I don't know.

Mr. CHAFFETZ. So as my colleague from the District of Columbia is suggesting it is time for somebody with an idea, are you suggesting the White House has no plans, no suggestions, no direction for you in what you are supposed to do?

Mr. BARNETT. I certainly didn't mean to say that. I suspect they have been in contact with the United States Postal Service, just not with me or any of the board of governors.

Mr. CHAFFETZ. Just not the chairman of the board. Okay. That is one of my concerns, is there should be some involvement, engagement here.

Mr. Dodaro laid out three general categories, suggestions. What would you agree with or disagree with on that list as he laid out these three?

Mr. BARNETT. I completely agree with all three and would add just a few more. But we are in 100 percent agreement with the three items he mentioned.

Mr. CHAFFETZ. So what is prohibiting you? You talk about more flexibility and delivery in pricing, for instance, as one of those items, and yet try to make an adjustment there and then it gets pulled back. What is the hesitation?

Mr. BARNETT. We have, of course, a regulator that we must file with, called the Postal Regulatory Commission, and it is an unduly cumbersome, slow process to do so; and in the current marketplace we need the flexibility to move quickly. We would recommend, for example, that the regulator perhaps could come back and examine the data that was done to make—the board of governors would, say, decide on a price change or possibly a new price for a new product, give the regulator the chance to go back and examine it and require some modifications after the fact, but not require the up-front filing, the delays and the time to go through it because it is just too slow and there is no flexibility at all.

Mr. CHAFFETZ. So part of perhaps what we should look at is restructuring that process and how that Postal Regulatory Commission works, is that the suggestion?

Mr. BARNETT. Mr. Chairman, Representative, completely. The regulation model we are under is like a utility model from the 1950s, where we are a monopoly and we must file for rate increases, go through the expert witnesses, the whole bit. We are not, any longer, a monopoly in most of our products; we certainly are still in first class mail, but we are in direct competition in almost all our other products.

Mr. CHAFFETZ. Mr. Dodaro, did you want to comment? It looked like you wanted to say something about this discussion.

Mr. DODARO. No. No. I agree with the comments.

Mr. CHAFFETZ. Okay.

Mr. Chairman, as we look at this issue, I really do believe, and I have believed from day one, one of the core issues that we have to grapple with here is how does the Postal Service become more relevant. You know, there are only so many times you can raise prices. There are only so many times that you can make your product more expensive in the marketplace. To me it is a question of relevancy. And the world is changing; we are becoming more electronic in our communications and people are more cost conscious. The Postal Service is having to deal with some very difficult things. For instance, for every penny of increase in the cost of fuel, they are going to have to deal with that; it is millions of dollars of costs to the Postal Service. Since President Obama took office until now, which happens to be the same time that I was elected, the price of fuel has doubled; and that is of real impact on the day-to-day lives and solvency of the United States Postal Service.

I do want to actually compliment some of the work that has been done with some of the unions and some of the others in actually drawing back down the number of employees that are engaged. I only wished that the rest of Federal Government would have to go through such scrutiny, because what you would find, actually the Postal Service, as bad and as dire as the situation is, most other departments and agencies don't have to go through these types of gyrations; they don't have to go out and sell their services, they don't have to justify a price, they don't have to live within their means. And this is the only department and agency that I can look at that has made significant personnel changes to actually drive down the number of people that are involved and engaged in its agency. So on that side I do applaud.

Now, on the other side, to my friends in the unions, there is going to have to be some more flexibility here. When they talk about collective bargaining, I think they are going to have to be some serious discussions about that. Both of these gentlemen concur with that. I happen to think that is going to be part of the issue. We are going to have to look more closely and have more cooperation on moving to cluster boxes and those types of simple things that will have multi-billion dollar effects on the Postal Service; maybe a little bit more inconvenient, maybe somebody isn't able to book as many hours, but small things that will make a big difference in the solvency of the Postal Service and ultimately, Mr. Chairman, become more relevant.

Yield back.

Chairman ISSA. The gentleman yields back.

We now go to the gentleman from Virginia, Mr. Connolly.

Mr. CONNOLLY. Thank you, Mr. Chairman, and thank you for holding this hearing, you, with our distinguished ranking member, Mr. Cummings,

Mr. Dodaro, I want to thank you for the legal opinion from GAO, it was clear and concise and, I think, dispositive. One may not like a law, but to counsel people to circumvent it or ignore it is a different matter entirely, and GAO, I think, made a real contribution at least in understanding where we were legally, and I thank you for that opinion and for your colleagues as well. I think the chairman entered the opinion into the record. That is the opinion of March 21 and I now enter it into the record as part of my five minutes, without objection.

Mr. CONNOLLY. Mr. Dodaro, you said there were three things that were fairly fundamental to reform. The first thing you mentioned was prepayment. And I was a little confused with the byplay between you and Ms. Norton of the District of Columbia. Clearly, in saying that is the first thing Congress has to deal with, and, by the way, I happen to agree with you. I wish some newspapers like The Washington Post would even acknowledge it is a problem. But you included it. Presumably you included it because you do think that there is some aspect of it that is onerous and needs to be reformed. Is that correct?

Mr. DODARO. We believe that the 2006 law that set up the schedule for this front-loaded some of the prepayment penalties. Not penalties, excuse me, the amounts for prepayments. It was based on a fixed schedule up front, and we think if it is moved to an actuarial schedule that will help smooth out the payments over the period of time. But I want to be clear, we think prefunding needs to occur and that it needs to be done in a fiscally responsible manner. It is in the best interest of the Postal Service, for their future viability; it is in the best interest of the beneficiaries for their benefits.

Mr. CONNOLLY. Your point is so stipulated and the chairman correctly pointed out that it is not a unique requirement. But the 2006 legislation has some aspects to it that clearly put a burden on the Postal Service that are unique, is that not correct?

Mr. DODARO. We think there is a means to modify that, moving to an actuarial approach.

Mr. CONNOLLY. And the Senate recognized that in its postal reform bill that actually passed the Senate as S. 1789, is that not correct?

Mr. DODARO. That is correct.

Mr. CONNOLLY. And you reviewed that legislation?

Mr. DODARO. Yes.

Mr. CONNOLLY. Do you believe that legislation, in principle, is consistent with your recommendations for comprehensive reform?

Mr. DODARO. On the issue of prefunding, we agreed with two of the three changes that they have put in place. The only thing that we would ask be reconsidered would be the requirement to go to an 80 percent total funding. We think it should be 100 percent.

Mr. CONNOLLY. Mr. Dodaro, would it be fair to say that if we alleviate or reform the 2006 prepayment requirement in any fashion, that constitutes a Federal bailout of the Postal Service? Is that a fair characterization from your point of view?

Mr. DODARO. No. Modifying the schedule, as long as the prefunding occurs to achieve the full cost of the post-retirement health care benefits, no; it is just changing the payment schedule.

Mr. CONNOLLY. Does the prepayment in any way involve U.S. taxpayer dollars?

Mr. DODARO. I don't believe so.

Mr. CONNOLLY. So wouldn't a bailout imply that we are using taxpayer dollars?

Mr. DODARO. It usually is a connotation.

Mr. CONNOLLY. No, no, no. General Dodaro, it is not a connotation. A bailout, a Federal bailout is with U.S. taxpayer dollars, is it not? I mean, if I use someone else's money to help somebody else out, that is not a Federal bailout.

Chairman ISSA. Would the gentleman yield?

Mr. CONNOLLY. I would f the chairman will give me a little consideration.

Chairman ISSA. Would you suspend the time?

Mr. CONNOLLY. I thank the chair.

Chairman ISSA. That is the best consideration the chair can give.

Mr. CONNOLLY. And I appreciate it.

Chairman ISSA. The chair is prepared to make it very clear on the record that in the negotiations we had with the Senate until the wee hours of the waning Congress, we had already agreed to go to an actuarial restatement. I would hope that the gentleman would agree also, though, that like the Railroad Retirement Act, if in fact we do not get an actuarial payment and there is a default, full faith and payment from the Federal Government would happen. So I am not expecting a bailout. The reason that we agreed to an actuarial one partially was the GAO's finding that the 2006 law, although well intentioned, was now unachievable with current economic conditions for the post office.

Mr. CONNOLLY. If we can keep that clock frozen for one second.

Chairman ISSA. As long as the ranking member doesn't start pulling at me here.

Mr. CONNOLLY. I thank the chairman and I am glad to learn of those negotiations, and his point is well taken. I am only pointing out, though, that I think there has been some loose rhetoric in the past when there has been any talk of prepayment relief of any kind, that that automatically is a Federal bailout. That is inaccurate and it is not fair, and the money involved so far is not U.S. taxpayer money; in fact, it is Postal Service revenue.

Chairman ISSA. Right. And I think for purposes of today, if everyone wants to go from a $16 billion loss last year, down by a little over $2 billion, which would be the restated amount, we are happy to say it was only $14 billion had they been making an actuarial payment rather than an actual. The problem is you can't be a little bit pregnant, to use an old expression. Also, a little loss of $14 billion is still a lot of money.

Mr. CONNOLLY. It certainly is. I thank the chair.

Mr. Barnett, are you familiar with the memo from King & Spalding with respect to five day delivery proposal?

Mr. BARNETT. I am.

Mr. CONNOLLY. And did that memo influence the board of governors in its decision ultimately to say we have to comply with the law?

Mr. BARNETT. Yes, it did.

Mr. CONNOLLY. And did you, at any point in your deliberations before or after the Postmaster General's announcement about five days, look at the legal aspect of that and question the Postmaster General in terms of his legal reasoning or the reasoning he relied on?

Mr. BARNETT. The Postmaster General and the deputy are both members of the board. We had extensive discussions over several meetings on the first legal opinion dealing with the language prior to the current CR and then the current CR, so, yes, we have had numerous discussions with the Postmaster General.

Mr. CONNOLLY. And just real briefly, bottom line, what made the board decide we can't go forward with this proposal?

Mr. BARNETT. The King & Spalding opinion was the primary motivator for the change.

Mr. CONNOLLY. Which told you what, bottom line?

Mr. BARNETT. Well, it told us, bottom line, that we would be going to court and that the disruption that would occur if a preliminary injunction were issued, particularly if they went to court July 20th, a week ahead of the August 5th date and got a preliminary injunction, the disruption to the Postal Service and ultimately to the consumers of the Postal Service was something we felt was too grievous to take a risk on.

Mr. CONNOLLY. Thank you.

Chairman ISSA. I thank the gentleman.

Mr. CONNOLLY. I thank the chair.

Chairman ISSA. We now go to the gentleman from Oklahoma, Mr. Lankford.

Mr. LANKFORD. Thank you, Mr. Chairman.

Mr. Dodaro, you mentioned three things that Congress should do in this and you mentioned multiple things the USPS can do, as well, in the process on that. I want to highlight a couple of these things that have been discussed as far as additional revenue. What would you recommend USPS could do right now to deal with revenue issues, whether they be pricing or products or advertising or the many things that have been kicked around? What do they already have authority they could do?

Mr. DODARO. They have the authority to change the pricing for some of the products where they are not covering their costs. I highlighted the periodicals and standard flat mails in some of the catalog areas. Clearly, in the periodicals area they have been losing money on that for the last 16 years. The amount that they lost money in 2012, I believe, was about $650 million. So that is one area that it could re-price. And the same on standard flat mails. Now, they may have to adjust the mix because there are varying products in there with the catalogs and other things. And there are some other areas where they are losing money on different products as well. So that is one thing that they could do.

Mr. LANKFORD. Okay. Do they have any latitude, right now, on advertising? That has been discussed, whether it be products for sale at a post office itself or a village station, or whether that be actually advertising on the truck. I would assume they would not put a big advertising for FedEx on the side of their truck, by the way, as far as selling advertising, but to be able to produce that.

Mr. DODARO. Yes, they can do advertising.

Mr. LANKFORD. Okay. Because that has been discussed.

Mr. Barnett, can I shift over to that? I am sure this has bee discussed as well with the board of governors. You have to deal with price and products; the higher the price, the lower the usage. We get that. And it is especially difficult for catalogs because catalogs are in great competition right now with the Internet as one more step. What has been discussed at this point in how to be able to strike that balance?

Mr. BARNETT. Well, just to give you an example, on the catalogs, for example, the catalogs become a feeder for, then, packaged delivery, or a potential feeder for packaged delivery, which is a great growth in our area. So we do have great discussions, lengthy discussions. We have a new director of marketing, vice president that came on about a year ago. She is doing a fabulous job. The board of governors has gone to meet with potential customers or existing customers with potential increases in New York, in Phoenix, in San Diego; we meet with them, they tell us what their needs are. We are trying our best to increase revenues everywhere we can. We are underwater in several of these categories. We are still stuck with a price cap; we still cannot increase prices in excess of the CPI. So while I don't disagree with my colleague's statement here, I am not sure that we can get there based on the limit of the CPI on the underwater products.

Mr. LANKFORD. As far as packaged delivery, though, where is that moving? Because obviously every retail location will tell you they are getting hammered in a retail box store by Internet purchases, and there is more and more being shipped on that. Where are we right now in moving towards getting more revenue by increasing the number of packages that are coming to USPS, rather than other providers?

Mr. BARNETT. Tremendous success story. We have had three years of 7 percent growth in package delivery, and we anticipate even further growth in package delivery.

Mr. LANKFORD. Okay.

Mr. Dodaro, you also mentioned, as well, that prefunding is in the best interest of employees of USPS. Can you talk about that some? Because there has been a lot of push-back to say that a lot of individuals say we don't want to do prefunding; why are we being mandated? But you mentioned that is in the best long-term interest of those employees.

Mr. DODARO. Yes, because at some point, if there isn't enough revenue set aside, either in advance or being generated at the time to pay for those benefits, the benefits potentially could be changed and lowered, so the employees would not receive the benefits they thought they were going to receive. So I think it is in the best interest of the Postal Service, for their future viability, and the same for the employees.

Mr. LANKFORD. Struggle through it right now, but because it protects retirees in the days ahead.

Mr. DODARO. Yes.

Mr. LANKFORD. Okay, thank you.

With that, I yield back.

Chairman ISSA. I thank the gentleman for yielding back.

We now go to the gentleman from Pennsylvania, Mr. Cartwright, who is not here. Okay, Pocan.

Mr. POCAN. Thank you, Mr. Chair.

Chairman ISSA. Thank you. The gentleman from Wisconsin.

Mr. POCAN. Thank you.

I am one of the new folks around here, so I am still not used to, you know, we pass a budget, but we don't really pass a budget in Washington; and we use words like sequester. I never told my nieces or nephews I am going to sequester their toys if they don't behave. So there is a lot that is new to me around here.

Chairman ISSA. If the gentleman would yield. Have you learned exigent today?

Mr. POCAN. Thank you. Lost five seconds. That is all right.

And the last part is this pension requirement, because, as I understand it, it is extremely unique; no one else has to prepay 75 years into the future. If I understand it right, someone who is not even born, who would go to work for the post office, you are already paying for their pension now. Seventy-five years into the future is a long period of time. I am getting shaking heads no.

Mr. DODARO. It is 50 years, and this is prefunding only for the people that are currently employed at the post office or retirees, not future people.

Mr. POCAN. Okay. All right. But it is the only agency that is doing 75 years in the future, is that correct?

Mr. DODARO. I mentioned earlier that the Department of Defense is voluntarily doing it for the military.

Mr. POCAN. But those are appropriated dollars, right, as opposed to revenue dollars that are brought in?

Mr. DODARO. Well, that is how they get revenue, but they are prefunding their requirements in advance.

Mr. POCAN. Right, but that is completely different than how the funding comes in from the post office, correct, because we don't have the appropriated dollars?

Mr. DODARO. That is correct, but——

Mr. POCAN. Okay, that is fine. I was just checking on that.

The problem I have is that when I look at the Constitution, which we all had to swear to just a few months ago, I read Article I, Section 8, Clause 7, and it says we have to establish a post office. So, to me, there is a higher responsibility as we take a look at doing this and, therefore, we have to make sure that we are actually providing the service. I have also been a small business owner for over half my lifetime. In Brooklyn, Wisconsin, the small community of Brooklyn, honestly, I believe they rely more on the post office than they do in Brooklyn, New York. They don't have some of the other alternatives. If you are going to keep people in those small communities in rural Wisconsin and across the Country, you need a viable post office, and that includes things like six day delivery and local post offices.

If I could just ask questions in two different areas, if I can. One, Mr. Barnett, I guess two questions. One, were the board members briefed and on board with the postmaster's decision to implement a five day a week mail delivery schedule prior to it being announced on February 6th?

Mr. BARNETT. Yes, we were.

Mr. POCAN. They were. And any union representatives on that board? It was implied that the union is the one who blocked it going from five to six days.

Mr. BARNETT. All of the members of the board of governors, we only have five at the moment, of the nine, all are public interest, public service appointees, so there are no union appointees or business appointees.

Mr. POCAN. So it wouldn't be fair to say that the union members somehow blocked.

Mr. BARNETT. No, sir.

Mr. POCAN. Okay, thank you.

And then a question for Mr. Dodaro. I know that GAO has supported this move for the 75 years in the future, which is, again, unique. No other agency in government does that, that far into the future. But when you say you support that, if you have to look at what the post office is doing and essentially that if they are going to have to eliminate services in order to do it or that they will be cutting delivery days or slowing service in order to make these inflated payments, is that something that is still supported in order to prefund this? Because we know what a big chunk it was for years, it would have been still profitable and, as you said, we are front-loading a lot of the payments. In order to keep that going, we are hurting Brooklyn, Wisconsin and we are hurting those small businesses in my area. Is that something that you would support?

Mr. DODARO. Well, in the context that the Congress has required the Postal Service be a self-funding operation, yes. And if you look at the fact that the decline in mail volume, particularly first class mail, is projected to go down through 2020 in the future, it doesn't look like the revenue base is going to be there to pay these benefits later, so somebody is going to have to pay it at some point in time, and we think this is a prudent course. Now, we said that we are fine with modifying the prepayments, given the overall financial condition of the Postal Service, but it needs to be done in a fiscally prudent manner; otherwise, you are just pushing the problem down the road.

Mr. POCAN. And, also, I believe you did say you are open also to providing additional services, and I think there is some legislation to do that, to allow them to be like any other small business who would adapt and take on maybe some new areas to raise some revenue. Is that correct?

Mr. DODARO. Yes. We think they ought to pursue other revenue areas. I think when you move into non-postal areas you need to think about the competition with other entities, whether they would be subject to the same regulatory authorities that the other agencies would be involved. So it gets a little complicated. But they need to pursue alternatives in conjunction with the Congress.

Mr. POCAN. Thank you.

Chairman ISSA. You still have five seconds left.

The gentleman may not have heard, a moment ago, but with Mr. Connolly I did make it clear that we have always said that the $2 billion difference between the statutory prepayment and the actuarial responsibility we are always happy to remove. The challenge is the remaining $14 billion.

And since you did say you were new, taking a little privilege from the chair, we have also always supported the innovation fund, the additional dollars. We do have to bear in mind the U.S. post office does not pay parking tickets. The U.S. post office does not pay taxes, including gas taxes, including license plate fees, and the like. So we also recognize that when they want to go into private areas, we have to make sure they are not leveraging reduced cost, such as no property tax and so on. So there is a balancing and hopefully you will take a very active role in the postal reform bill that is still being authored here in the House as we speak, and I would invite you to do so. Thank you.

We now go to the gentleman from Tennessee, one of the gentlemen from Tennessee, Mr. DesJarlais.

Mr. DESJARLAIS. Thank you, Mr. Chairman.

Just a few questions. First, Mr. Dodaro, did the GAO look to see if the modified Saturday plan met the requirements of the postal rider?

Mr. DODARO. No.

Mr. DESJARLAIS. Okay.

Mr. Rolando, in December 2012 report from the GAO, it explicitly stated that the 2006 postal reform law did not require USPS to prefund 75 years of retiree health benefits over a 10-year period. Do you agree with that statement?

Mr. ROLANDO. Barnett.

Mr. DESJARLAIS. Oh, I am sorry, Mr. Barnett.

Mr. BARNETT. I apologize.

Mr. DESJARLAIS. Let me reread it.

Mr. BARNETT. Thank you. I appreciate it.

Mr. DESJARLAIS. I apologize for miscommunicating your name. December 2012 report GAO explicitly stated that the 2006 postal reform law did not require USPS to prefund 75 years of retiree health benefits over a 10-year period. Do you agree with that statement?

Mr. BARNETT. I apologize, but I am not equipped to answer the question. I read the GAO, I read his testimony last night, and I agree with everything in it, but I am not quite following the question, and I apologize for not understanding.

Mr. DESJARLAIS. Okay. Maybe I am not reading it clearly. The GAO report from 2012 explicitly stated that the 2006 postal reform law did not require USPS to prefund 75 years of retirement health benefits over a 10-year period.

Chairman ISSA. Perhaps the GAO could.

Mr. DESJARLAIS. Okay, Mr. Dodaro, do you know the answer?

Mr. DODARO. Yes, Mr. Barnett is right. Our point there was it was only 50 years, not 75 years.

Mr. DESJARLAIS. Okay, so you agree with that, then.

Mr. DODARO. Yes.

Mr. DESJARLAIS. Okay. And then I guess to either one, just to put one last persistent myth to rest, the same GAO report also stated, contrary to some claims, there is no liability held, nor contributions made, for any future employees who have yet to be hired or yet to be born. Do you agree with that?

Mr. BARNETT. Mr. Chairman, Representative, we do, and I would like to note, if I could, that the board believes that we would hope the opportunity for postal reform might consider the prospect that all future hires would go to a defined contribution plan, would not affect any current employees in any way, but that in the future that is a better way of looking at retirement plans. We would also, in the same regard, like to have more flexibility at doing our own health plan and competitively shopping it. We believe we could save our employees a lot of money by shopping our own health plan and having a better plan, a more affordable plan for our employees.

Mr. DESJARLAIS. The Federal exchanges aren't looking good?

Mr. BARNETT. Well, we are a part of FEHB, and it is my understanding we have very little flexibility there.

Mr. DESJARLAIS. All right. Thank you, gentlemen.

Chairman ISSA. Would the gentleman yield?

Mr. DESJARLAIS. I will yield.

Chairman ISSA. I might note that every member here on the dais is leaving FEHB and heading to the exchanges at the end of the year, by law. We could accommodate you, I am sure, very easily on that.

Mr. Dodaro, just using up the rest of this time, because I think it is important that we get this in, if we were to go to no payments to the health care retirement, isn't it true that in a matter of just a few years you would end up with an unfunded liability? In other words, the $45 billion in prepayment would expire in a decade or so and then you would simply have people taking money out that are currently there, and no money coming in; and the likelihood is that the post office is not anticipating some windfall of profits in the future that would pay it?

Mr. DODARO. That is correct.

Chairman ISSA. And if this were a private company, and it is trying to be operated as at least a break even private company, what would be their payments, their actuarial payments into a fund like this? One billion, two billion, four billion? Right now it is $5.5 billion, which is arbitrary, we all agree to that. What would be the level payments they would make over the next several decades to meet this obligation?

Mr. DODARO. About $3 billion.

Chairman ISSA. Okay, so $3 billion instead of $5 billion, $5.5 billion. There is a delta there, and I hopefully we have made the record straight today that the loss is less if one were to go to this, but it still would be a loss of roughly $14 billion.

Mr. DODARO. There is no question this is only one part of a broader package that is needed to deal with the full range of fiscal challenges.

Chairman ISSA. Isn't it true that the Postal Service has had statutory authority and, actually, a mandate to move from the chute to the curb, in other words, gain that efficiency of curbside delivery, and that there has been a transition, but that that transition has slowed to a crawl, and that is part of about $6 billion of their accumulated loss?

Mr. DODARO. They have had a policy to do that, but they have some flexibility, and based upon what we have seen—we haven't studied it for a while—it is made on a decentralized basis, so whether they get any push-back from the local communities or not. But you are right in the sense that it is very cost-effective to do that. In fact, to deliver an address to a door costs about $350 in 2009; where, if you go to centralized delivery in cluster boxes, it is about $160. So it makes a big difference.

Chairman ISSA. Thank you.

The gentlelady from Illinois, Ms. Duckworth.

Ms. DUCKWORTH. Thank you, Mr. Chairman.

Mr. Barnett, on April 10th of this year the board of governors announced your decision to delay the implementation of the modified delivery schedule that had been approved in January. Why did the board of governors decide to delay the move to a five day delivery schedule?

Mr. BARNETT. Primarily because of a legal opinion that it would be unlawful to do so.

Ms. DUCKWORTH. Did you seek this opinion, this outside legal—was it outside legal counsel or was it internal?

Mr. BARNETT. It was outside legal counsel, and we did seek the opinion.

Ms. DUCKWORTH. Okay.

Mr. Chairman, I ask unanimous consent to enter into the record the King & Spalding legal memo dated April 5th, 2013.

Chairman ISSA. The gentlelady was not here at that moment, but it is already in the record.

Ms. DUCKWORTH. It is. Oh, okay. Thank you.

Mr. Barnett, earlier this year, 87 of my colleagues joined me in sending a letter to the postmaster, expressing our concern that ending Saturday delivery would negatively impact the ability of Americans to receive home delivery of prescription drugs in a timely manner. Some of these drugs are not delivered as a package and actually come in first class mail. For example, anything delivered by a patch delivery system, Nicotine patch, pain killers, psychiatric drugs. Some of those are in a patch delivery system as well.

Among the people who most rely on home delivery are seniors, service men and women, veterans, and the disabled. Many of them live on a fixed budget. In a subcommittee hearing last week, Carl Jansen, VP of Pharmacy Operations at CVS Caremark, which currently has the delivery contract for Tricare, for example, testified that ending Saturday delivery would impact their ability to maintain current margins and he indicated that he did not know if this would lead to cost shifting to customers.

Have you looked at the impact that ending Saturday delivery would have on shifting costs to either business or consumers?

Mr. BARNETT. Mr. Chairman, Representative, yes, we have had numerous board discussions and presentations by people from industry, by people from the Postal Service about what that impact would be. We are faced with the problem of losing billions of dollars a year, and we only have three or four ways to reduce costs that are of the magnitude to solve that deficiency, and this is one of the largest at $2 billion. It would make a significant impact.

There are abilities now for emergencies and for the seniors. We don't deliver on Sunday, so all of the same arguments you just used would be true on Sunday. The seniors don't get their drugs delivered or their pharmaceuticals on Sunday; they sometimes don't on Monday, as well. The Postal Service is and has a plan in effect for those people that have an emergency need or an urgent need for that, and there were contingent plans that, by the way, are part of the reason to take nine months or seven months to put in place. We need to get those things into where we have notification to the carriers about those people that have urgent needs.

There is a way to shift them to packages that are not as expensive as people think, and there is also some ability through CVS or others to work at getting the pharmaceuticals to them earlier, on Friday, for example, so that they wouldn't need them on Saturday.

Ms. DUCKWORTH. But the cost would still be getting shifted onto consumers and being shifted onto businesses.

Mr. BARTON. We don't take testimony, but some of the presentations to us have been that there wouldn't be any additional cost, there would be a change in the manner in which they would arrive at their mailings. They will have to do them in a different fashion if it is five days a week, as opposed to six. There would be no additional cost.

Ms. DUCKWORTH. Well, the VP of pharmacy operations at one of the largest pharmaceutical pharmacies in the Country disagrees with you and testified accordingly yesterday.

I understand and very much appreciate what you just said, that you have been reaching out to business customers and that you understand the needs with regards to this issue. Could you tell us what types of concerns you have heard and if, when you altered your plan for implementation of five day delivery, it was affected by that dialogue at all.

Mr. BARTON. The board attempted to take all of it into account in making its decision. There is a 70 billion piece drop in volume. We were at 213; we are now at 160. When you have that kind of decline in volume, you must look at modifications of delivery schedules.

And I misspoke a minute ago; pharmaceuticals will be delivered on weekends, regardless. And the Postmaster General will be up here in a minute for the next panel; he will get into that more. So it was going to be delivered, regardless.

But, yes, all of that is taken into account, and yet we face having to cut several billion, at least $5 billion more a year out, and I don't know where else to do it except one big chunk of it is from six to five day.

Ms. DUCKWORTH. I am over time.

Mr. FARENTHOLD. [Presiding.] That is all right. If the gentlelady would yield for a second.

I chaired that committee and it was my understanding of the testimony that though CVS Caremark had some concerns, they were more concerned with an overall cessation in Saturday delivery, rather than the modified plan. I would like to follow up with them on that one. Without objection, we will forward your specific inquiry for clarification to CVS and include that as part of the record. Without objection, we will do that and get that to you and include it as part of the record, because that is something we really do need to be clear on because it is an important issue, to make sure the seniors are able to get their medications on Saturday. It is a very important issue we will follow up on.

With that we will move along to the gentleman from Michigan, Mr. Walberg. You are recognized for five minutes.

Mr. WALBERG. Thank you, Mr. Chairman.

Mr. Barnett, with only nine days of liquidity, when do you project that the Postal Service will run out of cash?

Mr. BARNETT. I am unable to give you a date. We will be down to, our projections show two days of liquidity on October 16th. On

October 15th we will have a large worker's comp premium payment, and we think we will be down to two days liquidity at that time. But that is the start of the Christmas mailing season, when we have tremendous increases in revenue in that quarter, starting October 1st. So we probably will be able to, from a cash flow standpoint, albeit not paying the prefunding and so forth, we are going on many more months, maybe a year or two. I do not have a date I can give you.

Mr. WALBERG. So any contingency plans you have right now is based primarily on the holiday season coming and expanded revenues that come in from that.

Mr. BARNETT. Mr. Chairman, Representative, we are in dire cash flow straits under any method we look at. We don't want to in any way sugar coat that today. We are in real trouble and we need comprehensive postal reform yesterday.

Mr. WALBERG. Do you have contingency plans, though, that you have seen?

Mr. BARNETT. We have discussed contingency plans, Mr. Chairman, Representative.

Mr. WALBERG. Has the board approved them?

Mr. BARNETT. Mr. Chairman, Representative, we have not had a formal vote on contingency plans, but we have discussed them at length, and postal management knows the opinion of the board about what contingencies we would have to do.

Mr. WALBERG. Well, let's move on. Were you asked, as a board, to approve the Postal Service's decision to implement the five month moratorium on the processing plant consolidation?

Mr. BARNETT. We discussed the moratorium. We are a board that represents the public interest, and a part of that public interest is what might loosely be termed politics; and you have politics going on when you are trying to get comprehensive postal reform. Just as we had announced we hoped we could close lots of post offices, a wise decision was made collectively by the board, by postal management that that was going to upset Congress a great deal, and we went to the concept of a village post office and the reduction of hours in the post offices, and it seems to have stopped the political rhetoric or lowered the political rhetoric an immense amount, and we still got 80, 90 percent of the savings. In other words, we do keep, in rural areas, post offices open, but they are now open two hours a day rather than eight. We have fewer postmasters, we have fewer costs. It was, I will call it a political compromise, if you will, because we tried to listen, as part of representing the public interest is that kind of consideration.

We didn't have specific political consideration. Well, there was political consideration: do you do a moratorium. Well, we were promised, albeit incorrectly, that comprehensive postal reform was on its way. I can tell you I have been on the board six years. I have heard that every year for six years. I am like the kid on Christmas Day; I am waiting for the postal reform, but I haven't seen it yet.

Mr. WALBERG. Okay.

Mr. Chairman, I yield back.

Mr. FARENTHOLD. Thank you very much.

At this point we will go to the gentleman from California, Mr. Cardenas. You are recognized for five minutes, sir.

Mr. CARDENAS. Thank you, Mr. Chairman.

As reported in an article in Bloomberg on April 11th, 2013, the Postmaster General was quoted as without being able to cut back to five delivery days from six, the Postal Service will take its board's advice and ask its employee unions to renegotiate multiyear contracts.

Mr. Barnett, did the board of governors authorize the Postmaster General to take this action?

Mr. BARNETT. Mr. Chairman, Representative, we directed him to take that action.

Mr. CARDENAS. Okay. Was it discussed at the April 9th board of governors meeting, or any earlier meeting?

Mr. BARNETT. We had two meetings in the last week and I am not sure of the dates, but it was discussed at both meetings, yes.

Mr. CARDENAS. Okay. And do you know if the Postmaster General has spoken to any of the bargaining union leaders, renegotiating their agreements?

Mr. BARNETT. Mr. Chairman, Representative, it is my understanding that the requests have gone out, and he will be here shortly and he can tell you more. We have not had a board meeting since that time.

Mr. CARDENAS. Okay. So the board hasn't discussed it further.

Mr. BARNETT. Not further.

Mr. CARDENAS. Okay. Thank you. Is it true that the U.S. Postal Service handles approximately 40 percent of the world's mail volume?

Mr. BARNETT. Yes.

Mr. CARDENAS. That is about right? Okay. How much of U.S. mail is handled by private industry in this Country, roughly?

Mr. BARNETT. Mr. Chairman, Representative, we have a monopoly on first class mail, so we have 100 percent of that. If you are talking about priority mail or package delivery and so forth, I don't know that number. We would still, I think, have a majority of it. Well, packages, 20 percent. But there is a lot of criteria from first class all the way down to packages.

Mr. CARDENAS. And today's recovery cost of a first class piece of mail is approximately what, full recovery cost?

Mr. BARNETT. The Postmaster General informs me that 50 percent contribution on the first class mail, and it is the most profitable.

Mr. CARDENAS. So what are we charging today for first class mail?

Mr. BARNETT. Forty-six cents.

Mr. CARDENAS. Forty-six cents. And you are saying that that is full cost recovery on that piece of mail?

Mr. BARNETT. Yes.

Mr. CARDENAS. Okay. And you are saying that private industry doesn't endeavor in this Country, they don't get involved in first class mail, apparently?

Mr. BARNETT. They are unable to use the mailbox to deliver. They certainly can deliver things to your driveway, to your front door, mail or packages.

Mr. CARDENAS. And when it comes to packages, how do we do when it comes to packages, are we losing revenue whenever we try to compete in that arena?

Mr. BARNETT. Mr. Chairman, Representative, no. I think we are making money. We increased our revenues by more than $300 million last year. It is quite profitable.

Mr. CARDENAS. Okay. So it appears that this Government entity, the U.S. Postal Service, in your earlier testimony, I am getting the feeling that one of the biggest problems we have isn't that we can't compete in these delivery systems at various levels, it appears that you are finding it hard to actually make decisions in a timely manner to make those adjustments to actually bring yourself into better revenue positions?

Mr. BARNETT. Mr. Chairman, Representative, there are two primary problems. Every year there are more places to deliver the mail to approximately 150 million delivery sites a day and it grows, so the cost of delivering to all those delivery sites every day is a growing item; while there is a tremendous decline in the mail. So it is a system that, without other changes, is going to absolute failure. You can't continue to have decline in mail. And my colleagues pointed out several times that through 2020 we project a decline in first class mail, and it is not that we don't necessarily think there may be a decline after that; that is just as far out as we projected it. Personally, as a board of governors and for all the things, I think mail will continue to decline forever because of the ability of electronic diversion and other methods of communication.

Mr. CARDENAS. Thank you.

I yield back my time.

Mr. FARENTHOLD. Thank you very much.

I see I am up now, so here we go. I would like to start out with Mr. Dodaro. You are with the Government Accountability Office. You are a nonpartisan organization. You were designed to be the neutral arbitrators, the guys with accountants, green eyeshade deals. To quote the old Dragnet TV show, you are the just the facts, ma'am, people. Would that be a fair characterization of your organization?

Mr. DODARO. That is correct, without the green eyeshade.

[Laughter.]

Mr. FARENTHOLD. All right. So as a representative of a large district in South Texas and now the chairman of the postal subcommittee, I hear from a lot of postal workers. They will come into my office, we will have a nice chat, or they will stand out in front of my office with signs. Either way, I hear a lot from them. And I have made some promises to them, and that is we need to get down to some of the numbers with prefunding. And I know we have talked about that a lot today, but I want to be perfectly clear on this so there can be no question. My fear is some of these postal employees are getting some bad information through the grapevine or from some outside organizations. Correct me if I am wrong here. If we were to do away with all prefunding completely, the Postal Service would still be losing money. Is that correct?

Mr. DODARO. That is correct.

Mr. FARENTHOLD. If we were to go to, as some of my colleagues on the other side of the aisle have suggested, a more actuarial based with the Senate, we would save about $2 billion to $3 billion over what the prefunding requirement is today, is that correct?

Mr. DODARO. That is correct.

Mr. FARENTHOLD. All right. And as Mr. DesJarlais asked, we are not prefunding for people who haven't been born yet, and we are looking at a rational deal accumulating money to pay these postal workers the benefits that they have been promised. If we don't put money away, it is going to be up to the whim of Congress as to whether or not there is money there to pay them if they don't accrue for it. Would that be a fair statement?

Mr. DODARO. That is absolutely correct.

Mr. FARENTHOLD. All right. Mr. Barnett, would you agree that those are accurate statements as well?

Mr. BARNETT. Mr. Chairman, I agree.

Mr. FARENTHOLD. All right. So let's talk a little bit about Saturday.

Chairman Issa, Mr. Barnett, asked you which law you chose to break, whether the prefunding payments or the Saturday delivery. My question on that is, as a business person, if I had the opportunity to go to court to save several billion dollars, even if my lawyer said, well, it is a questionable issue, it might be safer to go ahead, I think I might have gone ahead with it. You pointed out earlier in your testimony that there was a concern about the money that the private sector would have to do to adapt their shipping mechanisms and the like. Didn't you already put a similar burden on the private sector when you said, well, we are going to stop Saturday delivery for all but packages and priority mail? Didn't a good many of those people already spend the money and at least start to make those plans and adaptations?

Mr. BARNETT. Mr. Chairman, I don't have any personal knowledge of what they started, but there is no disagreement, the board has been unanimous now for over three years that it is going to be necessary to go from six days to five days.

Mr. FARENTHOLD. Okay.

Mr. BARNETT. It will happen. I can't tell you when, but it will happen.

Mr. FARENTHOLD. All right. I want to get one more thing to meet my commitment to my postal workers to get to the bottom of this. An actuarial-based prepayment of retirement in health care benefits is consistent with what is required by Federal law of UPS, Federal Express, and almost every other corporation in the Country; it would be very similar.

Mr. DODARO. I am informed it is not exactly. I can provide a detailed list for the record.

Mr. FARENTHOLD. Would you provide the details of how an actuarial would be different from what private sector companies are doing? Because I would like to know and I would like to make that available to the postal employees that I represent and throughout the Country.

Mr. DODARO. Yes. You are correct for pensions, but it is not the same for health care benefits.

Mr. FARENTHOLD. Okay.

Mr. DODARO. So I will provide a more detailed record for the record.

Mr. FARENTHOLD. And you are saying that the Postal Service is in the hole 140 percent of current revenue, is that the number you gave?

Mr. DODARO. Their debt and unfunded liabilities are 147 percent.

Mr. FARENTHOLD. Okay. Now, if there were a private company in that situation, bankruptcy would probably be where they are, is that correct?

Mr. DODARO. You would be teetering.

Mr. FARENTHOLD. Okay.

Finally, let me go to Mr. Barnett on something relatively unrelated. You testified that you all wanted more flexibility in rates, and I can understand that with respect to packages, but you have a monopoly on first class mail; you have a de facto monopoly on third class mail, catalogs and what a lot of people would refer to as junk mail; there are some people who will door hangers and things like that, but nobody that has the reach that you guys do. How do we give you that flexibility without giving you the power to do sweetheart deals and pick winners and losers based on political? I can understand maybe coming up with a frequent mailer program where, based on volume or objective standards, you come up with something, but there is a case with respect now you are offering a company that competes with newspapers, talking about offering them a sweetheart deal on rates. How do we give you that flexibility and, as a quasi-governmental agency still make sure you treat everybody fairly and in an objective fashion?

Mr. BARNETT. Mr. Chairman, as I indicated, I think one way of doing it is to allow the board of governors and the Postal Service to implement immediately, with some notice, but relatively short notice, these rates or these changes, subject to the Postal Regulatory Commission then having the authority to say, no, you have unfairly calculated your numbers by improperly allocating what to monopoly status as opposed to the competitive side of the house. So I don't think it should be completely unfettered, I don't think that would necessarily work; although I think you would find the board of governors equally up to the task of balancing all of the aspects you just described as you would the Postal Regulatory Commission.

Chairman ISSA. Mr. Chairman?

Mr. FARENTHOLD. Yes, sir.

Chairman ISSA. Perhaps the chairman would make sure that on the question of pensions, which I know you covered very thoroughly, the question of if a private sector pension did not fully accrue and have all the money in, for example, United Airlines when they went bankrupt, what would occur versus what would occur in the case of the post office. I think Mr. Dodaro is pretty qualified to contrast the outcomes.

Mr. FARENTHOLD. I am about out of time, but I do think that question deserves an answer. We will get that question. Hopefully somebody will yield on my side and we will get that. I am already way over. I do want to get that answered; we will do it within the constraints of the time rules.

So we will go to Mr. Cartwright now for five minutes.

Mr. CARTWRIGHT. I have no questions for this panel.

Mr. CUMMINGS. Would the gentleman yield?

Mr. CARTWRIGHT. Yes.

Mr. CUMMINGS. Thank you.

I want to go back to the question that was just asked, in fairness. With regard to what the chairman just asked, can you answer that?

Mr. DODARO. Yes. The Pension Benefit Guaranty Corporation would step in and have to take over that situation. In that case they have a minimum amount that they pay to the pensioneers. It may or may not be anywhere close to what they were promised under the programs, but PBGC, the Pension Benefit Guaranty Corporation, would take over as they have for other plans where companies have failed in the private sector.

Mr. CUMMINGS. Now, what about health benefits?

Mr. DODARO. The health area, I don't believe there is any comparable situation. I will go back and think about that, and if I have a different answer, I will provide it for the record, but I don't believe there is so.

Mr. CUMMINGS. Your aid is swiftly jotting down the praecipe there. What do we have?

Mr. DODARO. Basically that the participants lose. The benefits will be cut.

Mr. CUMMINGS. But your recommendation with regard to the health benefits is what, now?

Mr. DODARO. That prefunding take place in a fiscally responsible manner. We believe this protects the Postal Service employees, as well as the Postal Service as an institution, and helps preserve their benefits; that it be done on an actuarial basis consistent with the Senate legislation that was passed; that a goal be set for 100 percent funding over time. Those are our recommendations.

Mr. CUMMINGS. And you would feel comfortable that they would be sufficiently taken care of no matter what?

Mr. DODARO. Yes. Yes. If that happens, along with— now, you need the comprehensive legislation to make the Postal Service have the ability to make the prefunding arrangements. That is where the flexibility comes in and other issues. But assuming the Postal Service has the financial ability to make those prepayments, yes, I think that is in the best interest of the employees and the Postal Service.

Mr. CUMMINGS. You also talked about making sure that they have the opportunity to raise rates, is that right? Did you say that?

Mr. DODARO. Yes. I think they need flexibility in both pricing and in delivery. You know, in the delivery area, 80 percent of their costs are personnel costs. You are not going to eliminate your personnel costs unless you change your delivery stand.

Mr. CUMMINGS. Right.

Mr. DODARO. And when you have the mail volume dropping the way it is dropping, and projected to continue to drop, you need to have flexibility to change your delivery methods. Five day delivery is something we think should be considered. But they need pricing options with flexibility, too. Their main competition is the introduction of new technologies. They are occurring very rapidly, changing how people are communicating. If they don't have the flexibility to make those changes, they are not going to be able to be competitive in the future. The Postal Rate Commission could stay in place as a check against what they are doing, but unless they are given the flexibility, I just don't see how they are going to be able to bring their costs in alignment with revenues.

Mr. CUMMINGS. And so I take it that there is research that has been done to say that if the postmaster were to raise the rates, that that would not interfere with future business? In other words, you can raise your rates to a certain degree and lose business. I am assuming that you all have already taken all of that into consideration, is that right?

Mr. DODARO. Well, you need to balance raising the rates. I mean, many of our suggestions go to cutting the costs. Our point is that you need to bring costs in alignment with the revenues. So I am not saying you should solely do raising the rates. I think you have to cut the costs first and use rate abilities, particularly for products where you are losing, not covering your costs already, as I mentioned with periodicals and catalogs. But you have to balance those issues appropriately.

Mr. CUMMINGS. And on the downsizing, you know, there has been substantial downsizing already, and I take it that when you talk about downsizing, I think you mentioned that there should be some type of incentives for downsizing, people retiring?

Mr. DODARO. Yes.

Mr. CUMMINGS. And why did you come to that recommendation? What was the basis of that, sir?

Mr. DODARO. Well, I think if you look at the decline in the mail volume, we have looked at there is excess capacity in the system, in the mail processing network, and they are already trying to consolidate the mail processing centers. And if you look at the decline, Mr. Barnett mentioned they went from 213 million pieces of mail to 160 pieces of mail, and they are expected to go further over a relatively short period of time. So you have excess processing capabilities and also in your retail operations as well. They are already cutting back the number of hours, as he mentioned, some places to two hours a day; and that is under just the current volume. If the volume drops further, the excess capacity will build, and then you are going to have to downsize because you don't have revenue to support that network.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

Mr. FARENTHOLD. All right, patiently waiting has been the gentleman from Michigan. Mr. Bentivolio, you are recognized.

Mr. BENTIVOLIO. Thank you, Mr. Chairman.

Chairman Barnett, I have a few questions. I want to recap, make sure I understand this correctly, but I also want you to know that I have a fond affection for the post office; as a soldier overseas, it was the highlight of my day and a big morale booster to get mail from home. And I think I carried that over home; I always look forward to looking in my mailbox. But there are a few things that are clear: some days there is no mail at all and other days there is maybe one or two, in contrast 10 years ago, 15 years ago, before the Internet, there was all kinds of mail. Always looked forward to it and always looked forward to my postal delivery person to say hello to him. Always had good relationship with the post office.

But there are a few facts, and you have indicated those. You have a declining volume in first class mail, in which you have a monopoly, correct?

Mr. BARNETT. Correct.

Mr. BENTIVOLIO. Right. And you have increasing locations to deliver that mail, which you are required to do so. Where you are increasing, if I understand, your marketing shares in package delivery, correct?

Mr. BARNETT. Mr. Chairman, Representative, that is correct.

Mr. BENTIVOLIO. Okay. But you are required to compete with other commercial businesses in that area.

Mr. BARNETT. That is correct, Mr. Chairman.

Mr. BENTIVOLIO. So you have to compete on something while there are other competitors, of course. All right, now, for cost cutting, you are consolidating some sorting locations or mail——

Mr. BARNETT. Mail processing plants, yes, sir.

Mr. BENTIVOLIO. Mail processing. Thank you very much. Now, you also are looking at cutting delivery down to five days versus six. Have you ever done any testing anywhere in the Country, any region, where you have done that; you have said, okay, folks, in this particular area we are only going to deliver five days; measure your cost savings and measure your customer satisfaction or whatever, some kind of evaluation? Have you ever done any tests like that?

Mr. BARNETT. Mr. Chairman, Representative, I am unaware of any tests except that the presentations made to the board show that delivery over time has been all over the place. In New York City, I was told, in 1900 they delivered in New York City five times a day. In as late as in the 20th century they delivered twice a day to many areas of the Country. There are areas of the Country now that don't receive mail delivery six days a week, I mean, the proverbial bottom of the Grand Canyon, that kind of thing.

Mr. BENTIVOLIO. Okay.

Mr. BARNETT. So there has always been some flexibility. But, Mr. Chairman, Representative, you hit the nail on the head: if you are not getting any mail and there is no volume, we have no choice but to eventually cut back the delivery time.

Mr. BENTIVOLIO. Right. But you may have to deliver to my neighbor on that same day I don't get any mail. So you still have to be there, correct?

Mr. BARNETT. We do. Mr. Chairman, Representative, today that is our problem. The cost of going, whether you go by that mailbox or not, the cost is still there. In fact, there are enough people using one of our innovative ideas, Every Door Direct, which has been a real success. You can go as a small local businessman in a town and you can pay to go to every door within a zip code for a much lower price; and it is not large monies yet, but it is certainly an innovative idea that is working.

Mr. BENTIVOLIO. Okay, excluding medicine delivery, pharmaceuticals, emergency mail, possibly a few other things, have you ever looked at delivering, for instance, using one carrier to deliver to one route Monday, Wednesday, and Friday, and route two, for instance, same delivery person on Tuesday, Thursday, and Saturday? So you get the six day delivery. I mean, does that count? Is that something you could consider?

Mr. BARNETT. Mr. Chairman, Representative, I think that postal management is considering every option that is available. Obviously, there are logistics and legal issues surrounding universal service. The union agreements, the union contracts, most of those would have to be renegotiated to accommodate some of that. But I am not sure the cost savings would be there sufficient to justify it. But I think they have thought of and are looking at every option that is available out there.

Mr. BENTIVOLIO. So is there any test results or any areas where you have done this that maybe we can look at?

Mr. BARNETT. Mr. Chairman, Representative, I don't know of any test results. I do know we have polled it extensively. The board has asked and management has provided extensive polls over the last 24 months showing very high numbers, in the 70 percent range of the public, is in favor of reducing delivery from six days to five days. And the business community has been, by and large, very favorable to closing. As a matter of fact, most of the governors report, as I do, back from my local businesses, I don't get enough mail anymore that I care about Saturday delivery. Additionally, you should know that all the post offices are open on Saturday and that any businesses or individuals that need Saturday delivery can get a post office box, because it will be delivered on Saturday and will be available at post offices. So this would only primarily be those that didn't have the need and don't get a post office box.

It is not a perfect scenario, and certainly you can come up with people that will be inconvenienced, but we are billions in the hole and somebody somewhere is going to have to be inconvenienced.

Mr. BENTIVOLIO. Because I get the impression from the surveys and all the data that I have read, plus just looking in my own mailbox, that mail is declining. And I think, as everybody explained here, we are under dire circumstances. I think maybe looking at some more drastic measures might be at least worthwhile to look at.

With that, I will yield back my time. Thank you very much, Mr. Chairman.

Mr. FARENTHOLD. Thank you very much.

At this point we will recognize the gentlelady from New York, Mrs. Maloney.

Mrs. MALONEY. I want to thank all the panelists, thank you for your public service, and to be identified with my colleague on the other side of the aisle who said the highlight of his day was getting the mail. That is certainly true with the military and with many of us, and they do a terrific job in many ways getting mail to all across our Country. It has become a dangerous job, with ricin being discovered in the mail going to a United States Senator. Of course, it went through the mail service, workers were exposed to it. I know that in New York, many workers were exposed to anthrax. So with the new terrorism that, unfortunately, is with us, they are really in the line of fire in many ways.

Postal services are very appreciated by communities, and nothing gets them more excited than a consolidation or a notice to close. And I have two notices in the district that I am honored to represent, and one of them, in the Old Chelsea area, is in a beautiful building that is owned by the post office, and they are proposing to sell the building and then to a place they are going to lease. And they are proposing to do this before they find the place they lease, and I respectfully request and believe that you should know where you are going before you sell a post office because, in New York, in an urban area, it is cheaper to stay in a building you own than to lease. So if our project and our goal is to save money, I think we should know where we are going before we close a post office and have some type of cost-benefit analysis.

Also, do you look at other creative ways. Maybe in a post office, some are very large and beautiful, you could possibly rent some space to an attorney or someone that would help with the cost if the goal is to raise money.

So my question is why in the world are you selling post offices before you even know where you are going to lease? Because I bet you money if you do that in my district, you are going to end up paying more money leasing than owning your post office site. Mr. Barnett?

Mr. BARNETT. Mr. Chairman, Representative, in every case like that a cost-benefit analysis is done by the real estate division of the Postal Service. This specific question is probably better addressed to the Postmaster General on the next panel, but the board of governors would agree in general with your statements. We would not wish to do anything that would cost more money.

Mrs. MALONEY. Well, I truly do believe it is a mistake to close anything before you know where you are going. Now, they are making a commitment to stay in the community. It is a post office that makes money, and, again, if our goal is to make money, I don't understand why you would consolidate, close, sell, or do anything with a center that is literally making money. Can you explain that to me?

Mr. BARNETT. Mr. Chairman, Representative, again, there will be a written, fully available cost-benefit analysis to any real estate transactions that are going to occur. We are in hundreds, if not thousands, of those around the Country today.

Mrs. MALONEY. But where in the process is it done? It should be done now, while it is being considered, not after the fact. If there is any such analysis now, I don't have it; and I have asked for it. So if there is not a law that says you have to have the cost-benefit analysis before the decision is made and before you move forward, I think it should be. That is just good government and good business. I can't imagine a business selling their building to go lease something without first knowing where they are going to go and how much it is going to cost. And I am not kidding you, in New York it could be more expensive, considerably, to lease than to own your own building. The easiest way to live in New York in an urban area is to own your own building. And I would say in upstate New York, too. So I would like a clarification for the committee on what exactly is the procedure. And if you are doing this cost-benefit analysis, when do you get that cost-benefit analysis. Maybe GAO knows.

Mr. DODARO. We are aware they have a process. We haven't looked at it for a while. I can provide some additional information for the record.

Mrs. MALONEY. Well, I would appreciate that. Now, is there a law or a procedure that if it is, in fact, making money, you don't close it? I would share with you that there were efforts to close other post offices in my district and I showed that they were making more money than any place in the State, so why are you trying to close them? And I think that you touched on it, Mr. Barnett. We are in a very competitive process right now, and if you close something people have other options, not only the Internet, but they can go to private providers. And if you think they are going to walk blocks away to someplace else, they are not going to do it; you are going to lose those customers. So it doesn't look to me like a good business plan. Anyway, I am very concerned about it.

I would also like to know the law on community outreach. Believe me, my community is reaching out to me, and I want to know are you required to have a community meeting so the community can be heard, or is that a discretionary decision, or how is that handled? I must say that the post office has been very responsive to many of my requests, but I would like to know what is the official procedure.

Chairman ISSA. [Presiding.] The gentlelady's time has expired, but the gentleman may answer briefly.

Mr. BARNETT. The PRC and the Postal Service do have procedures in place. There are community meetings in every case and it is all set out with Postal Regulatory Commission procedures and USPS procedures.

Mrs. MALONEY. Thank you. My time has expired.

Thank you, Mr. Chairman.

Chairman ISSA. Thank you.

For the record, the postal laws of the United States, August 2011 edition, on page 21, item 411 specifies cooperation with other government agencies as to subletting. But if the gentlelady would like it, we would arrange a bipartisan briefing on a number of the issues she brought up here today.

With that, we go to the gentleman from Tennessee, Mr. Duncan.

Mr. DUNCAN. Thank you, Mr. Chairman. I have been given the figures that there are now 471,000 postal retirees and 522,000 current employees. Are those numbers roughly accurate?

Mr. BARNETT. Mr. Chairman, Representative, I am informed those are fairly correct.

Mr. DUNCAN. And what I am really wondering about, I am assuming or guessing that you are paying the health benefit not only for them, but their families as well, is that correct? Do we know how many people total that you are paying health benefits for at this time?

Mr. BARNETT. Mr. Chairman, Representative, I don't. The Postmaster General will be up shortly. He will have those numbers. I am sorry, at the board level we don't get into quite that detail.

Mr. DUNCAN. Okay. Well, have you changed or reduced the retirement and health benefits for newly hired employees in the last few years?

Mr. BARNETT. Mr. Chairman, Representative, one of the things we hope that the comprehensive postal reform will do is clarify some of that. But when you say there are changes, there are only changes in the collective bargaining agreements with the unions, and they are some modifications as to new hires.

Mr. DUNCAN. But basically you are still paying the retirement and the health benefits?

Mr. BARNETT. The answer, Mr. Chairman, is yes.

Mr. DUNCAN. Well, I guess what I am getting at, it is less than 20 percent. In fact, I think it is only 16 percent of employees in the private sector have retirement plans with their companies, and also I was given the figures that the hourly pay for postal employees right now is running from around $24 an hour to $29 an hour; and in most places, almost every place in the Country, those are really good salaries. And I am just wondering, we all want to give people as much as we can possibly give them, but do you think the Postal Service would have trouble getting employees if you told these new hires that we were just going to pay you $25 or $30 an hour, but you weren't going to get any pension or health benefits, since those seem to be the big expenses here or the big problems here?

Mr. BARNETT. Mr. Chairman, Representative, without much detail, I can tell you recently we had some jobs available at $15 per hour and there were 90,000 applicants.

Mr. DUNCAN. Well, all I am saying is that you certainly wouldn't have any trouble getting employees in, I think, probably 98 percent of the Country, paying those kind of wages, $24, $25 an hour, even if you told new employees that, unfortunately, we can't continue to pay the retirement and health benefits that we have always paid. On top of that, I think the retired postal employees should be the ones that are demanding the most fiscal conservatism in the future, or we are going to have real trouble paying these benefits that have already been promised, it seems to me. And I see you shaking your head up and down, Mr. Barnett.

Mr. BARNETT. Mr. Chairman, Representative, we discussed these at length in the board and it is why I said earlier that we hope that the comprehensive postal reform will look at the possibility of going to defined contributions in the future, allowing us to run our own health plan, things of this type. Yes, we would like to run it more like a business, which will ultimately be to the benefit of the consumers, as well as our employees.

Mr. DUNCAN. One last thing, just so that I have it straight. I saw where you have reached the debt limit of $15 billion, is that correct?

Mr. BARNETT. Mr. Chairman, Representative, that is correct.

Mr. DUNCAN. And you defaulted on the $11 billion prepayment.

Mr. BARNETT. That is correct, Mr. Chairman and Representative.

Mr. DUNCAN. So it is really worse than the $15 billion. And then the postmaster, in his testimony, says you are losing $25 million a day, which comes out to a little over $9 billion a year. So it seems like it is almost worse than what we have been talking about in the past.

Mr. BARNETT. Mr. Chairman, Representative, very respectfully, I can tell you that we have our five-year plan, which we adopted years ago, has had some modifications to it, we can operate in the black, but 100 percent of the reason that we cannot operate in the black today is because we cannot get postal reform through the Congress.

Mr. DUNCAN. All right. Thank you very much.

Chairman ISSA. If I could ask unanimous consent just to follow up for 10 seconds.

Mr. Barnett, you were asked about lower wages. Based on your assessment, if we put in all of the efficiency changes and we optimize with current volume how we deliver, what we deliver, where we deliver it, can we break even and still pay the good wages and benefits we currently pay to our employees?

Mr. BARNETT. Mr. Chairman, I don't have an absolute answer to that, but it would be very difficult.

Chairman ISSA. So the answer is almost close, that sort of thing? You are not sure we would break even, but you could come pretty close?

Mr. BARNETT. Well, Mr. Chairman, we have a lot of things. The flexibility and the workforce rules, all of those things, defined contributions, the health plans, all of it are a part of the entire structure.

Chairman ISSA. Okay. Well, my indulgence from the members should expire.

As we go to the gentlelady from New Mexico, I do want to let everyone know that in the last Congress, and intended in this Congress, is to have substantially same wages and benefits going forward as we do. Our reforms were intended to, and I believe on a bipartisan basis we are going to try to keep the wages and benefits as close to what they are for the purpose of making sure that what we are looking for is efficiency to break even and not necessarily wage reductions.

The gentlelady is recognized.

Ms. LUJAN GRISHAM. Thank you, Mr. Chairman. And I want to thank both of our panelists for being here today. And a point of personal privilege, Mr. Chairman, panelist Barnett and the chairman of the board of governors is, of course, from my district, and that is the most important, from the State of New Mexico; and I am grateful for your service and for both panelists for engaging in this really important issue.

My questions, like many of the others of my colleagues who have gone before me, we are clear that we have a revenue issue. We are clear that we have a loss of revenue problem. But what has not been, I think, stated by the panelists as robustly as I would like is, unlike a private business, this was a public service, and as we talk about cost-benefit analysis, about figuring out where some things are going to be more expensive than they might be in the private sector, it is because we are delivering a public service. And in a State like New Mexico, where we are rural and frontier, and including in my district, which is the most urban district, since 2011, with 27,000 people out of the workforce for the Postal Service and work hours reduced by 40 million hours across the Country, the number one complaints I get in my office are long lines, having to travel long distances to find a post office. And I am very concerned about States like New Mexico as we try to figure out that the fixed cost here is personnel, and to change that means that we don't have an effective public service.

So specifically more than just you need reforms and flexibility, what is the process for making sure that you have a high quality, very dependable, and an infrastructure that is going to benefit and protect States like New Mexico that have rural and frontier issues that are critical to having an open post office?

Mr. BARNETT. A lot of answers to that, Mr. Chairman, Representative, but the concept of the village post office is most effective in the rural areas. The concept of a village post office is that we would put post offices in grocery stores, Targets, Walmarts, any place that might be like that, Home Depots, Office Depot, things like that; because they are open more hours than typical post offices, so you have more coverage. It is done at a lower cost, typically. And most people don't need all of the services of a post office; they only need a stripped down version of the post office.

Additionally, we are and we need to be more innovative at getting out the word that you can do most of your things on the Internet today. If you need stamps, all you need do is go on the Internet, order them, and they will be delivered to your house in a couple days, or your business. You don't need to go to the post office to get stamps. We need to have more of that done.

Our flat rate shipping boxes have been a real boon to that. You know, a box costs $5.65, $5.95, or, for the bigger boxes, a little more. You don't need to go to the post office; you just need to put your things in there and put the postage on it. You can order your postage online.

So we are doing as many things as we can to get more village post offices.

Ms. LUJAN GRISHAM. And I love the village post office concept in many ways, and I am very fearful about whether or not you are going to get the kind of quality and relationship building between those folks and their constituents. And, really, a lot of these post offices and postal workers toot these folks, particularly older folks who aren't using the Internet to the same degree. We have a huge growth rate in that population, but also in rural and frontier States you don't have Internet coverage. And I think about people in areas where that is not going to be a possibility, and the more rural you are, the less opportunity you have for the kinds of Home Depots and Walmarts or big box stores don't exist because they don't have the population centers to support them. And in many areas, of course, as you know, in our State we don't even have grocery stores; we might have a convenience store. And there are issues I have about consumer protection in that environment.

So while I appreciate it is a concept that could work, we need strategies that are going to take into consideration their main factors and that the goal here, in addition to being able to be in the black, is that you have a public service and we have to serve these constituents. So I would really encourage you, with your leadership on the board of governors, to really think about ways that are going to be unique; more than just the flexibility to get there, but that you are looking at quality, productivity, those relationships, the rural fabric in these States related to the post office; and when

I was in aging, the Postal Service was a very effective partner in reaching those constituents.

Thank you. I yield back.

Mr. MICA. [Presiding.] Thank you.

We recognize the gentleman from Georgia, Mr. Collins.

Mr. COLLINS. Thank you, Mr. Chairman.

Just in listening and writing down notes, we went all over the map, from the importance of the Postal Service. I don't think anybody will detract from that. We have talked about how you have been in committees before. I serve on the Postal Service subcommittee. What concerns me about this is some of the things that are said. And really, as we go forward, and I know the next panel will have a similar issue, but we talk about Department of Defense, we talk about the post office and the prepayments being made, there is one truism among both, and I think we can just nod our head, is that if, on both counts, the taxpayer is ultimately on the hook. Yes. So it is not an issue of is this just a quasi-government organization. Both DOD and these prepayments, we are ultimately on the hook, the taxpayer is.

What concerns me here is that in a time in which, admitted, Mr. Chairman, you're low liquidity, you are not really sure you can get down as low as two days later this year, in a time in which the discussions have been made; and I read about the board of governors and your role. You do believe you have a fiduciary duty in your role to the Postal Service in your role, correct?

Mr. BARNETT. Mr. Chairman, Representative, yes.

Mr. COLLINS. Okay. That means there is a trust, that there is a trust with you and the board of governors, not just strictly you, but also I believe with the Postmaster General and others in this situation. What I keep hearing is, well, we thought of and we are looking at that; we have a five year plan that was many years ago; we have discussions that we want to do; we are exploring ideas—and these are direct quotes from today — exploring ideas that do not have high likelihood of being implemented.

One, we keep talking about going to dealing with your health benefit plans. Now, let's just get it out in the open here. To go to that without congressional intervention, which in this time, in divided government, is not going to happen, you are not going to be able to break these collective bargaining agreements and these health agreements to get that to happen. We are focusing on things that don't matter. Because in the big picture they may sound great, they may help you get the flexibility, they may help you, but we are just throwing it out. Can we cut to the chase here? Are we just waiting on Congress to do this for you all?

Mr. BARNETT. Mr. Chairman, Representative, we are waiting on comprehensive postal reform, because we cannot do any of these things unilaterally.

Mr. COLLINS. Well, what can you do?

Mr. BARNETT. We can't go from six to five days.

Mr. COLLINS. What can you do?

Mr. BARNETT. Oh, what can we do? We are doing. We have reduced the workforce by over 200,000 employees in four years. That is a significant reduction.

Mr. COLLINS. Excuse me just one moment. Reclaiming my time. But we are also still entering into agreements, in a postal hearing just the other day, that are basically lost money type of agreements, sweetheart agreements, however you want to contact it. We are still doing things that, again, from a picture—what really strikes me here is we are reshuffling the deck on the Titanic and you are sinking. And we are saying, well, eventually, Congress, you have to come in and let us do these things, but I believe there are other things that we are not doing. In a sense saying that it doesn't matter how great the post office, and the postal employees are wonderful people. I have greatest respect and admiration for them. But you are in an environment right now where they are being put as pawns is probably a good way to put it, in a situation in which we continually talk about what we could do, and if the Congress would just step in or the Congress would just do this.

There are things that have been reported from the GAO that can be done that we are not doing. My only question is why. Are we depending on legal opinions? Are we depending on other things so we can't do these things? Are we just a political aspect? I mean, I am sitting here asking for—you know, if it had only been Congress and there has been discussion about, and I know there is discussion out there about just turning it all back over and putting it back under the Government. That is just not a viable answer at this point. The people are not going to take a bailout of the Postal Service. It just seems to me that instead of making decisions in which you can—and there have been things and I don't want a listing—there are things right now that I believe we could be doing, that have been reported out, we are not doing, and I think the American people just ask one simple question: Why not?

Mr. BARNETT. Mr. Chairman, Representative, respectfully, we are doing them. We are consolidating plants.

Mr. COLLINS. You have implemented every report from the GAO on things that you can do, everything that you can do at this point?

Mr. BARNETT. Mr. Chairman, Representative, respectfully, yes.

Mr. COLLINS. And also taking the six to five day, you are going to say that that has to come back to us and that you can't touch that because of a legal opinion?

Mr. BARNETT. Mr. Chairman, Representative, not just because of the legal opinion; Congress voted three weeks ago to say no, you cannot do it.

Mr. COLLINS. But also the chairman of this committee basically stated as well that that was not the opinion in passing. It is in the record. Of the rider coming out.

Mr. BARNETT. Mr. Chairman, I am unaware of any legal opinion by anybody anywhere that has ever been shown to me.

Mr. COLLINS. Not a legal opinion. I think the biggest point here, and I will be working with you on this, working for others as we go forward on this, and just to simply say find something that can be done. Find something that can be done so we can move this forward. And if you want to blame Congress, then that is the easy thing to do; then it is going to be happening and we will have to do that, and we will move forward on it. But I think the Postal Service is a valued organization, constitutionally mandated, that we need to fix and we need to get it back to a way that it serves what we need served. Thank you.

Mr. MICA. I thank the gentleman and yield to the gentleman from Missouri, Mr. Clay.

Mr. CLAY. Mr. Chairman, I am going to forego my time and ask unanimous consent if I can have 10 minutes on the second panel. And I will yield to him.

Mr. MICA. Ten minutes? Well, I don't have the authority to do that.

[Laughter.]

Mr. CLAY. Well, I am trying.

[Laughter.]

Mr. MICA. I don't want any mistake here. I want to be full committee chairman, but I am not, so I don't have that leeway. But I think that would be taken into consideration. Really, I guess some of it is up to the minority, to give him double time later. What do you think?

Mr. CUMMINGS. I think that would be good. But is the gentleman yielding his time? I just want to make sure I understand what is going on here.

Mr. MICA. Well, if he yields his time, then he is not going to get double time.

Mr. CLAY. No, I ask unanimous consent for 10 minutes on the second panel.

Mr. MICA. On the second panel. It is up to you. Then he gets nothing?

Mr. CLAY. Then I won't yield.

Mr. MICA. Okay. All right, without objection, he will have 10 minutes on the second panel. I didn't say in what order.

Have all members had their five minutes? We want to be fair to all of the members.

Well, we are going to go for a second round.

Mr. CUMMINGS. No, we are not.

Mr. MICA. We are not was the decision made. Okay, look at the sigh of relief there. But I thank both of you for coming today and for being available as witnesses and both of you for your job in trying to help us find a resolution. It is an important service that the Government provides, the U.S. Postal Service.

So with that I will excuse the witnesses and we will call the next panel, and, as we change, the chairman will recognize them and swear them in.

Chairman ISSA. [Presiding.] We will take a short, necessary break.

[Recess.]

Chairman ISSA. The committee will return to order and I would now remind the witnesses they have previously been sworn and, with that, will recognize the Postmaster General.

WITNESS STATEMENTS

STATEMENT OF THE HONORABLE PATRICK DONAHOE

Mr. DONAHOE. Good morning, Mr. Chairman, Ranking Member Cummings, and members of the committee. Thank you, Mr. Chairman, for calling this hearing.

The Postal Service is currently operating with a broken business model. Since the economic recession of 2008, we have been experiencing a significant imbalance between revenues and costs. This imbalance will only get worse in the coming decade unless laws that govern the Postal Service are changed.

In the past two years, the Postal Service has recorded $21 billion in losses, including a default of $11.1 billion in payments to the United States Treasury. The Postal Service has exhausted its borrowing authority and continues to contend with dangerously low liquidity. We are losing $25 million a day, and we are on an unsustainable path.

Primarily due to the rise of online bill payment, the use of first class mail has dropped 28 percent since the year 2007, which roughly equates to $8 billion in annual revenue that we would have otherwise had today.

That steep decline in our most profitable category is not the cause of our financial problems. Our financial problems are due to the fact that we have restrictive laws that prevent us from fully responding to these changes in consumer behavior. Any private sector company could quickly adapt to market changes that we have experienced and remained profitable. However, we do not have all the flexibility that we need to grow revenue, reduce costs, and adapt in a changing marketplace.

There are areas that we can act within the law, and we have been very aggressive in these areas. Since 2006, we have reduced the size of our workforce by nearly 200,000 career employees. That is 28 percent, without any layoffs. We have done it in a very careful manner. We have consolidated more than 300 mail processing facilities. We are in the process of modifying hours in more than 13,000 post offices. We have eliminated 21,000 delivery routes. These actions have bent the cost curve and reduced our annual cost base by $15 billion annually. So this year's cost is $75 billion. It would have been $89 billion had we not taken these actions.

We have examined and acted on every reasonable and responsible action to match volume loss with cost reductions. No other organization, public or private, that I am aware of can claim a similar cost reduction while continuing to function at a high level. And yet we have to go much farther, much faster, and we are prepared to do so.

In February of this year the Postal Service announced that it would introduce a new national delivery schedule designed to reduce our costs by approximately $2 billion annually. We did so after receiving advice from our legal counsel. We did so because the continuing resolution in existence at that time did not prevent us from taking this fiscally responsive action. The law was set to expire on March 27th and we urged Congress not to act to block our new delivery schedule when it enacted the next continuing resolution to fund the Government for the rest of the fiscal year.

However, according to our legal opinions, House Resolution 933, to fund Government operations for the remainder of the fiscal year included language specifically designed to prevent the Postal Service from changing its delivery schedule. According to the law, we are now required to deliver mail as if it were the year 1983.

The Postal Service is a law-abiding arm of the Federal Government. Congress passed the law, we reviewed it, we complied with it and informed our customers, which we did last week. Our customers require certainty, especially of something as fundamental as our delivery schedule, and so we announced that we would delay implementation of our new schedule until we gained legislation giving us the ability to move forward.

Mr. Chairman, we need the flexibility under the law to implement our new delivery schedule. We need the ability to develop and price products quickly; the ability to control our health care and retirement costs; the ability to switch to a defined contribution retirement system for newly hired employees; the ability to quickly realign our mail processing delivery and retail networks; we need a more streamlined governance model; and we need more flexibility in the way that we leverage our workforce.

Contrary to the arguments that we hear from some parties, it is not enough to merely resolve prefunding of retire health benefits. We can implement our five-year business plan, close the $20 billion budget gap that will be here if we don't act by 2017, and return the Postal Service to long-term profitability, but only if we gain the flexibility in each of these areas. If we do not gain this flexibility, our losses will continue and we will risk becoming a significant burden to the taxpayers. It is that simple.

Mr. Chairman, we need Congress to affirmatively grant us the authority to operate the Postal Service in a financially responsible manner. We need full authority to carry out our responsibility and provide universal service to our Nation. Every day we record a loss of $25 million. Every day our financial hole gets that much deeper, and we cannot stay on this current path.

Let me conclude by thanking this committee for its willingness to address tough issues and pass comprehensive postal reform legislation this year. The Postal Service is a tremendous organization with tremendous people and we need your help. Thank you.

[Prepared statement of Mr. Donahoe follows:]

UNITED STATES
POSTAL SERVICE

STATEMENT OF
POSTMASTER GENERAL AND CHIEF EXECUTIVE OFFICER
PATRICK R. DONAHOE
BEFORE THE
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
UNITED STATES HOUSE OF REPRESENTATIVES

APRIL 17, 2013

Good morning, Mr. Chairman, and members of the Committee. Thank you, Chairman Issa, for calling this hearing to discuss options for returning the Postal Service to sound financial footing. The dire financial condition of the Postal Service persists. We experienced $15.9 billion in losses last year alone. Even more troubling is that, over the last six fiscal years, net losses have amounted to $41 billion. During that same time, mail volume has declined by 25 percent and revenue is down 13 percent ($10 billion). In addition, the Postal Service, in FY 2012, reached its statutory debt limit of $15 billion and defaulted on $11.1 billion in prepayments for Retiree Health Benefits (RHB). As I sit here testifying today, the Postal Service has approximately nine days of cash on-hand, a liquidity situation in which no healthy and thriving company would find itself. The situation is plain and is there for all to see. There is no way to sugarcoat our financial condition. But, it does not have to be this way.

The title of this hearing calls for "options" to return the Postal Service to solvency. I can assure you that the Postal Service has a robust Five-Year Business Plan to turn our serious financial condition around. Although we continually explore ways to adapt our business model, we have, in some instances, been forced to delay or eliminate initiatives altogether, often due to Congressional involvement. The most obvious example is the recent decision made by our Board of Governors, indicating we will not proceed with the proposed move to six-day package/five-day mail delivery, pending Congressional action. This proposal has a potential savings of $2 billion annually, when fully implemented. It is truly a lost opportunity.

As indicated in the Board's statement, however, we will not simply stand idly by and hope someone else will act. In this testimony, I will describe other strategic plans we are moving ahead with, in order to continue what has been a long-standing practice of taking action on all issues over which we have direct control. The Postal Service is losing $25 million per day. Each day that passes without enactment of meaningful postal reform legislation worsens our already dire financial condition. Until such reform is enacted, we will continue to develop and implement initiatives to preserve the future of the Postal Service.

The Postal Service is facing a serious budget gap between revenue and expenses, absent comprehensive reform. This gap must be closed and, as you know, we identified a series of steps needed to close that gap. We are relentlessly continuing to attack every aspect of our operations over which we have control. But this gap cannot be fully closed without enactment of meaningful and comprehensive postal reform legislation. The type of change needed to ensure the survival of the Postal Service requires difficult decisions. The Postal Service, by taking out $15 billion in annualized costs over the last six fiscal years, has shown the will to make tough decisions. Our employees, unions, management organizations, and customers have shared in the sacrifices needed to keep the Postal Service solvent. Every entity with a stake in the future of the Postal Service has taken some kind of action, with one notable exception – Congress. It is time for Congress to act decisively, to make these difficult decisions and to enact long-lasting change that will ensure the viability and health of our nation's postal service. The Postal Service is the core of an $800 billion mailing industry in the U.S.; one that employs over eight million people. The time to act is now.

This action requires a comprehensive approach, one which combines the best efforts of the Postal Service and its stakeholders, especially Congress. No single action or solution will be sufficient. For example, some believe that simply resolving the RHB prefunding requirement alone will adequately address our financial condition. The reality is that only through a combination of actions, including legislative reforms, will the Postal Service be able to achieve moderate net incomes and pay off debt by Fiscal Year 2017. The chart below illustrates how such a comprehensive approach would positively impact our financial condition. *[Figure 1]*

Closing the Gap

($ billions)	2013	2014	2015	2016	2017
Revenues	$ 65	65	65	65	65
Operating Costs	(70)	(72)	(74)	(76)	(81)
Retiree Health Bfts. Prefunding	(6)	(6)	(6)	(6)	-
Net Loss - No Changes	(11)	(13)	(15)	(17)	(16)
Legislative Reforms:	12	7	10	11	6
Postal Service Health Plan					
FERS Refund					
Delivery: 6-Day Packages & 5-Day Mail					
Authorize Expanded Product Line					
Operational:	3	5	6	6	7
Network					
Delivery					
Retail					
Compensation & Other	-	1	2	3	4
Total Savings	15	13	18	20	17
Net Income	$ 4	-	3	3	1
Net (Debt) / Cash	$ (7)	(7)	(4)	(1)	-

Figure 1

A Record of Accomplishments:

In Fiscal Year 2012, even with continuing volume declines, the Postal Service delivered approximately 160 billion pieces of mail, around 40 percent of the world's mail volume. In an Oxford Strategic Consulting report issued in 2011, the Postal Service ranked as the most efficient postal service among the world's Top 20 largest economies. Our employees do an outstanding job and our nation's postal system is the best in the world. In order to maintain this excellence, the Postal Service has continually sought ways to modernize its operations to match how customers use the mail today. The continued downward trend of total mail volume, particularly First-Class single-piece (stamped) mail, which has declined by a staggering 15 billion pieces, or 38 percent, over the past five years, has required the Postal Service to adjust its operations accordingly. The Postal Service continues to aggressively pursue strategies in areas over which it has direct control, in order to increase efficiency, heighten productivity, and manage costs. We have a proven track record, highlighted by the $15 billion in annualized savings captured over the last six fiscal years. We have done this through a variety of operational initiatives.

COST SAVING INITIATIVES:

Network rationalization:
- 309 mail processing facilities consolidated since 2006.
- Adoption of a two-phase approach to consolidate approximately 200 mail processing facilities.
- Recent acceleration of some Phase 2 sites to June-Sept. 2013, without changing service standards.
- Implementation of modified First-Class Mail overnight service standards.
- Network consolidations will bring $3.4 billion in savings by 2017, including workload effects.
- $1.1 billion of proceeds and savings, since 2006, from facility and land sales, lease terminations and subleases associated with over 1,500 excess facilities.

Delivery:
- Reduction of approximately 21,000 delivery routes, resulting in a more efficient delivery network, as shown by a 36 percent increase in deliveries per hours, since 2006.
- Delivery Unit Optimization (DUO) will consolidate 1,500 delivery (non-retail) offices by 2015.
- Implementing centralized delivery for both business and residential deliveries.

Retail:
- Implementation of POSt Plan to modify operating hours at over 13,000 Post Offices, while preserving postal services, especially in small and rural communities.
- Self-service expansions, plus Retail Partners.

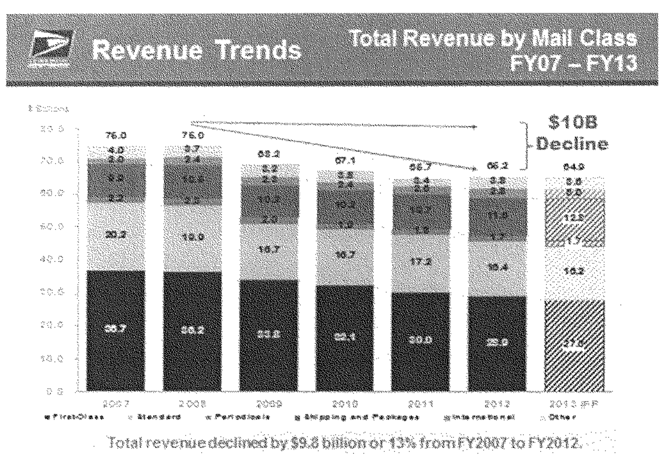
- Continuing to increase alternate access points, including Contract Postal Units, Approved Shippers, and Village Post Offices; postal products and services now available at over 100,000 locations, plus the Internet.

Productivity Improvements:

- Reduced career employee workforce, without layoffs, by 198,000 (28 percent) over the last six and one-half fiscal years, through March 31, 2013.
- Workhour savings have removed over $50 billion of cumulative and projected costs over the last six fiscal years.
- Continued reductions will bring the Postal Service closer to its goal to reduce career workforce to 400,000 employees through attrition by 2017.
- Total Factor Productivity (TFP) increased 6.3 percent since 2006, despite the massive volume and revenue reductions during this same period.

The Postal Service has taken unprecedented steps in the area of cost savings. We have reduced costs by amounts that most private sector businesses would envy. But financial solvency cannot be reached by cost cutting alone. Finding new sources of revenue plays an equally integral role in the future of the Postal Service. And it is a future that can be bright, if Congress allows the necessary flexibility and legislative reform. One key to success, especially in the area of revenue generation, is gaining enhanced flexibility to adapt to a rapidly changing marketplace. The chart below shows how drastically revenue trends have shifted over the last six years *[Figure 2]*. Having the flexibility to react more quickly to these marketplace changes will enable us to become profitable, by giving us the tools to operate more efficiently, create new products and innovations and control costs. Absent this flexibility, the Postal Service will continue to experience sustained losses, in spite of our long-term efforts to reduce costs.

Figure 2



While we continue to seek out all possible efficiencies and cost savings, we also put tremendous effort into retaining existing revenue streams and seeking out new sources of revenue. One of the most exciting growth sectors for the Postal Service has been in our package business, which has seen 14 percent growth over the last two years. Leveraging this growth, and maintaining an innovative approach to growing revenue is a key aspect of the Postal Service's strategic plans.

REVENUE GENERATION INITIATIVES:

Innovation, Core Products and Markets:

- Enhancements to First-Class Commercial Mail.
  - Two ounces for the price of one
  - Picture Permit
  - Intelligent Mail barcode (IMb) provides visibility in mail and packages to control costs and improve service
  - Introduction of Every Door Direct Mail (EDDM)

- Package mail
  - Improvements to Expedited Package services
  - Significant enhancements to package tracking and visibility
  - Simplified product lineup with no additional surcharges
  - Priority Mail will now include $50 of insurance for retail customers and $100 of insurance for commercial customers, with no additional cost
  - Metro Post same-day delivery market test

- New Negotiated Service Agreements (NSAs) with business mailers for competitive products.
  - Allows customer to offer customized pricing options
  - Encourages volume and revenue growth from key customer segments

- Promotions to encourage the integration of digital technology with mail
  - Mobile Coupon and Click-to-Call promotions (over 1 billion mailpieces to date)
  - Earned Value Promotion; first program targeting First-Class Single Piece mail
  - 2012 Mobile Commerce and Personalization Promotion (3.4 billion pieces)
  - 2012 Mobile Shopping Promotion (1 billion mailpieces in two weeks)

- Increased price flexibility with transfer of various products from the "market-dominant" to the "competitive" product list.
    - First-Class Mail Commercial Parcels (renamed First-Class Package Service)
    - Parcel Post (renamed Standard Post)
    - Outbound Single-Piece First-Class Mail International Packages (renamed First-Class Package International Service)
    - Post Office Boxes in areas where private mailbox providers provide a competitive alternative.

The Critical Need: Enactment of Legislation

The Postal Service, even with its suite of robust and creative initiatives for growing revenue, and its relentless approach to taking costs out of the system, continues to be stymied by the effects of Congressional inaction. Current law requires the Postal Service to prefund Retiree Health Benefits at unrealistic levels. Current law prohibits the Postal Service from moving to five-day mail delivery. Current law forces the Postal Service to overpay into the Federal Employees' Retirement System (FERS). And, current law limits the Postal Service in its ability to offer new products and services. These are just a few examples among many. This lack of flexibility in our business model continues to hinder efforts to close a widening budget gap. The Postal Service must generate roughly $20 billion in cost reductions and revenue generation by 2017 to return to financial stability and pay down debt. But our efforts will only go so far. Legislative change is needed now. The chart below illustrates that, even with continued efforts by the Postal Service to trim costs, without legislative change, the budget gap remains wide. *[Figure 3]*

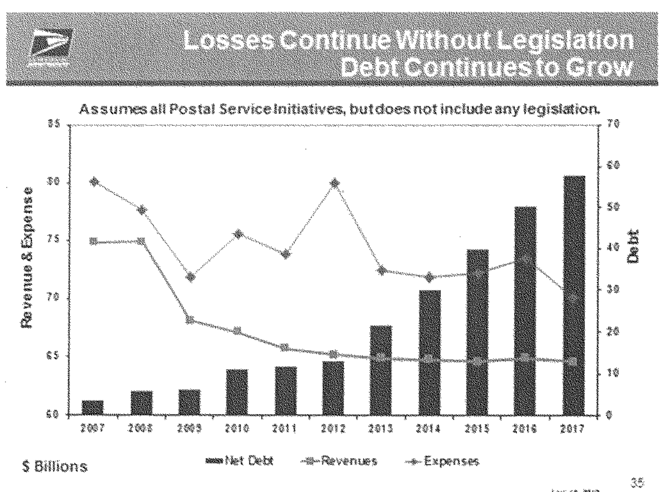


Figure 3

In February 2012, the Postal Service introduced its Five-Year Business Plan, which contained a set of strategies and initiatives designed to close the substantial and crippling budget gap we are facing. Attached to my testimony is an updated version of our plan. Legislative initiatives play an integral role in this plan, especially enactment of comprehensive postal reform legislation.

Key Legislative Goals:

During the 112th Congress, although the House introduced a bill that was approved by this Committee, no action was taken on the House floor. As the 113th Congress prepares to take up postal legislation once again, below are reforms that are urgently needed. They include:

1. Require USPS Health Care Plan (Resolves RHB Prefunding Issue)
2. Refund FERS Overpayment and adjust the FERS payment schedule
3. Adjust Delivery Frequency (six-day packages/five-day mail)
4. Streamline Governance Model
5. Authority to Expand Products and Services
6. Require Defined Contribution Retirement System for Future Postal Employees
7. Instructions to Arbitrator
8. Reform Workers' Compensation
9. Right to Appeal EEOC Class Action Decisions to Federal Court

Require USPS Health Care Plan:

One of the most important proposals contained in our plan and one which represents tremendous cost savings is a change in the way we provide health care to our employees and retirees. More than 20 cents of every revenue dollar the Postal Service takes in goes toward health care costs. *[Figure 4]* The cost of this large component of our total operating costs, second only to wages, is largely outside of our control.

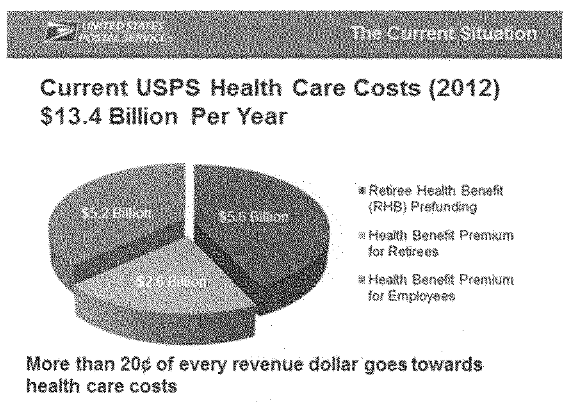


Figure 4

There is a substantial opportunity for savings – approximately $8 billion each year through 2016 – by moving to a more modern, responsive and customer-focused system. This would be accomplished by allowing the Postal Service to sponsor its own healthcare plan. By moving away from the federal system, nearly all of our employees and retirees would reap the benefits of getting equivalent or better healthcare coverage and paying less for it.

A Postal Service sponsored health care plan is critical, because it resolves the root cause of the Postal Service's retiree health benefits liability – soaring healthcare costs. Without addressing the liability issue in a responsible way, the Postal Service will be unable to afford to provide health benefits to retirees. In its proposal, the Postal Service would sponsor its own health care plan independent of the Federal Employee Health Benefits (FEHB) program. This would include employees, as well as current and future retirees. Congressional action to allow this fundamental change would dramatically reduce health care spending, helping the Postal Service take a significant step toward financial stability. It would also provide savings for employees and retirees. Our health care plan proposal provides savings and benefits in a variety of ways:

- Helps return the Postal Service to financial stability. Preliminary estimates indicate total cash savings for the first year would be approximately $2.1 billion. A savings of approximately $660 million in reduced premiums for employees and annuitants (about $700 annually per participant) is also projected.
- Eliminates the need for future scheduled RHB prepayments (ranging from $5.6 billion to $5.8 billion annually) under the Postal Accountability and Enhancement Act by reducing the unfunded liability to a manageable level.
- Leverages the tremendous buying power of more than one million employees and retirees to obtain better pricing.
- Achieves significant savings for the Postal Service, employees and retirees.
- Maintains the Postal Service's commitment to provide quality health care coverage to our dedicated workforce and retirees, as the cost of FEHB plans is unstainable.
- Implements best practices such as improved prescription coverage, integrated care and disease management, wellness incentives, and integrated Medicare and Employer Group Waiver Plans (EGWP) for retiree health benefits.
- Enables better choices with simple, more understandable options.

Regarding the RHB unfunded liability issue, below is a chart *[Figure 5]* showing how each plan component listed above eliminates the $50.9 billion liability, with a Postal Service-sponsored health care plan. Among the attachments to my written testimony, and submitted for the record, is a white paper with more detailed descriptions of our health care plan proposal.

UNITED STATES POSTAL SERVICE® USPS Retiree Health Benefits ($ in Millions)

Assumptions	2014 Liability	2014 Assets	2014 Unfunded Liability	2014 Funding
Accounting Liability	$100,028		$50,931	$8,665
Change from Federal accounting standards to OPM funding assumptions	$95,977		$46,880	$8,665
Element 1: Non Medicare Annuitants and Survivors assumed to enroll in Medicare A and B with no penalty	$72,912		$23,815	$3,597
Element 1 + Element 2: Additional savings arising from EGWP plan for Post-65 Enrollees.	$47,201	$49,097	($1,895)	$1,522
USPS Plan: Revised four tier retiree contributions; Additional savings of 8 percent for Pre-65 retirees from Purchasing; Savings due to Future Retirees having Carve-out (Co-pay / Co-Insurance)	$45,414		($3,683)	$1,340

Figure 5

Based on OPM Valuation as of September 30, 2011
Developed by Hay Group

USPS Health Care Proposal Presentation to Congress (Subject to collective bargaining, consultation and other legal obligations). 1

Refund FERS Overpayment:

Postal Service employees participate in one of three Federal government pension programs. These programs are administered by the Office of Personnel Management (OPM), and employees and the Postal Service contribute to the programs. OPM has determined that the Postal Service has overfunded its obligation to the Federal Employees' Retirement System (FERS) and that a surplus exists. According to the most recent actuarial estimate from OPM, the Postal Service has overfunded its FERS obligation by $2.6 billion, as of September 30, 2011. This estimated surplus is less than amounts previously reported, due to changes in the government-wide economic and demographic assumptions made by OPM. OPM's most recent calculation (before adjustments using postal-specific assumptions and demographics) shows that the surplus is projected to have grown to approximately $3.0 billion by September 30, 2012.

In December 2012, the Postal Service's Office of the Inspector General (OIG) issued an update to a previously released paper on the causes of the FERS surplus. The Postal Service agrees with the major conclusions in the OIG's report. First, the distinctive characteristics of the Postal Service workforce, including lower salary increases than the rest of the Federal government, suggests that our FERS surplus is larger than the OPM's current calculation, and OPM should use Postal Service specific data to calculate the surplus. Second, in order to prevent excessive surpluses from accumulating in the future, OPM should adjust the USPS' FERS contribution rate. The current FERS charges are too high, as evidenced by 20 years of surpluses, and contribute to the Postal Service's financial crisis. Third, once calculated, the current deficit should be refunded to the Postal Service. The Postal Service, using postal-specific demographics and assumptions, estimates the FERS overfunding amount to be approximately $6 billion. Directing OPM to utilize postal-specific demographics and assumptions in calculating the correct amount of the FERS surplus and returning the full amount of that surplus to the Postal Service is important, and needs to be completed this year. The Administration agrees with this approach, as evidenced in its 2014 budget request, which requires OPM to calculate FERS costs using the specific demographics of the Postal Service workforce.

Adjust Delivery Frequency (six-day packages/five-day mail):

On Feb. 6, the Postal Service announced a proposal to move to a six-day package/five-day mail delivery schedule, effective the week of August 5, 2013. Savings projected from this move, when fully implemented, are estimated to be approximately $2 billion annually. This move would create a positive operational income in FY 2014, if implemented in August, as originally planned. The proposal provides mail delivery to street addresses Monday through Friday. Mail addressed to P.O. Boxes would continue to be delivered on Saturdays. Post Offices already open on Saturdays would not have been affected by this proposal. Packages would continue to be delivered six days per week, and Express Mail, currently delivered seven days per week, would not be impacted. The proposal was designed to serve a dual purpose; to respond effectively to the increase in package growth – a 14 percent volume increase over the last two years – and to address the realities of the public's changing mailing habits. The proposal implemented the primary recommendations made by the Postal Regulatory Commission (PRC) when it reviewed our five-day proposal.

Following introduction of the proposal, a series of actions took place. Some Members of Congress supported the change, while many others opposed it. In March 2013, Congress completed work on H.R. 933, the Continuing Resolution (CR) funding the federal government for the remainder of Fiscal Year (FY) 2013. Although we strongly urged Congress not to include a requirement that would prevent us from implementing this change, the CR was enacted with restrictive language directing the Postal Service to maintain six-day delivery for all products.

The Postal Service twice sought the opinion of outside legal counsel. They first advised that the Postal Service had the authority to move to five-day delivery. Following enactment of the CR, the Postal Service posed a series of questions to the same firm. In a second opinion, they concluded that the law, as enacted, prohibited the Postal Service from moving forward with implementation of its proposal. The Government Accountability Office (GAO) also released an opinion that concluded the CR continued the applicability of the provision requiring six-day delivery. On April 9, the Postal Service's Board of Governors released a statement noting that, due to the inclusion of the restrictive language in the CR, the Postal Service had no choice but to abide by the law and delay implementation of the six-day package/five-day mail delivery proposal. As noted in the April 9 statement, this was a disappointing development. We believe the timing was right to implement this change, especially in light of overwhelming continued support for five-day mail delivery by a vast majority (over 70 percent) of the public. Additionally, in his FY 2014 budget proposal, released on April 10, the President again included a provision to allow the Postal Service to move to a five-day mail delivery schedule.

Although some Members of Congress held the opinion that the Postal Service could move forward, despite enactment of the CR, I had previously testified during a Senate hearing on Feb. 13 that I would follow the law, and the Board directed me to do just that. Certainly, in these serious financial times, forgoing such a significant savings is not a decision that was arrived at lightly. But I will not break the law and I will not negatively impact our customers. The uncertainty that would have proceeded from continuing to implement our proposal, given the possibility of a legal challenge, would have meant that many of our mailers could potentially have suffered significant monetary losses from business expenses made in anticipation of six-day package/five-day mail delivery. We continue to support moving to a six-day package/five-day mail delivery schedule and will continue to advocate for the authority to implement this change.

Streamline Governance Model:

The Board of Governors has the responsibility to manage the Postal Service, but does not have adequate authority to do so. In order to meet the challenges it faces both today and in the future, the Postal Service must be given the tools to become a more nimble, streamlined organization, better able to respond quickly to the needs of a dynamic marketplace and to adjust our operations as demand for products and services evolves. The Postal Service does not need any additional government bureaucracy to slow us down. We urgently need the flexibility to implement our Five-Year Business Plan.

In terms of network costs, the Postal Service Board of Governors should have the clear authority to make structural changes that reduce the costs of the retail, processing and delivery networks. Currently, the Governors must submit operational changes to the Postal Regulatory Commission (PRC) for an advisory opinion following a lengthy, litigious, administrative proceeding that does not promote timely and effective implementation of necessary, efficient cost reduction decisions. The current process imposes substantial costs on the Postal Service, delays savings and should be eliminated. At a minimum, PRC procedures should be substantially streamlined.

Another facet of restoring financial sustainability is the growth of revenue through product and pricing innovation, both with respect to existing lines of business and other lines of business. Giving the Board greater authority to exercise business judgment in this area does not mean the end of oversight by an external entity. A more nimble and well-defined regulatory approach is required that minimizes unnecessary bureaucracy, recognizes the Postal Service faces intense competition with respect to all of its products, and allows the Board to respond effectively to changing conditions. Even the PRC recognized in its Annual Report that the current system of regulation is not achieving the objective of financial stability.

Giving the Postal Service greater flexibility over pricing and product innovation would further advance the goal of providing universal service in a financially sustainable way. This is demonstrated by experience in other countries in which postal operators have been given such flexibility. The Postal Service, like other postal operators, is in the best position to determine the strategies necessary to ensure financial stability. In addition, the Postal Service faces the same competitive pressures as other postal operators, and has strong commercial incentives to be efficient and responsive to its customers' needs in order to ensure its products are competitive. Extensive price and product controls are therefore not necessary. Governors' decisions on new products and pricing should be subject to after-the-fact reviews or handled through the complaint process. Pairing much greater flexibility over pricing and product innovation with additional flexibility to address network costs would put the Board in a position to create a multi-faceted and balanced approach to restoring financial stability.

Authority to Expand Products and Services:

The Postal Service must be allowed authority to establish new revenue sources and respond to a changing marketplace. Certain provisions contained in H.R. 2309, introduced in the 112th Congress, would have been helpful in providing flexibility to the Postal Service to offer products and services that would improve our net financial position. The Postal Service's financial viability is dependent not only on cutting costs but also generating additional revenue. As such, legislation enabling the Postal Service to offer additional products and services is a key component of our ability to continue to generate new revenue and improve our financial condition.

Require Defined Contribution Retirement System for Future Postal Employees:

The Postal Service's current employees participate in one of three federal government pension programs, all of which are defined benefit plans. But the Postal Service is changing. Employees coming in now have a much different future than current employees. We should provide a retirement system that benefits both the employee and the Postal Service. The Postal Service proposes this new retirement system for four main reasons, including:

1. The ability to meet obligations under the Postal Reorganization Act (PRA).
   The Postal Service is required to provide wages and benefits comparable to those provided in the private sector. The FERS system is not comparable to the private sector and is more costly. Permitting this move would allow the Postal Service, like the private sector, to adjust to market conditions by modifying plan design, portability, provider services, employee engagement and other factors.
2. Permits a reduction in labor costs.
   Benefit costs constitute roughly 48 percent of total labor costs, including RHB prefunding. Even if the RHB prefunding requirement were removed, benefit costs would still make up nearly 40 percent of the Postal Service's labor costs. As has been well reported, approximately 80 percent of the Postal Service's total costs are labor costs. We cannot resolve our fiscal issues without addressing these costs.
3. Separates Postal Service retirement system from the rest of the Federal Government.
   There continue to be ongoing debates regarding Postal Service overfunding of both the CSRS and FERS retirement systems. These tensions will continue and will likely escalate, given that the Postal Service has funded substantially more of its pension obligations than the remainder of the federal government. Allowing the separation of the Postal Service's retirement obligations would resolve these disputes.
4. The Postal Service's employee base is changing.
   Our emerging workforce is younger and less likely to stay with one employer for their entire career, as most of our established employees have done. This type of portable and flexible retirement program holds a greater appeal for the younger demographic.

It should be noted that this change would not impact existing retirement systems for current employees.

Instructions to Arbitrator:

More than 85 percent of the Postal Service's career employees are covered by collective bargaining agreements. The Postal Service has included in its legislative goals the request that Congress enact provisions that instruct interest arbitration panels to consider the financial condition of the Postal Service in interest arbitration awards. Although some argue that interest arbitrators do this already, they cannot function like bankruptcy courts under Chapter 11 in the private sector. The panels cannot restructure the Postal Service's regulatory or business models. They do not have the authority to look at the entirety of the Postal Service's finances—indebtedness, pricing, operations, service standards, capital sources, debt relief, etc.

All the arbitration panels can do is address wages and benefits for a particular bargaining unit. Even there the panel's power is limited, because they cannot alter or modify statutory benefits like retiree health care or defined benefit pension plans. Given these inherent limitations (which were explicitly recognized by the panels in the two most recent awards involving the NRLCA and the NALC), we believe it is especially important for Congress to make certain that the arbitration panels take into consideration the Postal Service's financial condition in the areas they do have authority to address: wage rates, leave, health care contributions, workforce mix, job protections and related matters and to make that legislatively explicit. The Postal Service needs legislative language requiring arbitrators to consider the Postal Service's overall financial health.

Reform Workers' Compensation:

Postal employees injured on the job are covered by the Federal Employees' Compensation Act (FECA), administered by the Department of Labor's (DOL) Office of Workers' Compensation Programs (OWCP), which makes all decisions regarding injured workers' eligibility for benefits. The Postal Service has made tremendous strides in reducing its accident and injury rate, as measured by the Occupational Safety and Health Administration (OSHA). Since 2003, the rate of reported injuries has dropped by over 50 percent. Despite the declining level of accidents and injuries in our workforce, our workers' compensation costs and liabilities continue to grow. We pay approximately $1.4 billion per year to the DOL, and our workers' compensation liability is approximately $17 billion. The requirement to participate in the OWCP program, which does not allow cases to be settled, makes it extremely difficult to remove participants, and allows participants to continue to receive payments after reaching retirement age, is an extreme financial burden on the Postal Service.

We currently have 16,999 employees on the periodic roll, being paid for total wage loss. Some of these employees have been on the workers' compensation rolls since before postal reorganization in 1971. Although previous legislation, including H.R. 2309, would have provided flexibilities with regard to workers' compensation, specific provisions are still needed, such as providing the Postal Service with the ability to settle federal workers' compensation claims. We urge that any future legislation include specific provisions to address this costly area of the Postal Service's total operating expenses.

Right to Appeal EEOC Class Action Decisions to Federal Court:

Similar to the significant strides made in reducing accidents, the Postal Service has reduced EEO formal complaints by 40 percent since FY 2004, ensuring compliance with the law. Today, however, the Postal Service is subject to class actions in the Equal Employment Opportunity (EEO) process that we believe have been improperly certified. Defending against these class actions is extremely costly and burdensome, regardless of their merit. We believe we should have the right to appeal to the federal court final decisions of the EEOC. This is similar to the Postal Service's existing authority to appeal decisions of the Postal Regulatory Commission (PRC).

Moving Forward: Next Steps and Upcoming Proposals

All of the issues discussed here are serious, but they are also eminently fixable. Each of these issues, and the respective solutions, must be taken together to bring about both long-term and short-term change. Solving only RHB pre-funding or modifying our delivery schedule alone will not suffice to bring the Postal Service back to financial stability. We continue to seek ways to mitigate the extreme circumstances under which we are currently operating, while striving to avoid becoming a burden to the American taxpayers. In their statement released on April 9, the Postal Service's Board of Governors, in addition to discussing the delay in implementing six-day package/five-day mail delivery, also directed the Postal Service to pursue additional strategies to continue finding ways to survive. These include:

- Reopening negotiations with the Postal unions and consultations with management associations.
- Pursuing administrative actions necessary to reduce costs.
- Evaluating the option of an exigent rate increase, to raise revenues and address products not currently covering their costs.

We intend to move forward on these and all of the other proposals I have discussed in this testimony. This is the responsible thing to do. Our employees continue to do an excellent job, our customers are working with us, and we are intensely focused on bringing the Postal Service back to financial stability. But we cannot do it alone.

Mr. Chairman, time is of the essence. Every day that delays enactment of meaningful and effective postal reform legislation, the negative income gap grows. We are losing $25 million a day. Without legislative reform, the Postal Service's debt, in order to sustain operations, would need to climb to $58 billion in 2017. Every option has to be put on the table. These legislative goals cover a wide array of concerns and issues. No one single solution is enough, however. We agree that piecemeal efforts simply will not work.

Earlier, I mentioned making hard decisions. That must be done now. The financial problems of the Postal Service will not go away and they grow larger every year. Delaying reform for another year or more will only accelerate our already dire financial condition. Our liquidity will continue to be threatened and the day may come when we have insufficient cash to pay our employees or suppliers. Talk of an insolvent Postal Service has already made some customers look for other alternatives.

Mr. Chairman, in order to preserve our mission to provide secure, reliable, and affordable universal delivery service to all U.S. residents – and do so without burdening the American taxpayer – the Postal Service needs urgent reform to its business model. The American people deserve a financially healthy and vital Postal Service. We must make the difficult decisions necessary to ensure a reliable Postal Service for our customers and a bright future for our employees. The Postal Service is committed to working with you, and the rest of the Committee to achieve that goal. Thank you.

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Chairman ISSA. Thank you.
Mr. Rolando.

STATEMENT OF FREDERIC ROLANDO

Mr. ROLANDO. Thank you, Chairman Issa and Ranking Member Cummings and the other members of the committee for inviting me to testify at today's hearing.

This hearing is vitally important to the 190,000 letter carriers I represent, as well as the 7.5 million private sector workers that are employed by the printing, publishing, paper, direct marketing, e-commerce, and shipping industries that rely on a strong Postal Service. Indeed, our affordable universal service is crucial to the American economy and to American businesses that generate 95 percent of all mail.

My written testimony offers a comprehensive set of options to restore the Postal Service to solvency. This afternoon I will cover the issues you specifically asked me to address in your invitation.

On cost savings, the NALC and the other postal unions have contributed billions in savings through collective bargaining. That process concluded for us just 12 weeks ago. The new NALC contract emerged from an interest arbitration that focused on the financial condition of the Postal Service and led to an award that will provide the Postal Service with huge savings in the years to come.

As we did during the great recession, when we worked tirelessly with management to adjust routes in response to reduced mail volume, we have done our part to preserve the viability of the Postal Service through the bargaining process, but more must be done and we need the Congress to do its part as well.

I will highlight two cost-cutting reforms from my written testimony. First, the Congress should repeal or dramatically reduce the retiree health prefunding mandate that has caused over 80 percent of postal losses since 2007 and pushed us towards insolvency. Applying private sector retiree funding standards to the Postal Service will give us the best chance to adapt, expand our e-commerce delivery volume, and develop new services for our customers as traditional mail volume declines.

Some suggest that lifting or reducing the prefunding burden amounts to a taxpayer bailout, but no taxpayer funds will go to the Postal Service; and retaining the current prefunding policy will increase, not decrease, the risk of a future taxpayer bailout. Forcing the Postal Service to slash service, reduce quality, and degrade its unique last mile delivery network will simply drive more business away and tip us into a death spiral. We cannot destroy the village to save it.

Second, we recommend that Congress give the Postal Service the flexibility to negotiate with its unions to establish a set of postal-only plans within FEBA. This would allow us to use incentives to reduce costs and improve health among postal employees. FEBA does a good job of controlling premium costs, but we could cut postal employee health care costs further if our health plans used single network providers for hospital services and prescription drugs. We could also cut costs for future retirees by better integrating our plans with Medicare and by taking advantage of low-cost prescription drugs through an employer group waiver plan. Most of the savings that the Postal Service wants to achieve by leaving FEBA can be achieved within FEBA with the right kind of reforms.

Your invitation also asked about our position on an annual federal appropriation for the Postal Service. Of course, for most of its history, the Postal Service in America has been funded by both taxpayers and ratepayers, even though we have received no taxpayer subsidies since 1983; and it is certainly true that the Postal Service benefits the Nation as a whole, not just ratepayers, by facilitating national markets, strengthen democracy through postal voting and campaign mailings, and promoting local communities with newspapers and periodicals. But we do not support an annual appropriation to strengthen the Postal Service. Other reforms can do the job without help from taxpayers.

Finally, you asked for our views on governance reform. We strongly support a fundamental reform of the governance structure of the Postal Service. The goal should be to attract dynamic and entrepreneurial management to the Postal Service and to create a board comparable to private sector boards of directors that govern multibillion dollar enterprises. Creating a board with men and women that have deep experience running large national companies and partnering with unionized workforces would help us preserve affordable universal service. In the context of such a restructuring, NALC is prepared to work with Congress, the White House, the Postal Service and its stakeholders to develop a strong and viable business and regulatory model for the 21st century.

Let me conclude by saying the potential insolvency of the Postal Service is no accident. It is not merely the result of technological change, the bad economy, or poor management, though those factors have contributed. Intended or not, it is primarily the result of congressional decisions in 2006 to mandate retiree health prefunding and to impose strict price controls on postal rates. We will have to continue to make difficult changes, but reversing or revising these policy choices are crucial to saving the Postal Service and I urge this committee to do so. Thanks again for inviting me.

[Prepared statement of Mr. Rolando follows:]

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Testimony of

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President, National Association of Letter Carriers

to a hearing entitled

'Options to Bring the Postal Service Back from Insolvency'

to the House Committee on Oversight and Government Reform

April 17, 2013

I. Introduction

My name is Fred Rolando and I am proud to serve as the elected President of the National Association of Letter Carriers (NALC), a union that represents nearly 190,000 City Letter Carriers who live and work in every Congressional District in America.

Letter carriers are rightly proud of the value we deliver to the American economy every day. The Postal Service offers excellent services at the most affordable rates in the world. Postage rates in the United States are 50-100 percent less than they are in Europe, even though we serve a geographical area that is much larger than any served by any European Union postal operator. And the quality of our service is rated among the best in the world. Indeed, a 2012 study of postal services in the G-20 group of nations by Oxford Strategic Consulting of the U.K. concluded that the USPS is the best postal service among the world's wealthiest countries (see Attachment 1 for the Executive Summary of the report).

Although mail volume is declining, and alternative forms of communication are taking the place of mail, the Postal Service remains a vital component of this country's economic and communications infrastructure. Even as the volume of letter mail is falling, the volume of packages is exploding. In the last fiscal year, USPS still handled 160 billion pieces of mail. Almost one half of all bills are still paid by mail. The majority of bills and statements received by households are still delivered by mail. Trillions of dollars move through the postal system every year. The Postal Service generates annual revenue in excess of $65 billion and the mailing industry employs 8 million Americans. In September, 2011, Postmaster General Donahoe accurately described the importance of the Postal Service to the overall economy in testimony before Congress:

> The importance of a healthy and thriving Postal Service cannot be overstated. The mailing industry, of which the Postal Service is only one component, depends on the continued evolution, growth and development of our organization. Over 8 million Americans are employed by thousands of companies and businesses which are deeply invested in the mail. The mailing industry, with the Postal Service at its core, is a major driver of the nation's economic engine—generating over $1 trillion each year. Our collective actions—particularly those of the Postal Service and Congress—to secure the future of the nation's postal system will directly affect a significant portion of the American economy. The mailing industry makes up approximately seven percent of the country's Gross Domestic Product (GDP). Failure to act could be catastrophic.

Although we very much oppose the direction the Postmaster General is leading the Postal Service, we do agree with him on this. Now is the time for Congress to act to preserve one of America's greatest institutions, the U.S. Postal Service.

Thank you for the invitation to this important hearing. And thank you for framing the financial crisis facing the Postal Service as you have. Congress does indeed have many options for saving the Postal Service, other than to slowly dismantle one of the most important parts of the nation's economic infrastructure. The option being pursued at present – relentless downsizing – is doomed to failure. It will drive more business away and lead the Postal Service into a death spiral. This option is being driven by policies adopted by Congress in 2006 – massive pre-funding of future retiree health benefits combined with strictly inflexible price controls – that none of you would accept if applied to important businesses in your districts. These policies are just as destructive to a public enterprise like the Postal Service as they would be to any private enterprise.

This testimony will offer a wide variety of options to "bring the Postal Service back from the brink of insolvency." But the USPS needs more than options to temporarily stave off insolvency. It needs a new business model that builds on its first- and last-mile strengths and provides the enterprise with new executive leadership and new freedom to adapt to the changing needs of the 21st Century. Before Congress can intelligently legislate, it must reach a consensus on this new business model. We hope this hearing will begin the process of reaching such a consensus.

II. Origins of the Crisis

The crisis facing the Postal Service is now in its sixth year. Although there are serious underlying factors driving the postal crisis, the scale and severity of this crisis is largely due to past actions taken by Congress. In 2006, the Congress passed and President George Bush signed the Postal Accountability and Enhancement Act (PAEA) of 2006. That legislation mandated a massive level of pre-funding of future retiree health benefits with a schedule of annual payments totaling $58.8 billion over the following 10 years with additional pre-funding thereafter to be amortized over 40 years initially, and eventually over 15 years as the amortization period was reduced. (The $59 billion figure was the upper end of the estimated unfunded liability for such benefits over the next 75+ years – see page 29 of the 2006 USPS Annual Report.) The PAEA also placed strict price controls on the postage rates charged for magazines, catalogues, and letter mail (so-called market-dominant products). The new law gave the Postal Service a one-time-only option to adjust postage rates in 2007 to build the cost of the new pre-funding mandate into its prices before the new price index system kicked in (in an omnibus rate proceeding before the Postal Regulatory Commission). But the onset of what turned out to be the worst recession in 80 years led the USPS to forego that option. So USPS costs soared at a time when its revenue plummeted as the economy crashed.

Though well-intended and enacted at a time when the Postal Service was earning profits, the PAEA had a disastrous effect on the Postal Service. In a kind of perfect storm, the agency's finances were devastated by the pre-funding mandate, the price controls and the Great Recession that decimated the housing and finance industries which generate so much mail volume. On top of all this, surging fuel costs and the loss of First Class Mail to electronic bill-paying and internet communication added to the losses.

In the popular media and, unfortunately in many of the statements issued by members of Congress, the fiscal crisis at the Postal Service is often portrayed as a simple story of technological change. Although internet diversion is a serious and growing problem, not least because the ongoing crisis at the USPS seems to have accelerated the trend, it is not the main driver of USPS losses in recent years. As Table 1 indicates, nearly 80% of the Postal Service's $41 billion in reported losses stem from the $32 billion in pre-funding costs since 2007:

Table 1.

The Policy Legacy of the 2006 Postal Reform Bill (PAEA)

Pre-funding Payments to the Postal Service Retiree Health Benefit Fund (PSRHBF) vs. Reported Net Income

2007-2012*

Year	PSRHBF Expenses ($bil)	Reported Net Income ($bil)	Assets in PSRHBF ($bil)
2007	$8.358	-$5.142	$25.4
2008	$5.600	-$2.806	$31.8
2009*	$1.400	-$3.794	$34.2
2010	$5.500	-$8.505	$40.6
2011*	$0.000	-$5.067	$42.5
2012	$11.1	-$15.900	$45.0
Totals	$31.958	-$41.214	—

Prefunding expenses account for nearly 80% of reported USPS losses over the past six years since they were first imposed in 2007.

Notes: * Legislation adopted in 2009 reduced the 2009 pre-funding expense from $5.4 to $1.4 billion. Legislation adopted in 2011 deferred the $5.5 billion payment for 2011 until August 2012. USPS was unable to make the $11.1 bil. payment in 2012.

Source: Annual Reports of the Postmaster General, 2007-2012.

In the first quarter of the current fiscal year, the Postal Service earned a profit of $100 million, but reported a loss of $1.3 billion after recognizing a $1.4 billion expense for pre-funding.

Meanwhile, as other delivery companies were able to raise rates to handle rising gasoline prices and other overhead costs, the Postal Service was prohibited from raising rates above the very low levels of inflation experienced during the Great Recession – see Table 2:

Table 2.

Consumer Price Index:
CPI-Postage vs. CPI-Private Delivery

Year	CPI-Postage	CPI-Delivery Services (private delivery)
2007	2.5%	6.4%
2008	3.4%	14.7%
2009	4.9%	-6.2%
2010	2.8%	14.2%
2011	3.9%	11.7%
2012	3.5%	5.3%
Avg. Inc. (2007-2012)	3.5%	7.7%

- Postage rates for most USPS volume were capped at the general rate of inflation even though the pre-funding mandate caused costs to soar.
- Shared sacrifice requires the use of a more relevant price index: CPI for Delivery Services which tracks delivery prices in the private sector.

The pre-funding mandate, <u>which no other business or governmental agency faces</u>, not only crippled the Postal Service's finances, it also led the Postal Service to pursue relentless downsizing and service cuts that are driving even more mail volume out of the system. Rather than use its resources to retool to capture new volume in the booming e-commerce industry or find new products to offer through its unmatched first-mile and last-mile delivery networks, the Postal Service has used it all to cover pre-funding costs. Worse, postal management has been hunkered down in crisis mode ever since the mandate took effect, devising ever more draconian reductions in service that threaten to plunge the Postal Service into a death spiral – where declining volume begets service cuts, prompting even further volume losses and new service cuts.

Over the past few years, the USPS has removed tens of thousands of collection boxes and is reducing operating hours in more than 10,000 post offices, weakening its first mile network and driving away more business. Now it wants to degrade its last-mile delivery network by cutting Saturday delivery, even though a third of the Postal Service's business customers say they want to keep Saturday delivery (according to USPS market research).

The members of the NALC have lost confidence in Postmaster General Donahoe – Indeed the 7,000 elected delegates of the NALC biennial convention in Minneapolis unanimously adopted a "motion of no confidence" in July 2012. For these reasons, and because we are convinced that the business strategy the Postmaster General is following is doomed to failure, we have called for the PMG's resignation. We respectfully think you should do so too.

It gives us no pleasure to take this position. But our members and other postal employees have made tremendous sacrifices in recent years to save the Postal Service and those sacrifices should not be made in vain. NALC worked cooperatively with the Postal Service during the Great Recession to adapt to plunging mail volume. We eliminated more than 12,000 routes even as we added more than three million new delivery points. In recent years, we have boosted city carrier productivity dramatically, increasing average delivery addresses per route from 492 in 1999 to 616 in 2012, an increase of more than 25 percent. This has meant increasing the physical demands of our jobs by extending the hours we work on the streets from four hours to more than six hours a day, in all weather conditions. (Note that once the economy stabilized, the Postal Service unilaterally walked away from the joint process we used during the recession.)

In fact, the Postal Service has eliminated more than 193,000 jobs since 2006. And postal employees have not just sacrificed jobs – we have also done our part in recent rounds of collective bargaining to cut costs in the face of declining volume and revenues. Earlier this year the last two unions, NALC and the Mail Handlers, completed the most recent round of contract negotiations, using the interest arbitration process. Last year, the Rural Carriers Union did as well and the APWU negotiated a cost-saving contract. Through the process, arbitrators fully considered the financial condition of the Postal Service and issued awards that will save the Postal Service billions of dollars over the next three years.

The Das arbitration award issued just three months ago called for a two-year wage freeze, reduced the cost of cost-of-living adjustments and more than tripled the number of non-career/flexible schedule city carriers to reduce labor costs and to give the Postal Service more operation flexibility to capture more parcel business. According to the arbitrators decision, new career city carriers will earn 25% less when they are hired, and the Postal Service will be able to pay some 30,000 non-career carriers 33% less in wages than non-career carriers under the old contract. The Das award also called on city carriers to pay more for health insurance, shifting one percent of the cost of premiums from the USPS to the employees each year over four years.

As I mentioned earlier, the other postal unions made similar cost-cutting sacrifices that have generated huge savings. We have done our part to save the USPS. Now we urge Congress to do its part.

As the Committee deliberates over postal reform, we urge you to reverse or fundamentally modify the PAEA's unintentionally destructive policies on pre-funding and pricing, and to take action to prevent the Postal Service from downsizing itself into a death spiral. But those steps alone will not save the Postal Service. That will require an even more fundamental restructuring of the Postal Service's governing structure, executive management and regulatory environment to allow the Service to compete for e-commerce volume and to use its unmatchable networks to offer new services. That is the conclusion reached by Lazard Company's due diligence investigation of the Postal Service commissioned by the NALC and conducted in 2012 (see Attachment 2). We hope to advance Lazard's recommendations in the legislative process and NALC looks forward to working with Representatives in both parties to find solutions that will preserve the U.S. Postal Service.

In this testimony, we will offer our views on a full range of policy solutions to the crisis at the Postal Service. It is our hope that the Committee will hold additional hearings on crucial topics such as reform of the pre-funding mandate, measures to reduce the cost of postal employee health benefits, new products and pricing reforms, and the debate over Saturday delivery.

II. Repeal or Reform the Mandate to Prefund Future Retiree Health Benefits

It is strange, but true, that the Postal Service is the most financially sound, failing company in America. Its pension obligations (under CSRS and FERS) are nearly fully funded even in the face of pension cost allocation methods developed by OPM that are grossly unfair to the Postal Service (according to independent, private sector audits that are discussed below). It has also prefunded half of its future retiree health benefits. No other civilian agency in the executive branch has pre-funded these costs at all, and according to a recent Towers Watson survey of Fortune 1000 companies, only 38% of such private companies prefund at all and the *median* level of funding among those that do is just 37%. In the private sector, pre-funding is voluntary. Responsible companies pre-fund when they are profitable or use their surpluses in their pension funds to cover such costs, as encouraged by the tax code.

Unfortunately, the PAEA's uniquely burdensome prefunding mandate is literally killing the Postal Service. Implemented at the outset of the global financial crisis, the excessive level of pre-funding required by the PAEA has consumed all of the Postal Service's borrowing authority and has pushed the agency to the verge of insolvency. No private company would have funneled tens of billions of dollars into a retiree health fund in the midst of a deep recession. The Postal Service needs immediate and significant relief from this mandate – without it, no other reform can save this institution.

In the last Congress, the Senate did attempt to reduce the pre-funding burden in S. 1789. That bill lowered the target level of pre-funding from 100% to 80%, replaced the fixed schedule of prefunding payments with a two-tier set of pre-funding payments (normal cost payments and amortization payments to reduce the unfunded liability), and opened access to the Postal Service Retiree Health Benefits Fund (PSRHBF) a few years early for use to cover the cost of current retiree health premiums. The last provision provided significant short-term relief from the pre-funding burden, freeing up cash by moving the date the PSRHBF can be used to cover premiums from 2017 to 2012. But the actual level of pre-funding under S. 1789 was reduced by just 6 percent, as shown in Table 3. The level of prefunding would remain very high and the USPS would likely default on the payments required in S. 1789 in a year or two. We believe much more substantial relief is required.

There are a number of options Congress should consider to solve the prefunding problem:

1) Repeal. The simplest solution would be to repeal the PAEA's pre-funding mandate altogether and to allow the Postal Service to use the Postal Service Retiree Health Fund to cover the cost of retiree health premiums with the $45 billion in funds now deposited in the Postal Service Retiree Health Benefits Fund (PSRHBF). Over time, the fund would be depleted and the USPS would return to covering these costs from operating revenue on a pay-as-you-go basis. This would give the Postal Service time to restructure and adapt in the intermediate term and eventually allow it to return to the private sector standard on covering retiree health costs for companies in multi-employer plans.

The objection to this alternative is that taxpayers might eventually be required to cover the cost of postal employee retiree health costs, if the Postal Service lacked the funds or ceased to exist. The GAO has emphasized this point in its analysis of the issue. Underlying this concern is the notion that ratepayers must cover all present and future USPS costs, a convention adopted in 1970 and fully implemented by 1983. But for more than 200 years before 1983, the Post Office was funded by taxpayers and ratepayers. To say that we must adhere to the post-1983 convention forever assumes that the tax-paying public receives no benefit from the Postal Service and therefore should never have to pay any of its costs. We believe this assumption is wrong – all Americans benefit from the Postal Service, taxpayers and ratepayers alike. As a public service and as a crucial part of the nation's economic and political infrastructure, it supports national unity and national markets, encourages economic growth, and contributes to the cultural and political life of the nation.

While we do not seek nor support taxpayer operational subsidies for the Postal Service today, we do not believe the fear of a possible need for taxpayer support for retired postal employee health benefits in a doomsday scenario for the future can justify crippling the Postal Service today with an unaffordable mandate. Moreover, no other agency of the government, and I might add no institution or agency in the legislative branch of the government (which includes the House, the Senate, the GAO, the CBO and the CRS) currently pre-funds future retiree health benefits at any level. Future taxpayers will cover the cost of health benefits for retired legislative branch employees. Would future postal retirees be any less worthy of taxpayer-provided health benefits as compensation for their service to the country? The answer is: Of course not.

In any case, retaining a crushing prefunding mandate today makes it more likely, not less likely, that taxpayers will eventually have to cover the cost. Driving the Postal Service into a death spiral will not protect taxpayers. Reform that allows it to restructure and thrive will.

2) Repeal and replace. Another option would be to repeal the PAEA's pre-funding mandate and replace it with a more reasonable and affordable mandate. For example, it could be replaced with a private sector "best practices" funding standard – which would require the USPS to contribute to the PSRHBF in years when it is profitable. The law could dictate a defined percentage of profits be allocated to the PSRHBF or require the USPS maintain a pre-funding percentage tied to private sector practice among firms that pre-fund. Or the law could require the USPS to maintain the level of funding in the PSRHBF to a level tied to best practices in the private sector – the 37% median level of funding among Fortune 1000 companies in the private sector, for example.

3) The USPS OIG proposal. The USPS Office of Inspector General offers a creative solution to the pre-funding mandate. It would repeal the PAEA's prefunding payment schedule and allow the current assets in the PSRHBF to accrue interest over time while the USPS continued to pay for its retiree health insurance premiums with operational funds. The PSRHBF would continue to grow with earned interest and would not be available to the USPS until it covered a certain percentage (to be set by Congress) of the unfunded liability. It would effectively serve as a reserve fund to cover the cost of retiree health in the future if the Postal Service could not make the payments in the future. This would provide breathing space to reform the USPS and partially address the GAO's concerns, even though it would still treat the USPS more harshly than other agencies and private companies. The proposal is outlined in a letter to Sen. Sanders reproduced as Attachment 3.

4) Cover retiree health with the fairly calculated CSRS pension. During the 112th Congress, bills offered in both the House and Senate, sought to protect future taxpayers from future postal retiree health liabilities by permitting the Postal Service to use postal pension surpluses in the Civil Service Retirement and Disability Fund (CSRDF) reported by independent audits (USPS-OIG/Hay and PRC/Segal) to cover the cost of future pre-funding. Indeed, the only-bipartisan postal bill considered by the House of Representatives (H.R. 1351) in the 112th Congress, which drew 230 co-sponsors from both parties, called for fairly and accurately measuring the Postal Service's pension surplus in the postal CSRS account of the CSRDF and transferring the surplus to the PSRHBF. That bill never got a vote in the House. In the Senate, the original bills offered by Sens. Carper and Collins (S. 1010 and S. 353) that were later combined to create S. 1789 contained similar language on the CSRS surplus. However, concerns that transferring funds from the CSRDF to the PSRHBF would present scoring problems led the senators to drop the provision from S. 1789. (The senators may have also reacted to a GAO report that questioned claims that the USPS was over-charged by the OPM for retirement costs, but the same report acknowledged that the PRC and OIG methods were "reasonable" and that the choice of methods used is a "policy decision" for Congress.)

It is crucial to reverse this legislative decision, and to address the problems that led to it, as we tackle postal reform in the 113th Congress. However, this can be done in a way that minimizes the impact on the deficit that would result from a large transfer from the CSRDF to the PSRHBF. Indeed, it may not be necessary to transfer any funds at all to significantly reduce the cost of pre-funding. This can be done in five steps:

a) In the Office of Personnel Management's annual valuation of the CSRS postal sub-account within the Civil Service Retirement and Disability Fund, mandate the adoption of modern, private sector accounting and actuarial methods called for by Accounting Standard Codification No. 715. (FASB -ASC 715, *Compensation—Retirement Benefits* from the Financial Accounting Standards Board). This was the policy recommendation of the Postal Regulatory Commission's report *on Civil Service Retirement Cost and Benefit Allocation Principles* prepared by respected experts of the Segal Company (June 29, 2010). The methods proposed by the PRC report produce a lower surplus than those advocated by the USPS OIG report on the same matter prepared by the Hay Group in January 2010, *The Postal Service's Share of CSRS Pension* Responsibility (Report Number: RARC-WP-10-001, January 10, 2010). As mentioned above, a GAO review of these reports as well as the accounting and actuarial methods currently employed by the Office of Personnel Management (OPM) concluded that all three sets of methods are "reasonable" and that the choice of methods is a "policy decision." Congress should mandate the PRC's methods because the OPM's current methods are unfair and inequitable to the Postal Service, its customers and its employees. See Chart 1, which demonstrates the inequitable allocation of pension costs resulting from the OPM's methods. It shows that the Postal Service pays 83% of the CSRS pension costs of a retiree who worked just 50% of his career for the USPS, leaving the OPM to pay 17% for the other half of the employee's career for the tax-payer supported Post Office Department.

As suggested above, mandating the PRC audit's reform recommendation had strong support in the last Congress – a majority of the House of Representatives co-sponsored a bill (H.R. 1351) and bills introduced by Senators Carper and Collins at the beginning of the 112th Congress also endorsed these methods. In addition, the Obama administration expressed its support for a CSRS transfer as part of postal reform, as explained in a letter from Director of Legislative Affairs Director Robert Nabors to Representatives Elijah Cummings and Darrell Issa on October 13, 2011. The letter is reproduced as Attachment 4, which was sent <u>after</u> the GAO report on pension allocation methods was issued.

b) In order to minimize any budget impact of mandating the use of fair actuarial methods and assumptions, Congress should repeal Section 1848(h)(2)(C) of USC Title 5, which requires the transfer of any postal pension surplus to the USPS Retiree Health Benefit Fund following valuations in 2015, 2025, 2035 and 2039. The required transfers mandated by 1848(h)(2)(C) were enacted by the PAEA in 2006. A repeal of this transfer provision would eliminate the need to amortize (with mandatory payments from the General Fund) any increase in the CSRDF's unfunded liability resulting from the transfers. (Such amortization payments are required by another provision in Title 5.)

Note: A repeal of the transfer provision would minimize any budget score associated with a policy of accurately and fairly defining the Postal Service's pension obligations and give policy-makers up-to-date and accurate information on the Postal Service's legacy costs. It makes sense because the PSRHBF will not need the surplus funds for decades – and the surplus pension funds might never be needed if Congress enacts the reforms outlined below to properly invest the PSRHBF (item 5) and to find ways to reduce future retiree health benefit costs (item 6).

c) Congress should repeal the PAEA's fixed schedule of pre-funding payments and replace it with the two-tier prefunding payments called for in the President's budget (normal cost and amortization costs), but establish a right to access the fairly calculated CSRS postal surplus in the future to cover the cost of retiree health benefits if the PSRHBF should ever be exhausted. (The 80% funding target and the immediate access to the PSRHBF to cover current retiree health premiums in S. 1789 should be retained in any new legislation.)

d) Congress should require the OPM Board of Actuaries to take the accurately measured CSRS postal surplus into account when calculating the unfunded liability for postal employee retiree health benefits, a step that would eliminate the need to make amortization payments over the next ten years or more. (In practical terms, the USPS would make a normal cost payment each year to the PSRHBF and the PSRHBF would cover the cost of current postal retiree health premiums – resulting initially in a growing PSRHBF, even before taking into account the fund's earnings.) This instruction would apply the best practice of private sector pension funds to the Postal Service. Indeed, the tax code allows companies to apply surplus pension funds to the cost of post-retirement health liabilities (see section 420 of the Internal Revenue Code).

e) In order to address misleading claims that reforms such as those described above represent "taxpayer bailouts," Congress should adopt the Statutory PAYGO reforms proposed by the Obama administration. The President's budget proposes to amend the PAYGO act to treat the transactions of the Postal Service Fund as "budgetary effects," thereby measuring Postal Service transactions on a unified budget basis for PAYGO purposes.

5) Invest the PSRHBF in the Thrift Savings Plan. The PSRHBF is unique in the federal government. No other agency has a retiree health fund. Although it differs from so-called VEBA plans (Voluntary Employee Benefit Associations) in the private sector because retired postal employees are guaranteed retiree health benefits by the FEHBP law even if the balance in the PSRHBF goes to zero, it is very similar to such plans since its assets are dedicated to cover benefits for a specific group of people with a tie to a single employer. In this case, the PSRHBF is dedicated to pay the Postal Service's share of health insurance premiums for retired postal employees -- starting in 2017.

Unfortunately, the PSRHBF is invested solely in low-yielding Treasury securities – and given that long-term health care costs are expected to grow faster than the interest rates payable by Treasury securities for the foreseeable future, the unfunded liability will almost certainly keep growing over time. No VEBA in the private sector would invest its assets so conservatively, especially since the annual cash requirement for the PSRHBF ($3 billion per year) is a fraction of the $45 billion in assets.

In an ideal world, the PSRHBF would be held on the Postal Service's books and invested appropriately (in a properly diversified portfolio of stocks, bonds, real estate, etc. overseen by a professional investment manager) to minimize the PSRHBF's unfunded liability – and therefore minimize any amortization payments from the USPS in the future. Transferring the PSRHBF to the off-budget Postal Service might present budget scoring problems (unless the budgetary effects proposal outlined above is adopted) and the Treasury Department has traditionally opposed the investment of government trust funds in private securities.

However, NALC believes there is a way for the PSRHBF to earn higher, private sector-based returns without moving it from the OPM's books – which should reduce the federal deficit. The PSRHBF could be invested in the index funds offered by the Thrift Savings Plan. The Federal Retirement Thrift Investment Board already invests a pool of nearly $300 billion of federal and postal employee retirement savings in these funds – so investing the funds of the PSRHBF, which also holds assets dedicated to post-retirement benefits, would not be setting a new precedent. The TSP's Lifecycle 2040 Fund has earned an annual return of 5.0% since its inception in 2006, much greater than the 2-3% returns paid lately on Treasury bonds.

6) <u>Give the Postal Service and its unions the ability to reduce retiree health costs within FEHBP</u>. NALC and its members are willing to do our part to reduce the cost of future retiree health benefits at the bargaining table if Congress treats the Postal Service, its employees and the mailers fairly on pension costs. The best way to reduce the pre-funding burden on the Postal Service is to reduce the cost of health insurance in general, and retiree health insurance in particular.

Generally, the OPM and the FEHBP program have done a relatively good job in controlling health care costs. Indeed, the federal government's health care costs are lower than those of other large employers in the private sector, and the FEHBP program has restrained health care inflation better than employer plans in the private sector. Nevertheless, there is more that could be done to reduce health care costs – which could reduce the cost of prefunding retiree health benefits.

The Postal Service has asked Congress to let it leave the FEHB Program and set up its own health care program. The postal unions, including the NALC, oppose leaving

> FEHBP. But most of the savings the USPS thinks it can achieve outside of FEHBP could be achieved inside of FEHBP – if the USPS and its unions were allowed to negotiate an exclusive set of FEHBP plans to be offered to postal employees and future postal retirees (current postal retirees should keep the plans they have). This 'postal FEHBP exchange' could work with OPM to implement health plan innovations to incentivize good health and require the use of single network providers for medical services, hospital care and prescription drugs in order to cut costs. In addition, the 'postal FEHBP exchange' could achieve improved integration with Medicare and seek permission from OPM to implement a private sector-style Employer Group Waiver Plan (EGWP) to bring down the cost of drugs. Lower retiree health costs would translate into lower pre-funding payments.

It is urgent that Congress take action to repeal or reform the pre-funding mandate. We cannot imagine any member of the House, regardless of party or ideology, who would accept such a mandate being applied to a single private sector employer in his or her district. Yet because it is applied to a federal agency, it is ignored. But the negative impact it has on the Postal Service is hurting the entire postal industry. Of the eight million workers in our industry, just over a half-million work for the USPS. The vast majority of the workers in our industry work in private companies across the country. The pre-funding mandate is not just dragging the USPS down; it's weakening an entire industry that employs workers in every community in the country.

III. Six-day Last Mile Delivery is the Postal Service's Core Function

The core competence and core asset of the Postal Service as an enterprise is its unmatchable, six-days-per-week, last-mile delivery network. It is a strategic asset that must be protected to return the Postal Service to health. It should not be sacrificed to maintain the disastrous pre-funding policy introduced in 2006. Congress should follow the lead of the U.K. government's postal regulator, Ofcom, which concluded in March that six-day delivery should remain part of the Royal Mail's universal service obligation.

Therefore, we urge the Committee to mandate six-day delivery in the law – and remove the possibility that Congressional appropriators might inappropriately seek "unified budget" savings by eliminating the six-day requirement even though the USPS receives no taxpayer money – a mistake the Obama administration made when it proposed to end Saturday delivery in its proposal to the Super Committee created by the Budget Control Act of 2011, and which it repeated in the past three budgets.

The Postmaster General has put forth a number of flimsy arguments in support of his five-day mail delivery proposal, even as he has failed to be fully forthcoming on the job losses his plan will entail. I wish address these arguments and note our concerns about jobs next.

First, the PMG's claim that the proposal would save $2 billion annually is clearly false. The PRC found in 2011 that the Postal Service's original five-day delivery plan, which did not involve the delivery of any packages or prescription drugs, would save at most $1.7 billion, even though that figure dubiously assumed almost no loss of mail volume due to reduced service. The Postal Service had claimed that its plan would save $3.1 billion. It made this claim even though its own consultant, Opinion Research Corporation (ORC), concluded that the combined impact of slower service standards from its network optimization plan (involving mail processing plants), post office closings and the end of Saturday delivery would reduce total mail volume by 7.7 percent and result in a loss of $5.3 billion in revenues. A loss of revenue exceeding the $3.3 billion in cost savings estimated by ORC would result in a net loss of $2.0 billion. These findings, based on 2010 data, were not shared with the PRC during its review of the five-day plan or its review of the network optimization plan. When the findings were discovered in 2012, the Postal Service dubiously disavowed them as "flawed" – though ORC has never disavowed its work. See Attachment 5, which provides a summary estimate of the impact of the planned service cuts on mail volume and postage revenue. It was introduced as an exhibit in the PRC proceeding by the American Postal Workers Union.

The Postal Service's own market research shows at least a third of business mailers value Saturday delivery (see below), including the weekly newsmagazine and newspapers that absolutely depend on it each week. Cutting Saturday delivery will drive periodical and advertising mail away (direct marketers will switch to delivery with newspapers) and make things worse, not better. As we learned in recent media reports, the Dow Jones company has already started to move Saturday deliveries of *The Wall Street Journal* to other delivery companies in anticipation of the Postal Service's move to end Saturday delivery. *New York* magazine and *The Economist* magazine have done so as well. *Bloomberg Businessweek* recently announced plans to do the same. Indeed, the Association for Magazine Media has criticized the move to five-day delivery. And while the trade association for many advertising mailers has not taken a position on Saturday delivery, many individual companies like Valasis Inc. (one of the nation's largest direct mailers), Hallmark and e-Bay oppose the change. The savings the Postal Service claims would be overwhelmed by the loss of revenues. At a minimum, the Postal Service should submit its new five-day plan for review by the PRC before Congress decides this matter.

Second, the Postmaster General falsely claims that the move to five-day mail service will not slow the delivery of mail. That is preposterous. The PMG admits that mail in collection boxes won't be collected on Saturdays and that mail will not be sorted to delivery point sequence on Friday nights. By definition this will slow the mail for American mailers – collection box mail will be delayed a day and mail destined for P.O. Boxes not sorted on Friday nights won't be in those boxes on Saturdays. When there is a federal holiday, the mail will be delayed even further. Slower service will drive business away, reducing revenue and driving the Postal Service to make even more self-defeating service cuts.

Third, the Postmaster General claims the USPS's customers are supportive of this change, citing so-called "market research." Specifically he says: "Market research shows that seven out of 10 Americans support five day delivery." Not only is that statement incomplete, it's grossly misleading. Public opinion polls are not market research. The results are not surprising when the folks polled are misleadingly told that the elimination of Saturday delivery is essential to save the Postal Service and are not told that the main cause of the Postal Service's losses is the pre-funding burden. Indeed, those polled are typically given a choice between the elimination of Saturday delivery and/or higher postage rates or closed post offices – the option to end pre-funding is never offered. Moreover, polling the recipients of mail misses the point – the vast majority of mail (90-95%) is generated by businesses for households (including business reply envelopes used by consumers to pay their bills). Although city carriers feel strongly that we serve the public, the vast majority of paying customers of the Postal Service are business mailers. Their views on Saturday delivery are critical.

A 2009 survey of 4,100 businesses conducted by the USPS and the Mailers technical Advisory Committee (NMTAC) found that 32% of them opposed the shift to five-day. Another 2009 survey of 1,144 small businesses (less than 250 employees) for the USPS by the Maritz Company found that 68% supported the plan – meaning that up to 32% didn't. There are more than 25 million businesses of all sizes in the United States. If a third of these businesses oppose the plan, as the Postal Service's own surveys show, then literally millions of businesses will suffer from the Postal Service's plan.

Members of the Committee should not blindly follow uninformed public opinion when it comes to Saturday delivery. Of course, in electoral terms, 7 out of 10 Americans is a landslide. But in business terms, failing to serve 1 out of every 3 customers is a prescription for bankruptcy. How can the Postal Service succeed if they cut a service – Saturday delivery – that millions of business customers need? And if a substantial number of those spurned business customers find alternatives or reduce their volume of mail, how can the majority of customers who claim to support the plan not face even further cutbacks and/or higher prices from the Postal Service? If that happens, 100% of Americans would be hurt and 100% of American businesses would suffer. The bottom line is clear: The Postmaster General's five-day plan is an anti-business plan that is not in the public's interest either.

Fourth, and most outrageously, the Postmaster General told reporters on February 6 that the employees of the Postal Service support his five-day delivery plan, basing it on the random conversations he has had with employees in post offices over the past year. Worse, he misleadingly implied that I personally accepted the plan and that "letter carriers" support his plan. This is pure nonsense and totally untrue. City letter carriers overwhelmingly oppose this plan. I know, I was elected to my job by them, and more than 90% of them voluntarily belong to NALC. Other postal employees feel the same way. All four postal employee unions issued statements on February 6th opposing the PMG's plan. Congress should know that the PMG does not speak for all postal employees.

Fifth, the Postmaster General claimed that he listened to his customers and altered his original five-day plan to provide Saturday delivery of packages, including the delivery of prescription drugs. While we are heartened that the PMG would listen to his customers, we wonder why he won't listen to the millions of businesses that value Saturday mail and periodical delivery as well, and we are concerned that the PMG will risk our recent gains in package delivery market share by adopting his plan. The PMG proudly cites the 14% growth in package volume in recent years. And in the first quarter, the USPS reported a 19% growth in revenue from Parcel Return and Parcel Select, the services private delivery companies use to take advantage of the Postal Service's first- and last-mile capabilities. Indeed, in its press release announcing the first quarter results, the Postal Service cited the "comparative advantage" of its last mile delivery network as the driving force behind its strong growth in package delivery.

But that growth and that comparative advantage have been built on a shared, multi-product, last-mile delivery network. By delivering letters, flats, and parcels together, the cost of USPS package delivery has been kept quite low. How will the Postal Service remain the most affordable provider of package delivery to residential neighborhoods if it gives away this pricing advantage? Economists call this the economies of scope. Will the Postal Service's plan recklessly throw away these economies just when the e-commerce boom is gaining momentum? How much business will we lose from FedEx SmartPost and UPS SurePost by eliminating Saturday delivery? Will new competitors emerge to offer Saturday delivery service for newspapers, direct mail and flats that will cause even more volume loss? We believe the answers to these questions will make it very clear that the elimination of Saturday mail delivery makes no business sense.

Finally, on the Saturday delivery issue, the Postmaster General has not been entirely forthcoming with Congress or the public on the negative employment impact his plan will have on the U.S. economy. In his press conference, he said that the plan would eliminate 22,500 jobs. But his press materials make reference to 35,000 full-time equivalent jobs. Back in 2010, when the plan was first formulated, the Postal Service met individually with the four unions and provided the following estimates of job losses for the plan to cut Saturday mail delivery: 25,846 full-time city carriers, 53,240 full- and part-time rural carriers, 2,250 clerks and other employees in APWU crafts, and 450 mail handlers for a total of 81,786 full- and part-time jobs. As we saw with the suppressed evidence during the PRC proceeding on network optimization, the Postal Service doesn't really know how much, if any, savings will result from all their service cuts. Based on the constantly shifting numbers on jobs, it doesn't seem to know how many jobs are at stake with its proposed elimination of Saturday mail delivery. The Postal Service is not being straight with the Congress or the public. This must change.

Fortunately, the support for Saturday delivery remains very strong in the House of Representatives. Rep. Sam Graves has introduced a sense of the Congress resolution supporting the continuation of six-day delivery service. That bill, H. Res 30, now has 170 co-sponsors from both parties. We hope this Committee will embrace the spirit of H. Res 30 in the postal reform legislation it drafts this year.

IV. Pricing and products reform

In the absence of the pre-funding mandate, the introduction of a streamlined system of rate regulation would have made a lot of sense in 2006. Replacing the costly and time-consuming system of setting postage rates through months of expensive litigation between competing sets of mailers was a laudable goal. Unfortunately, the Congress saddled the Postal Service with a huge new mandate at the same time it implemented the price cap on its rates. The cost of the pre-funding mandate was never built into the Postal Service's prices because the USPS did not conduct the one-time, final omnibus rate case called for in the PAEA. (The USPS rightly did not want to raise rates in the midst of the recession.) Even without the crushing burden of pre-funding, the cost of mail delivery on a unit basis was bound to rise as internet diversion reduced mail volume, but the Postal Service cannot charge mailers the true cost of delivering the mail. This pricing regime is not sustainable and is contributing to the mindless downsizing that threatens to destroy a key part of the nation's economic infrastructure.

At a minimum, the Postal Service should be given the right to adjust its rates with a one-time proceeding before the Postal Regulatory Commission. The omnibus postage rate review and adjustment that was authorized by the PAEA, but that did not happen in 2007, should be conducted in 2013. If Congress insists on the prefunding mandate, then it is only fair that at least some of its cost should be built into the postage rates the Postal Service charges its customers. Such a one-time rate case proceeding is needed to provide reasonable balance to the huge sacrifices postal employees have made in recent years.

But in addition, the Postal Service must be able to generate greater revenues to balance the cost-cutting it will continue to pursue. No struggling enterprise can mindlessly downsize its way back to health. It must have a growth strategy and be able to generate new revenues. There are three ways that the Postal Service can increase revenue: grow the existing business in sectors of the mailing industry that are expanding (package delivery, returns and e-commerce), better align prices to reflect costs (pricing reform), and find new uses of the Postal Service's networks that can help finance and preserve the valuable last mile delivery networks that the country depends on for commerce, communication and voting. The USPS is already doing the first and will continue to succeed so long as it does not destroy its own comparative advantage by degrading its last-mile network. But Congress must enact reforms to help USPS increase revenues in the second and third ways.

First, on pricing reform, the case can be made to eliminate the price cap altogether, as the regulator in Great Britain has done recently. Postal operators no longer have the ability to abuse their monopolies – there is an electronic or physical alternative to every service they provide. The USPS has no market power whatsoever – if it raises rates too high, customers will leave the mail system. There is market discipline in place. On the other hand, mailers legitimately want some protection against capricious rate increases. But the USPS needs greater flexibility to set rates that will cover its costs.

The reforms proposed by President Obama are a good start, but the price index system for market-dominant products must be updated and must be based on an appropriate benchmark index. The Consumer Price Index for All-Items is not the most appropriate index. The Postal Service is part of the national delivery industry, a transport-based, energy-intensive industry that has unique characteristics. Although the USPS is by definition more labor-intensive than private companies like FedEx and UPS – we deliver to 152 million addresses six days a week, not 15 million addresses five days a week – the USPS faces the same cost pressures as those companies. At a time of soaring energy costs, the rates charged by private companies that provide delivery services have increased at more than twice the rate of postage – see Table 2 above. If the USPS is to preserve its networks, it must be given pricing flexibility. Congress should modernize the price indexing system and replace the CPI-All Items with the CPI for Delivery Services. It is the appropriate private sector benchmark and it will help with the budget scoring on the legislation.

Second, on products, the overly restrictive definition of a postal product contained in the PAEA should be liberalized. The reforms proposed by Rep. Peter Defazio's postal reform bill (H.R. 630) show the way. Opening the mail to beer and wine sales also makes sense. But the range of services the Postal Service could provide is much greater and it should be given the right to find new uses for its networks. Whether its meter reading for utility companies as an alternative to expensive smart meters, or partnerships with private banks to serve Americans in rural and depressed urban areas where commercial banks have no presence, or recycling computer parts in partnership with private companies, the Postal Service needs greater commercial freedom. We believe an innovation commission as proposed by H.R. 630 could reveal a wide range of possibilities. That commission should study the possibility of using the nation's post office network as the backbone of a National Infrastructure Bank, and Congress should consider giving every American the right to vote by mail in federal elections. A more entrepreneurial Postal Service could do what the Post Office has done since it was mandated by the Constitution – evolve to meet the changing needs of the country. But to achieve a more entrepreneurial culture, the governance structure of the Postal Service needs to be reformed. I will turn to this topic next.

V. Governance reform

At a moment when the Postal Service faces the gravest crisis in its history, its Board of Governors might soon be known as a Board of Vacancies. The Board of Governors is made up of nine presidential appointees, plus the Postmaster General and the Deputy Postmaster General. At the moment, four of the nine appointed seats are vacant and one governor is in his one-year hold-over period following the expiration of his term. The gridlock that has hampered the appointment process in general has really damaged the Postal Service in particular. When you consider that the terms of two of the five commissioners on the Postal Regulatory Commission have also expired, the appointments problem is even deeper. But what truly makes the problem a crisis is that the PAEA's guidelines for appointments to the Board have not been followed.

The PAEA amended the law to require that "at least 4 of the Governors shall be chosen solely on the basis of their demonstrated ability in managing organizations (in either the private or the public sector) that employ at least 50,000 employees." Although all of the governors who serve are honorable people, this policy has not been followed. As our advisers at Lazard reported to us, the Postal Service lacks a Board with the kind of business experience needed to create a vision for a revitalized Postal Service – nor does it have the kind of executive talent needed to execute such a vision. Instead, the Board has approved the "shrink to survive' strategy that Lazard believes is doomed to fail.

NALC calls on Congress to overhaul the governance structure of the Postal Service to give it the best chance for a turnaround. NALC will work with any leadership team that develops a strategy for growth and is dedicated to the long-term viability of the Postal Service.

VI. Addressing the Cash Crisis: Return of the FERS Pension Surplus

The reforms we have advocated in this testimony are essential to the survival of the Postal Service well into the 21st Century. But we also face a short-term solvency crisis. The prefunding mandate, the Great Recession, and the misguided business plan of current postal management have left the Postal Service desperately short of cash. If the Postal Service had been allowed to follow private sector practice on prefunding, it losses in recent years would have been manageable, its cash position stronger, and its ability to adapt would remain intact – and it would still have more funds set aside for future retiree health benefits than most private sector companies. Instead, it has exhausted its borrowing authority and its management has pursued reckless cost-cutting in a crisis environment that is surely driving business away.

In order to prevent an economically damaging interruption of service and to give the reforms outlined below the time they need to work, Congress must also restore the liquidity the Postal Service needs to operate. Fortunately, there is a surplus in the Postal Service's FERS pension account that nobody disputes. Due to falling discount rates, that surplus declined from

$11.4 billion in 2011 to $3.0 billion in 2012. But if returned to the Postal Service, it is still enough to pay down its debt and maintain operations as it implements other reforms to restore its viability. Congress should change the law to allow for this transfer from the FERS postal account in the CSRDF to the Postal Service.

Note, however, that the actual surplus in the postal FERS account would be much larger if measured properly, according to a recent report from USPS Office of Inspector General prepared by The Hay Group. The report, entitled *Causes of the Postal Service FERS Surplus* (Report Number: RARC-WP-13-001, October 12, 2012), found that if the OPM were to use USPS-specific economic, demographic and mortality assumptions in its annual valuation of the FERS postal sub-account within the Civil Service Retirement and Disability Fund, the actual surplus would have been $24.0 billion in 2011. A subsequent update to the report released on December 4, 2012 (RARC-WP-13-002) incorporated the OPM's lower interest rate assumptions for 2012 – and therefore reduced the OIG's estimated surplus to $12.5 billion.

The use of USPS-specific assumptions increases the measured FERS surplus because the Postal Service's work force is different than the rest of the federal workforce; its employees are a distinct group with markedly different demographic and mortality characteristics. Historically, salary increases in the Postal Service have lagged those in the federal government overall and life expectancy among mainly blue collar postal employees is less than it is, on average, for mainly white collar federal employees. A fair valuation of the postal sub-accounts requires the use of USPS-specific assumptions.

Rep. Stephen Lynch, the ranking member of this Committee's postal subcommittee, has drafted legislation (H.R. 961) that directs the OPM to use accurate, postal-specific assumptions and the resulting FERS surplus of $12.5 billion should be used to stabilize the Postal Service's finances as other reforms are put in place. A transfer of the FERS postal surplus would set the stage for a major turnaround at the Postal Service, provided that the reforms outlined above are enacted and the Congress prevents current postal management from driving America's Postal Service into a death spiral.

VII. Conclusion

It is our sincere hope that this Committee will hold other hearings on the issues we have raised in our testimony. Many of the proposals we have made are addressed in one form or another in H.R. 630, the postal bill introduced by Rep. DeFazio. We urge this Committee to give the bill serious consideration as you begin the process of drafting reform legislation. NALC is committed to working together with both parties to fashion a bi-partisan reform bill that will preserve a strong and vibrant Postal Service for decades to come. Thank you for considering our views.

Mr. FARENTHOLD. [Presiding.] Thank you very much, Mr. Rolando. Since the chairman has stepped out, I will recognize myself first for questions, and I would like to start with you because the prefunding really is a big issue that we are facing, and I want to be perfectly clear on where you and the members of your organization are on that. You do believe we do need to set aside some money. Are we really just arguing about how much money we set aside? You don't want to do away with prefunding completely, correct?

Mr. ROLANDO. We believe prefunding is a good thing, and the gentleman from GAO said this about five times this morning, if it is done in a fiscally responsible way. It is not fiscally responsible to exhaust your borrowing authority, to drain your savings, and to use all your resources to take money from one of your pots and put it in another pot. It is not fiscally responsible. As long as the Postal Service has the surpluses to do what was intended, to then fund for prefunding, we think it is a great idea.

Mr. FARENTHOLD. All right, we heard testimony from the GAO that if we completely did away with prefunding, there would still be a deficit. So under your scenario there, we would put no money away for your retirees. Is there a number that they have to work into their budget and their planning that is a reasonable amount to put away to ensure that your retirees are paid the benefits and given the health care that they were promised?

Mr. ROLANDO. The number is $45 billion. That is how much we have put away.

Mr. FARENTHOLD. But that is not going to last. So you want to zero it out and just use what you have until it is out or until the Postal Service is making money?

Mr. ROLANDO. No. When we have surpluses, we should continue to prefund. But as we are right now, we have $45 billion. Again, you have to look at the source of the prefunding. It was thought that at the time, in 2006, looking out over—the gentleman earlier said it wasn't 75 years. He is correct; it is more like 92 years is the amount of time that they did the assumptions for, for about a 92 year period. What he is confused about is the time that they were going to take to pay it off was 50 years.

Mr. FARENTHOLD. Would you all support a, I think the term was actuarial-based accrual system or payments?

Mr. ROLANDO. Yes. We have several options in my written testimony. There are several ways to prefund. We do believe in prefunding, we do believe it should be fiscally responsibly done, and we do believe it should be done out of the surpluses.

Mr. FARENTHOLD. All right, so I guess we are arguing about what fiscally responsible is. And, again, I don't want to put words in your mouth, but you are saying only if there is a profit or an excess do we put some away; we don't actually find efficiencies or make changes to our service, dropping down to five days, for instance, or raising postal rates to get there.

Mr. ROLANDO. What is not fiscally responsible is taking all your money out of the bank, all your borrowing authority, and all your resources, and pretending that you are in default to put money of your own into another account and call it prefunding for the future.

Mr. FARENTHOLD. All right, we will go to the Postmaster General. Thank you, as well, for being here. I would imagine there is a slightly different opinion on your part as to what needs to be done with respect to meeting the obligations and keeping the promises you made to current employees?

Mr. DONAHOE. Yes. First of all, we stand very firm in making sure that we keep the promises to the employees. This organization, when we were hired, Fred and I, we had the promise of health care, and we have to live up to that. I would tell you that rather than worrying about how much to prefund, we need to step back and take the suggestion that you heard from both of us, that we take over our own health care plan. And, truthfully, we could work it within the FEHBP. I have no issue with that. As long as we were able to compete it, make it affordable and cut the cost for our current employees, and then use the full effects of Medicare, which we pay into—ratepayers are paying Medicare; postal employees are paying Medicare—and conduct our health care like any other business. As a matter of fact, Mr. Chairman, if we did that, we are on record in our testimony showing that we actually break even and there is no further need to prefund. We would provide top quality health care for all the postal employees employed right now and into the future.

Mr. FARENTHOLD. Well, I know the OPM is looking at some of the same ideas you want for the entire Federal workforce.

Mr. DONAHOE. I would love to spend more time with the OPM, and I would invite them to spend time with us as a group, the unions and the management associations, and we can sit down and go through step by step. What we find with the OPM, truthfully, Mr. Chairman, is they play four corners offense on us; and that was something that used to happen before the time clock for basketball. So we would encourage you guys to take the lead, force that issue. We are ready to step up.

Mr. FARENTHOLD. All right, let's talk a little bit about the current path the Postal Service is on. Assuming we in Congress do nothing and you continue down the path you are on, what are your plans for when you run out of money?

Mr. DONAHOE. Well, let me address that in a couple ways. Number one, we are accused very often of moving the goal posts here. The reason the goal posts move is because we have very efficient employees who do a great job every day, and we have worked very hard to make up the substantial drop in revenue. I told you the first class revenue is dropping; it will continue to drop. We think we will lose another $5 billion in first class revenue. We will make some up from a package perspective; that will close some of the gap. But what we need is congressional action now so that we do not face that problem.

The biggest problem we face is a concerned confidence in the mail itself. That is something that goes across all postal employees, including the industry itself. So the faster you act to give us the flexibility to get this place back on firm financial footing, the better the entire industry will be.

Mr. FARENTHOLD. Thank you very much.

I see I went over. We will give Mr. Cummings six and a half minutes.

Mr. CUMMINGS. Thank you very much. Thank you, Mr. Chairman.

Mr. Donahoe, tell me something. Are you familiar with what Mr. Rolando just said about his suggestions with regard to health care and the postal system? Are your plans almost identical or what would be the difference, if you know, between what he is talking about and what you are talking about?

Mr. DONAHOE. I don't think it is radically different. Fred and Cliff Guffey, from the APWU, have both talked to us about the importance of controlling our own health care plans. It is fair for our current employees and for our retirees. From our perspective, what we propose has been any changes that we will take on with health care, including taking over our own, we would include the union in terms of oversight of that plan. So I think we are pretty close as far as where we would like to go. There may be a difference as far as Fred's statement around the FEHBP. I think that we could live with it as long as we were able to achieve the bottom-line savings that we think we need.

Mr. CUMMINGS. Mr. Rolando, the letter carriers have been a strong proponent of the Postal Service maintaining a six day mail delivery. You testified that "it is a strategic asset that must be protected to return the Postal Service to health" and it should not be "sacrificed to maintain the disastrous retiree health fund prefunding policy." You also mentioned that the postal regulator of the United Kingdom concluded last month that six day delivery should remain part of the rural mail's universal service obligation. Can you elaborate on the reasons for that decision, and are there specific characteristics of the mailing industry in the United States that may have led to that decision? In the United Kingdom, rather.

Mr. ROLANDO. I believe it has to do with the whole downsizing strategy of sacrificing your networks that you need to achieve the growth to replace the revenue that is being lost. Once you start out with a strategy of dismantling your network, you lose the ability for growth, especially in what we are facing here in the United States, and I don't believe it is much different in the United Kingdom, with what is going on in the whole retail world and what we are seeing with e-commerce and so forth, and the way the American people are going to shop and the way they are going to want to use the mail. You have your e-commerce same day, next day delivery, you have Amazon, eBay, Google, Walmart, the major chains all competing for that retail market, and the one thing they have in common is the United States Postal Service in order to receive those packages, whether it is same day, one day. And if we start out our growth plan with a strategy of downsizing the very network that is going to get us all that business, I think we are going in the wrong direction, and I believe the United Kingdom sees it the same way.

Mr. CUMMINGS. I would assume, Mr. Donahoe, that you would have a little different answer there, and I am assuming that you would say that we have a situation where perhaps we need to right-size our workforce so that—and some testimony came up in the previous panel where they were saying that you are going to have a lot of capability, but you are not going to have the work. So how do we balance all of that? You follow me?

Mr. DONAHOE. Sure.

Mr. CUMMINGS. There has to be a balance, because I think, at the rate we are going, we are getting ready to fall off a cliff; and if we are not careful, I know I heard others talk about alternative plans, but I am trying to figure out how do we do that at the same time and be reasonable with regard to an outcome?

Mr. DONAHOE. Yes. I think the key thing for the Postal Service is to look at the revenue lines going forward, and we think that we can halt revenue at about $65 billion. Now, with that $65 billion in revenue, you have changes going on in terms of the products themselves; a slower decrease in first class, pretty stable in terms of direct mail, standard, and an increase in packages. Given that $65 billion in revenue, resolving the health care alone is worth saving somewhere between $6 billion and $7 billion a year. Our current cost structure right now has us at about $74 billion with that included. So if you address that, if we continue with the consolidations we have been making, we employ the work that we have been able to do with the unions for a lower cost employee, which has worked out very good coming out of the negotiations and arbitrations, and address the six to five day of package delivery for six days, mail for five days, we can get our cost structure down to about $61 billion to $62 billion. That $2 billion in profit every year can be applied against our debt, get us back on firm footing, and put us in good shape going out in the future.

The thing we have to be very careful in terms of a country like Great Britain, they charge $0.95 for a stamp now. If we charge $0.95 for a stamp, we would completely lose our first class volume, and that would bankrupt this organization. So it is a very careful balance of pricing, product, taking cost out, more flexibility in labor, and addressing these big killer costs like health care.

Mr. CUMMINGS. Are you frustrated that when you want to go into an area, a new area, that you seem to run into obstacles, some of them placed by members of Congress?

Mr. DONAHOE. We run into obstacles. We run into obstacles. One of the things that we try to do is focus on core growth. Fred mentioned the package business. It has been great. The carriers have been doing a great job; the rural carriers have been doing a great job. We have been growing faster than the competition, picking up market share, as well as working with the competition, FedEx, UPS, DHL. So that has been a real bright spot there.

We have other areas; trying to merge up direct mail with electronic communication these days, where something that comes in your mailbox can actually be scanned by your cell phone and you can make a purchase that quick. So we have been able to take advantage of those.

Where we get a little bit worried and sometimes frustrated is suggestions that we get into some areas that we don't think we can really make money, nor compete, nor even really have a part in those areas. So there is a little bit of frustration there.

Mr. CUMMINGS. Thank you very much.

Mr. DONAHOE. Thank you.

Chairman ISSA. [Presiding.] The gentleman from Tennessee.

Mr. DUNCAN. Thank you, Mr. Chairman. I am very interested in all the big picture testimony that I have heard today, but I have a more specific question I want to ask in just a few minutes, but you heard me ask the last panel. Do you know how many people, total, you are paying for their health care now, counting families?

Mr. DONAHOE. I will get you that information. We have health care for retirees, health care for currents. But we do have some people that we employ who opt out of health care because their spouse provides it or something like that. So I will get you that information.

Mr. DUNCAN. Okay. And, of course, the children would come under that plan also.

Mr. DONAHOE. Yes.

Mr. DUNCAN. So I just was curious about the total number.

Mr. DONAHOE. Yes.

Mr. DUNCAN. But I had a man from Tennessee who has run a shipping store and he has participated in your approved shipper program for many years, but he recently had to renew his contract and was told he can no longer be able to use the click and ship site, and would have to go some private sites. And he wrote me this, he said: Now I apparently am grandfathered in, but I won't be listed on the post office's online locator because I use the post office's website to process mail rather than a private vendor. Again, I can be an approved shipper for the U.S. Postal Service so long as I don't use their own website to process my mail. This is both stupid and ridiculous on the face of it. As I note, I can and, in the short-term, will have to use a private vendor, and all these issues go away except that this level of stupid shouldn't go unchallenged. The post office should have any such programs go to their site first, if not exclusively. And someone who has some influence with them will have to raise the issue because according to folks at the Postal Service, they can't do anything about it.

Now, do you know what he is talking about?

Mr. DONAHOE. I have an idea. I will follow up if you could get me that information privately. But what we are doing is this: We are actually bidding a system out in the private sector right now to replace some of the click and ship software that we have, and we are transitioning companies onto that. That is what he sounds like he is getting caught in the middle of that, so we will follow up.

Mr. DUNCAN. All right. Thank you very much.

Mr. DONAHOE. Thank you.

Mr. DUNCAN. Thank you, Mr. Chairman.

Chairman ISSA. Would the gentleman yield?

Mr. DUNCAN. Yes, I will yield.

Chairman ISSA. I would like to use this time to ask a question of the postmaster. We have inquired a little bit about the so-called Velassis contract. Is it fair to say that this is a low-profit contract or a no-profit contract to the post office? That is what we have as figures, is that correct?

Mr. DONAHOE. I think it is a contract that we feel that we can grow revenue with. Velassis came to us with a proposal, as many other companies——

Chairman ISSA. No, no, I appreciate it, Mr. Donahoe. Profit and revenue are two different things.

Mr. DONAHOE. Right.

Chairman ISSA. We already heard you are losing money in this category. So you are going to get more volume of something you don't make money on at the expense of the newspapers of America, basically, because that is really what this contract does, is, to a great extent, it takes what people usually pay for in their newspapers, moves it through the postal system, increases your volume. But do you exist to move volume or do you exist to provide an essential service? And the reason I ask that is if the service is being provided elsewhere by entities, although it is a declining area, entities, they make a profit on it and the private sector, but you are going to take it in, not make any money on it. What is the basis for it other than revenue? I mean, is it justified against reducing the rate of decrease of the post office?

Mr. DONAHOE. We will make money on this because what happens, Mr. Chairman, is we bring that type of volume in across all of our routes. You are spreading that cost across routes and the revenue per delivery actually goes up.

Chairman ISSA. Okay, so let me rephrase that. You are losing a lot of money.

Mr. DONAHOE. Right.

Chairman ISSA. You don't currently have a pathway to break even. This is about maintaining or increasing volume in a losing operation by including nonessential services being provided by others, is that correct?

Mr. DONAHOE. No, no, no. We will make money on this product. We will make money on this product the way the price is structured. What we are saying is our routes are going out today on a Monday through Saturday basis, and even in a Monday through Friday world. The key for us in the future is revenue per delivery. So you have first class revenue and packages at a high end, but things like standard mail and periodicals, they still bring revenue to the organization.

Chairman ISSA. You lose money on periodicals.

Mr. DONAHOE. Yes, we do.

Chairman ISSA. Okay, so you lose money on periodicals; you lose money on nonprofit; you lose money on political mail; you lose money on basically all the work you do on behalf of people, all the junk mail I get soliciting me to give somebody else money, they do it because they make a profit doing fund-raising by direct mail, and you lose money on that, is that correct?

Mr. DONAHOE. In terms of nonprofit and periodicals, we do lose money.

Chairman ISSA. And you lose money on Saturday delivery.

Mr. DONAHOE. And we lose money on Saturday delivery. We would be better off delivering packages on Saturday, mail Monday through Friday. It gives us the ability to collapse the volume that we have in the system, down 27 percent in the last five years, to a much more tighter network. That is why we are making that proposal.

Chairman ISSA. Thank you.

We now go to the gentleman from Virginia for five minutes.

Mr. CONNOLLY. Thank you, Mr. Chairman.

With respect to the chairman's point about making a profit, Mr. Donahoe, is postal service referenced in the Constitution of the United States?

Mr. DONAHOE. Yes, sir.

Mr. CONNOLLY. Does it mention FedEx or UPS?

Mr. DONAHOE. No. When the Constitution was written, they weren't around.

Mr. CONNOLLY. Does it mention a profit, that that service is dependent on a profit?

Mr. DONAHOE. Post roads, if I am not mistaken.

Mr. CONNOLLY. So it is actually a service mission. I am not saying you should lose money, but we have to take into account the fact that the Constitution actually mandates your service.

Mr. DONAHOE. Yes.

Mr. CONNOLLY. So that makes you unique, does it not?

Mr. DONAHOE. Well, PAEA also instructed us to move towards a more profitable——

Mr. CONNOLLY. I understand. I am only talking about the constitutional issue here.

Mr. DONAHOE. Okay.

Mr. CONNOLLY. Mr. Donahoe, you announced in February your determination that you were going to eliminate, except for parcel delivery, I believe, and maybe some other exceptions, six day delivery and go to five, is that correct?

Mr. DONAHOE. That is correct.

Mr. CONNOLLY. And you said you thought you had the legal authority to do so at that time.

Mr. DONAHOE. When we made the announcement in February, yes.

Mr. CONNOLLY. In November, however, prior to that, you signed a document dated November 15th to the SEC, part of the Sarbanes-Oxley compliance, in which you said that actually the language requiring six day mail delivery frequency remains in effect.

Mr. DONAHOE. We believed that at the time.

Mr. CONNOLLY. So what happened between November and February that changed?

Mr. DONAHOE. Here is what happened. As you well remember, the time ran out on the lame duck session. We were able to see no completion with postal legislation. Our board had a meeting and our board said you have got to do whatever you can do to continue to move to either raise revenues or cut costs moving forward. So they asked us to come back with a plan, and we came back with a plan in the January meeting with a couple of options.

For years and years, Congressman, we always assumed that we would have no control over health care until we dug in and saw that we had options.

Mr. CONNOLLY. Mr. Donahoe, thank you. Unfortunately, my time is limited and I am trying to follow the logic here. So I appreciate that.

So at that January board of governors meeting, did they endorse your legal reasoning with respect to your power to go from six to five?

Mr. DONAHOE. We laid out the fact that the way the CR was written, we felt we were on firm legal ground to do that and they endorsed our move.

Mr. CONNOLLY. They had a formal vote and endorsed it?

Mr. DONAHOE. They did not have a vote. We discussed it and they said proceed and proceed at haste.

Mr. CONNOLLY. So when the GAO, in March, responded to my inquiry and opined otherwise, at the time you issued a statement saying you disagreed with the GAO, is that correct?

Mr. DONAHOE. The GAO issued a statement after the CRs were both passed in the House and in the Senate. We still are not so sure that we agree with the GAO's statements back on the original CR, but after the CR–933 was passed, we felt we were required by law to deliver mail six days a week.

Mr. CONNOLLY. You felt you were no longer required?

Mr. DONAHOE. No, I am sorry. We felt that we were required to deliver, and that is why we made the statement.

Mr. CONNOLLY. Okay. And what persuaded you, was it the King & Spalding memo?

Mr. DONAHOE. Yes. What happened was we used the same firm for both interpretations. King & Spalding gave us an interpretation for the first CR, along with our internal legal counsel; the second CR internal legal counsel and King & Spalding. We did not want to disrupt our customers; we felt it was prudent, because we knew there would be a lawsuit coming somewhere, to make the right decision.

Mr. CONNOLLY. Right. Okay, understood.

Mr. Chairman, I would ask, if there is no objection, that the King & Spalding memo be entered into the record.

Chairman ISSA. It has already been entered.

Mr. CONNOLLY. Oh, great. I thank the chair.

I am going to run out of time. I want to pick up on Mrs. Maloney's question about metrics, because one of the things, frankly, a lot of us actually would like to be supportive of reforms that can streamline and save money and make us more efficient, but in looking at decisions made, they are sometimes, frankly, puzzling in terms of the metrics. What analysis, what empirical data is going into making decisions to close this but keep that open, or to move to a leased rent in New York and sell a building you own? And I am wondering if you can provide the committee with some kind of background by way of what is informing you to make decisions under the rubric of cost savings, and are these net decisions? Are you also taking into account the fact that they may also be associated with the loss of revenue, so that the net savings may be something else again?

Mr. DONAHOE. Well, all of those decisions are based on the fact that we have too much infrastructure in the organization, and the infrastructure boils down to two things. If you want to maintain six days and all the infrastructure, if you are a customer, you have to pay for it. If you want to maintain it, if you are an employee, you have to take lower wages, because that is the only differential.

What we have done from a real estate perspective, to give you an idea, in the last six years we have sold $1.1 billion worth of real estate. The chairman mentioned that he would sponsor a seminar here, I guess you would call it that, where we would come in. I would be more than happy to walk through, for you and your staff and anybody here, exactly our approach on large facilities, small facilities, lease versus buy, and all of the opportunities we have in there to make decisions.

Mr. CONNOLLY. I would welcome that.

Chairman ISSA. I look forward to moving forward in a forum environment.

I might note for the gentleman from our founding State that the Constitution reads that the Congress shall have the power to, and in this case, to establish post offices and post roads. I will take note we no longer establish post roads, and there is no constitutional mandate to have a post office. It is, in fact, a tradition, it is an establishment of Congress, and, most importantly, it is something everybody on this dais believes in and wants to make work. But I think for purposes of citing the Constitution, we have the ability to eliminate the post office, spin it off as a completely private entity. We have a lot of abilities. I do believe it can be fixed, and I think that is the reason that we have the hearing here today.

With that, I would like to go to the gentleman from Wisconsin at this time. Or, Mr. Cartwright, the gentleman from Pennsylvania.

Mr. CARTWRIGHT. Thank you, Mr. Chairman.

Mr. Donahoe, the Postal Service was required by the Postal Accountability and Enhancement Act to make fixed annual payments of between $5.4 billion and $5.8 billion over 10 years to prefund the costs of future retiree health benefits accrued by current employees and retirees. As a result of its deteriorating financial condition, the Postal Service defaulted on $11.1 billion in prefunding payments for fiscal years 2011–2012. The Postal Service has also stated that its financial condition may prevent it from making its $5.6 billion due in September.

Now, many have criticized this prefunding requirement. In fact, you said in your statement that it is set at unrealistic levels, is that correct?

Mr. DONAHOE. I think that it is, but as I have also said, I think there is a solution to eliminate prefunding with our own health care.

Mr. CARTWRIGHT. The fact is that no other business or government entity has to face this kind of prefunding requirement, am I correct in that?

Mr. DONAHOE. Mr. Dodaro said that the Federal Government, through the military, does. I think that most companies that provide retiree health benefits are required in some way, shape or form to fund them.

Mr. CARTWRIGHT. Mr. Donahoe, do you agree that the prefunding mandate, as it applies to the Post Office, is unfair?

Mr. DONAHOE. I think it has hurt us financially. But I think it is the responsible thing to do. If we expect, as employees, to have health care in retirement, we have to pay for it. It cannot be funded by the taxpayers. And I think that we owe it to this body to put our plans forward. I think Fred and I both agree, there is a solution here. And we would ask Congress to act on those and give us the opportunity to compete health care.

Mr. CARTWRIGHT. I want to jump in here, Mr. Donahoe. In April 2012, the Senate did pass the 21st Century Postal Service Act, which contained a provision easing this burdensome prefunding payment requirement. The provision would have required the Postal Service to fund 80 percent of the actuarial liability of retiree health costs over 40 years.

Mr. Donahoe, what financial relief would the Senate's provision provide for the Postal Service, and do you believe more can be done?

Mr. DONAHOE. Yes. The Senate provided some relief based on changing the actuarial formulas and requiring us to only pay 80 percent. What we would propose, and we would ask Congress to sit down and look at our plans to actually move away from the current health care structure we have now. It is much more efficient, it includes Medicare and we wouldn't need to be arguing about prefunding at all. We think we have a solution.

Mr. CARTWRIGHT. President Rolando, I have a question for you. The media often reports that labor costs represent a much higher percentage of the Postal Service's total expenses compared to competitors. And they frequently cite an 80 percent figure at USPS. Can you explain for us why the USPS's labor costs are higher than their competitors?

Mr. ROLANDO. Yes. Actually that figure has come down about 10 percent over the last few years. The answer is simple: we are very labor intensive. We go to every house six days a week. You can lower that labor cost. You could eliminate delivery altogether and have everybody come pick up their mail at the post office. But again, we are here with a universal service obligation. We are not looking to turn this thing into a corporate profit machine.

Mr. CARTWRIGHT. Mr. Rolando, do you feel that the percentage of labor cost is appropriate for the kind of service that we get from our national Postal Service?

Mr. ROLANDO. Absolutely. The productivity, and I think the Postmaster General has said this many times, the productivity is not the problem. The employees are working harder than ever. Their street time has increased by 25 percent over the last few years.

Mr. DONAHOE. If I can comment on the labor, if you don't mind.

Mr. CARTWRIGHT. Please.

Mr. DONAHOE. I think an interesting thing to look at, I mentioned before when we were talking about total costs, the goal would be to get down to a $62 billion cost level. That would put us in reasonably profitable territory and give us the opportunity to pay debt down. But even at that level, our labor costs still consists of about 76 percent of all costs. Because as you shrink your labor costs down, we also are going after a lot of the other non-labor type, non-personnel type costs, transportation, fuel, things like that. So to the first point, we are labor-intensive. The key is shrinking the pie, it is not worrying about what portion of the pie is in there.

Mr. CARTWRIGHT. Thank you very much.

I yield back.

Chairman ISSA. Thank you.

Mr. Donahoe, if you were a private company, and you defaulted on your health care for your retirees, the Federal Government doesn't step in and provide the money, do they?

Mr. DONAHOE. No. We would not have health care for the employees.

Chairman ISSA. Okay, and you don't pay your health care for retirement, it is substantially paid by the ratepayer, is that right?

Mr. DONAHOE. I pay a portion of it, 30 percent. The ratepayers pay 70.

Chairman ISSA. So the only reason that we could just forego that money would be if we didn't mind having the taxpayer pick up what the ratepayer and the employee do not pick up eventually. We have already had a legal decision that you would still get it, even if you don't pay into it. You are aware of that, right?

Mr. DONAHOE. I think we are absolutely, positively responsible for paying for our own health care.

Chairman ISSA. I agree. You gave a figure of 70 some percent, your goal to get to $62 billion. What would be the head count, the full time equivalent, a number of personnel today versus if you reach that goal, forgetting about how you reach it? How many people would work for the Post Office?

Mr. DONAHOE. We think that by 2016, with what we have laid out from a consolidation standpoint, including the six to five day change, it would be about 400,000 career employees, with about 60,000 non-career full-time employees. They are a 40-hour person that works at a substantially lower cost.

Chairman ISSA. And that is a hundred and how many thousand less thank you have today?

Mr. DONAHOE. Right now, as we sit here today, 497,000, it is about 97,00 people.

Chairman ISSA. Okay, so you need 100,000 less people, round number.

Mr. DONAHOE. Yes.

Chairman ISSA. Mr. Rolando, are you prepared to lose your share, obviously you are only one of the unions, of that 100,000 people through attrition, retirement and buyouts?

Mr. ROLANDO. Well, again, we don't agree with that downsizing strategy.

Chairman ISSA. Do you agree that you need to pay your health care costs? You already said you don't want a bailout. You don't want taxpayer money. You do agree that going to actuarial, you are still going to have about a $14 billion loss. How do you propose to make it up?

Mr. ROLANDO. As I said earlier, we believe that the downsizing strategy is what is going to put us in a position of insolvency. It would actually increase our chances of that happening.

We believe that we need to maintain these networks.

Chairman ISSA. So you are maintaining your $14 billion, after adjustment, net loss. Who is going to pay for it? You have already said you didn't want the taxpayers' money. You are not bankable.

Mr. ROLANDO. Who said we need the taxpayers' money?

Chairman ISSA. You said you didn't need the taxpayers' money.

Mr. ROLANDO. Yes, that is correct.

Chairman ISSA. So the bottom line is, you have no money, you are insolvent. Whether you agree or disagree with the kinds of changes the Postmaster and his predecessor have done, they have been done. What is your end game to get out of this? I made it very clear from the dais, we are happy to work with the Postmaster and the board on all kinds of changes, including, obviously, consideration of health care, actual health care changes that would be chosen in alternative to the current one. Obviously, rescheduling the actuarial payments necessary to meet the obligation of your current and future retirees.

But you have a $14 billion loss. I called you in here today, not to beat you up, but to make you tell us how do you get there. If we go from six to five and reschedule your health care today, if we do that today, we take the loss, recognized loss from $16 billion to $12 billion, we take it down by $2 billion by rescheduling, we take it down another $2 billion by getting rid of six day. If we did both of those, it has dominated most of the time the ranking member and I and others have spent, we get you to a $12 billion loss.

If we go to cluster boxes and quickly move America to secure storage, to where your letter carriers put a package, particularly medicines and so on, they put it in a lock box instead of trying to slip it through a chute which it doesn't fit through most of the time, we save $6 billion. That takes you from $12 billion loss to a $6 billion loss. But it does substantially reduce the number of letter carriers, through efficiency, not through a cut in service. If we did those things today we could get you to a $6 billion round loss.

Are you supportive of those changes, putting in cluster boxes so that there would be secure storage, so that your letter carriers, your remaining letter carriers, would go to clusters, they wouldn't go to chutes at 37 million homes? Yes, it reduces the number of union employees. But yes, it also saves the Post Office. Can you be supportive of that?

Mr. ROLANDO. Yes, sir, we are very supportive of whatever size workforce it takes to make the Postal Service have a plan for growth. We don't believe those savings exist to go from six to five day. To the contrary, we think it would cost us money. We do believe, if the Congress will help us out with the prefunding and give us what we need to negotiate the health benefit changes we need, which will certainly decrease the liability in prefunding, address the pension surpluses, give us some pricing relief and some of the other things that we have been discussing in these bills the last couple of years, that we will be fine, without destroying our networks. We are prepared to have whatever workforce, whether it is more or less, to make sure that the Postal Service can grow into the future.

Chairman ISSA. You didn't answer the question. I appreciate all that, and we want to work with you on all that. But the cluster boxes are important. Because if the Postmaster, who has currently dropped to a dribble the amount of these conversions, was given a mandate to make these changes, to supply secure storage for every American, so that in fact over the next few years, you transition to where Mr. Cummings, who I think has a chute at his house, my old house I grew up in, a chute in the house, if we went to a cluster box but knew our medicine was locked securely in there, the Post Office would save $6 billion by CBO estimate.

Can you support that? That doesn't reduce service. In fact, for 105 million people, it doesn't change service, because three out of every four people already have a box they walk to. Can you support that? Because it affects letter carriers more than anybody.

Mr. ROLANDO. I can't speak to alleged savings. But I can tell you this. If the Postmaster General decided that that is what they were going to do with new, current, whatever deliveries, and whatever they had to deal with with the public regarding that, we would certainly conform to whatever workforce was necessary to do that, of course.

Mr. CUMMINGS. Would the chairman yield?

Chairman ISSA. Of course I would yield.

Mr. CUMMINGS. I usually don't do this, but I am listening very carefully.

Chairman ISSA. You always listen very carefully, Elijah.

Mr. CUMMINGS. Mr. Rolando, I am trying to really make sure that your testimony is clear. But it is not really clear to me. I want you to clarify this. It is based on what the chairman just asked. We are trying to figure out, all of us up here know that there is probably going to be some downsizing. We call it right-sizing. And there is nobody that I can think of that wants to have jobs more than I do. I want jobs. I want jobs. I want to keep as many people working as possible.

The question becomes, though, I have been listening to what you have been saying about maintaining the networks, that is what you call them. But if you have more people than the work, the work to do, I am trying to figure out, what is the value of the network if it possibly destroys the very entity. I think this question goes to your credibility. Because we are trying to, I think the chairman has been fair, he said okay, help me, help me to help you. We need to know that. What is the answer to that? Because we want people working. But at the same time, we don't want to destroy the entity at the same time.

And the question is, these networks, if the networks don't have the work to be networking, am I missing something?

Mr. ROLANDO. Not at all. We are interested in the Postal Service being able to grow and replace the revenue that we have lost through the different technology, recession, whatever it might be. We want to replace that revenue.

We want to maintain the networks to the extent we need those networks to accomplish that type growth, as I spoke to earlier with regard to e-commerce and so forth, and the unique advantage that we have, the competitive advantage in the ability to adapt to the way people shop in the future, whether that is six days a week, seven days a week, five days a week, whatever that ends up being.

But we don't want to start out with a downsizing strategy of changing a network, eliminating a day of delivery, opening those mailboxes to competitors right off the bat, before we even enter into that market. Whatever that workforce looks like afer we have accomplished that and see what our place in the retail market is, of course that is what we are going to do. Because we have, of course, an interest in the solvency of the Postal Service and the growth of the Postal Service.

Mr. CUMMINGS. Just this last question. I guess what I am trying to get to is, do you believe in the concept of right-sizing, and right-sizing as I have said many times, with compassion?

Mr. ROLANDO. Let me tell you how compassionate it is. We have lost 193,000 jobs in the Postal Service in the last few years. My union is probably 40,000 of those jobs. That was done jointly, NALC and the Postal Service, put aside the manuals. We were going through the recession, and we jointly adjusted and eliminated thousands and thousands and thousands of routes and jobs in order to right-size. So we know first-hand what right-sizing is all about.

Mr. CUMMINGS. Are you saying that enough right-sizing has now been done? This is my last question, Mr. Chairman.

Are you saying that you believe that we have now had right-sizing? And you will never hear me say that the unions phenomenally cooperative. I think the Postmaster would say the same thing.

Mr. DONAHOE. I agree

Mr. CUMMINGS. You all have been phenomenal. But I am just trying to get to where you are, so I can understand it. You are saying that perhaps the right-sizing now is done? Enough has been done?

Mr. ROLANDO. No. I didn't say that.

Mr. CUMMINGS. What are you saying?

Mr. ROLANDO. I am saying let's look and see what we are going to do with the retail market and see what kind of workforce we need to grow the business.

Mr. CUMMINGS. Okay, thank you. Thank you, Mr. Chairman.

Chairman ISSA. Thank you. I think you helped make it very clear.

The gentleman from Missouri I believe is next in line, next in time and has a little extra time.

[Laughter.]

Mr. CLAY. Thank you so much, Mr. Chair. And thank you for conducting this hearing.

Let me start with the Postmaster. In an April 11th, 2013 Bloomberg article, Postmaster General Donahoe, you were quoted as saying "Without being able to cut back to five delivery days from six, the Postal Service will take its board's advice and ask its employee unions to renegotiate multi-year contracts."

Mr. Donahoe, have you asked the postal unions to renegotiate existing contracts?

Mr. DONAHOE. I sent the union presidents and the management association presidents a letter yesterday. I asked them to please consider that. What I would like to do is sit down before we do anything as a group and have a session where we kick around some ideas. There may be some opportunities in there we should look at.

Mr. CLAY. So that will be, renegotiating existing contracts. Now, I hope that the management of the Postal Service realizes that we are kicking numbers around, but these are real people, real lives, who have planned their futures and those jobs mean something to them. I am going to get Mr. Rolando into the discussion too. Have you thought about that?

Mr. DONAHOE. Yes. I come from western Pennsylvania, where our steel industry dissolved right in front of everybody's eyes. We lost 100,000 jobs in four years there. I have cousins to this day that are my age, 57 years old, who have never been able to get a reasonable-paying, full-time job again. I do not want that to happen to the Postal Service. As a group, I will commend the unions for being very good as a management associations to be very flexible. We have made some big, big changes. But there are some things we still need to do to get us to a point where we can get the costs under the revenue line, pay the debt down and provide a very good, secure environment for people going forward.

I am proud of the fact that the 200,000 jobs that we have reduced in the last six years, we have never laid anybody off. That goes back to my western Pennsylvania roots, where I saw families get crushed because people didn't have that consideration.

Mr. CLAY. Two years ago, on April 11th, 2011, the Postal Service announced that a tentative agreement had been reached with the American Postal Workers Union that would save the Postal Service an estimated $3.8 billion over the life of the contract. Mr. Donahoe, if the Postal Service is slated to save an estimated $3.8 billion under this agreement, how much more do you reasonably believe could be saved by renegotiating that agreement, and what types of provisions would have to be renegotiated to achieve additional savings?

Mr. DONAHOE. I think that the contract that was signed with the APWU is a breakthrough contract. I think that Mr. Guffy stepped up in a very courageous way and did for his members, both present and future, the right thing in terms of employment.

What I would propose, again, and as I have said, I don't want to talk about any ideas that we have publicly because I think it is disrespectful until we have a discussion with the union presidents and the associations. We may find coming out of there that we can't agree on anything. But there may be something there that we should at least talk about going into the future.

That said, this request from the board, direction from the board to me on the renegotiation is again a concern from the board that if we don't do something, we will run out of cash. We have heard this discussion today. Passing comprehensive postal legislation can resolve this. Our business plan gets us back to profitability without having to do anything until we get with the unions again in 2015, when the regularly scheduled talks begin again.

Mr. CLAY. Additionally, both the National Association of Letter Carriers and National Postal Mail Handlers Union recently concluded their arbitration processes with the Postal Service and agreements with both unions are now in place until 2016.

Mr. DONAHOE. Yes.

Mr. CLAY. Did either of these agreements provide significant savings?

Mr. DONAHOE. Yes, they did. With the Carriers' agreement, I think we reached a breakthrough on flexibility for what we call city carrier associates. I think that gives us the ability to deliver packages on the weekends in a very affordable manner. I think that was a breakthrough. I also think that if you take a look at what we have been able to come up with with the Carriers going forward in terms of affordable career employees for the future, that sets a good tone.

Now, saying that, I will also say, and I know it is a hot spot with people, I think it is critical that we as an organization consider defined contribution retirement systems for our people going into the future. I know, and we have done a lot of work on this, it scares people sometimes. But with the uncertainty in the Postal Service in the future, I think that we could assemble a very good benefits package for retirement that is not only good for a person in the shorter run, 20 years, but is transportable.

Mr. CLAY. And you are probably going down the correct path, because that is the model that most American businesses have taken.

Mr. Rolando, you have sat through the testimony today in this hearing. We know that the business model has to change in order for us, for the postal system to survive. Has there been any contemplation of replacing the FEHBP with the Affordable Care Act? Under the law, which is about to be implemented in 2014, the Affordable Care Act says that if an employer does not provide health insurance, then they will be penalized, and then perhaps if an employee doesn't have it, or an American doesn't have it then they will be penalized. Has anybody done a balance sheet on that?

Mr. ROLANDO. Let me start out with your first comment. With regard to the business model, we do believe there needs to be a change in the business model. We just one with some vision for the future, for growth, not down-sizing.

With regard to the health care and the whole business about the agreement, when I saw that from the board of governors, it had an insulting component to it that I won't get into. But it had another component that it was unnecessary. A major part of the arbitration award that we got with the Postal Service was a memorandum of understanding about health care that allows us to pursue. That is where all the potential, as the Postmaster General has alluded to, that is where all the potential is for further savings with regard to our collective bargaining agreement, is what we can negotiate in terms of how we handle health care.

We have a task force that came as a result of that memorandum of understanding. That is why it is unnecessary, we need to just get busy on that task force.

With regard to the Affordable Care Act, our arbitration award provides for all new employees, our non-career employees, currently when they are hired, they have no health insurance and no retirement. Every new employee is non-career. At such a time as the Affordable Care Act comes into play, part of that arbitration award indicates how those individuals will be insured pursuant to the Affordable Care Act and the required contribution by the Postal Service by virtue of that law.

Mr. CLAY. Let me toss this out for both of you. That is the sticking point for this Congress, that is the prepayment of the health benefit. Apparently we are stuck on this side of the table. Because one side won't give. And so that is the hurdle, the major hurdle. I would love to hear from both of you. What do we do? Let's start with the Postmaster.

Mr. DONAHOE. As we have said before, I think that the one thing that the NALC, the APWU and the Postal Service are in agreement on is exploring, as Fred just mentioned, with the memorandum of understanding, the Postal Service taking over the full administration of its own health care plan, including for the retirees. Again, there are different models out there. We are flexible,

Fred has mentioned in his testimony that they would like to see it done through the FEHBP. As long as the outcome is what the outcome needs to be, and that is elimination of the prefunding, providing a very good health care plan at a much more affordable competed price, not just out there with the 217 plans now, and retiree coverage, I think it would be a gigantic breakthrough, not only for the Postal Service but the rest of the Federal Government. The rest of the Federal Government faces the same problem we do.

Mr. CLAY. Mr. Chairman, can I have an additional minute?

Chairman ISSA. I certainly think that ten minutes was not nearly enough.

[Laughter.]

Chairman ISSA. I certainly think Mr. Rolando does want to comment on his view on the health care, FEHBP and so on. So I will allow time there, of course, as is necessary for the gentleman from Missouri.

Mr. CLAY. Thank you so much.

Mr. ROLANDO. You asked what the Congress should do, because you are stuck. We have one major area of dispute with the Postal Service, I think. We think dealing with the five-day, we would lose $2 billion, they think that maybe they would gain $2 billion. We see it as down-sizing, we want a vision for growth,

Beyond that, it is beyond me why the Congress can't consider, we have $45 billion in that fund. Nobody else has to do it. We can pay as we go. There are all kinds of options to earn interest on that money and to continue to put money in that fund as we become profitable.

If you look at the pensions, even under the anti-business OPM rules that we have for our pension funds, we are 99 percent funded in civil service. The average agency, I believe, is 40 percent funded. We are $3 billion overfunded in FERS. If you use the independent companies assumptions of how you are supposed to do that, the fair allocation between the old postal department and the U.S. Postal Service, we have surpluses of $50 billion to $75 billion in civil service. If you use the current OPM assumptions and apply just postal assumptions, you will see that we have a $12 billion surplus in FERS, and we are about 99 percent in civil service. This is a wealthy broke company in terms of pensions and health care and so forth.

So if we could go forward and fix the pre-funding, address the pensions, give us some pricing freedom, allow us to do what we need to do with health care, maybe open up some products and services, I think that we have a vision for the future that will make the Postal Service flourish for years to come. And I don't see where it is a partisan issue. This is America's postal service.

Chairman ISSA. I thank you. Would the gentleman yield some of his time to me?

Mr. CLAY. Whatever is left, Mr. Chairman.

[Laughter.]

Chairman ISSA. Just one follow-up. Mr. Clay was asking a series of questions and you were very generous in talking about the health care component. It is an area that although you disagree slightly, you agree a great deal. As a rhetorical question, knowing that the rank and file would ultimately make the decision, if the Federal Government was prepared to hand you the $45 billion in prefunding, and allow you the liberty of making the many changes that you together would negotiate in your contracts, are you prepared to leave the Federal Government off the hook for any eventual shortage? In other words, take responsibility to make sure that future payments match future obligations, both for retirees and current employees.

Is that something that labor would consider doing? Mr. Clay rightfully said we should all agree on this, it is a sticking point. One of the sticking points is that what if 20 years from now we get asked to give $50 billion because there isn't enough there? Obviously the $45 billion would earn more money in a conventional investment rather than Treasury bills. Obviously the changes the Postmaster has asked to do with Medicare taking primary position and then what appears to be a mutual agreement that you could bid out more efficiently than you do on behalf of your various groups of letter carriers, is that something that you would be prepared to do?

Mr. ROLANDO. That is one of the many items that we need to talk about in the task force that involves a whole lot more than you and me and the Postmaster General as far as the actuarial effect. That is why we put the task force together.

Chairman ISSA. I can only say that those bold moves, like the gentleman from Missouri is suggesting, we would love to be able to say we have a request and a concurrence, so that we could consider putting those into legislation as a win-win. I have been unfair to the gentleman from Wisconsin.

Mr. CLAY. But we are getting close to putting out a bill.

Chairman ISSA. I think we are close. The ranking member and his team and our team worked pretty well in the last Congress to get close. The reason we are not putting one out right now is that we would like to get even closer to what we need.

Mr. CLAY. With the two sides here.

Chairman ISSA. Not just with these two sides, but quite frankly, with the Senate, who started off with no pathway to savings. But they did have some great referrals. I think we came in on a bipartisan basis with some savings, and I think you see some of it here today. We do look forward to that.

Mr. Pocan, I am so sorry that you have been relegated to the most important position, one that gives you the anchor position on the first panel.

[Laughter.]

Mr. POCAN. Thank you. Thank you, Mr. Chair, and than you, gentlemen, for being here.

I do have some questions for Mr. Donahoe in a second about some of the questions I have as you are looking at some of the savings. But Mr. Rolando, I am going to paraphrase something, and tell me if I am fair in this. Just briefly, what you are essentially saying is, you are concerned that we keep the core of the services that people have expected all my lifetime, but the important part is, if we need to find ways to keep those core services, additional revenue or other ways, we should do that, rather than what some people might call some of the proposals have been more austerity proposals. You want to keep the mission and the core mission of the Postal Service to be what it has been, but how we best supplement that, you are open to having those conversations.

Mr. ROLANDO. That is correct. We want to maintain the universal service for all Americans, regardless of where they live, how much money they make, what was intended.

Mr. POCAN. Thank you. Mr. Donahoe, I have a couple of questions. One in the health care area. I know there have been conversations about how you are potentially changing things. So do you presently have any postal-specific FEHBP claims data on health premiums?

Mr. DONAHOE. We have looked at that. I am going to have to get back to you on that, because our people have talked to the OPM on that. We will have more information coming up soon with the health care plan we are sponsoring for non-career people,

Mr. POCAN. How about any postal employee demographic information specific for health care?

Mr. DONAHOE. We can provide you that information. We have that. Generally, we are a little older group than most of the rest of the Federal Government.

Mr. POCAN. If you could get us that information, Mr. Chairman, I would appreciate having that.

A second question is something I am hearing back home on mail sorting. There has been a talk about a pilot program of moving mail sorting from Madison to Milwaukee. The concern we have in our area is, is that going to provide a delay in some of the service. One, is there a pilot program being proposed in my area, and two, how do you ensure that you don't have a delay that I think people are anticipating if this would happen?

Mr. DONAHOE. I mentioned in my testimony we have consolidated 300 facilities. We have another 120 under review right now, and some are actually being consolidated as we speak.

I am not positive that Madison is in this year, 2013, or if it is going to be in 2014. I know we are looking to consolidate. What we are trying to on the 2014 is figure out how to make the consolidations and maintain a degree of overnight service. That is what we heard back from customers. That has been the big complaint. With the ones we are doing now, we were able to make those changes in maintaining overnight service.

Mr. POCAN. If you do have any specific information in that area, I would like to see it.

Mr. DONAHOE. How about if we have somebody come up and sit down with you and walk through everything?

Mr. POCAN. I would appreciate that. It would be helpful. Because we do have some providers in our area, for example, a biotech firm that the average product they have is one-fifth of one drop of a product that breaks down DNA. They do all their overnight shipments with dry ice. I just want to make sure we have that service still for them.

Mr. DONAHOE. Yes.

Mr. POCAN. The final area is around the Saturday delivery. The question is, I know that FedEx, their Smart Post program is the fastest growing sector of their market. It is based out of Wisconsin. How they are doing it, it is about 19 percent up, I think, from a year ago. Part of that is, we are doing the final mile. We are delivering that last mile of delivery of service.

If we are not delivering to every single home, which gives us that advantage in doing that, how could that affect that service as well as our competitiveness with other firms, if we are not hitting every single home on Saturdays?

Mr. DONAHOE. What we have looked at is employing the same kind of technology FedEx and UPS use, which is dynamic routing. When we sort the packages on Saturday for the carrier routes, the software packages would actually put them in efficient delivery order. So the people that are now lower cost employees would work on Saturday and they would deliver the packages in those areas.

Mr. POCAN. And you have actually got some kind of financial model?

Mr. DONAHOE. Yes, we have done all the financial modeling.

Mr. POCAN. If we could just set that up, I would really appreciate it. Especially around the mail sorting. That is probably the issue back home I am getting the most often.

Mr. DONAHOE. Well, sir, the health care, the Madison and go through the dynamic routing for you.

Mr. POCAN. Thank you very much.

Chairman ISSA. I thank the gentleman.

Mr. Donahoe, I think if I didn't ask you briefly a couple of questions on now multiple ricin attacks, that we believe have occurred, I would be remiss. I hope to the extent you are prepared, I hope you can answer. We understand, obviously as many as two Senate offices at this point, plus a potential letter to the President. Are there steps that you are taking to protect your employees and to at the same time see if there is any additional sources of this material at this time that you can make us aware of?

Mr. DONAHOE. Sure. What we do, Mr. Chairman, as you know we have had these incidents before, going back to the anthrax attacks over 10 years ago. What we learned back then was the importance of having protocols in place where, anything happens, we react. Over the course of years we have had some situations where there have been ricin scares. Until this date, there has never been actually proved that have gone through the system. We have a process that we make sure that our employees know, we can actually track the mail back through the system to double check from an employee health standpoint where we are.

Another thing we have done with our inspection service, we have the absolute best detection systems going. So our inspection service works in concert with the FBI not only to detect what we have, but they also work back to catch these criminals.

Chairman ISSA. Thank you. We often talk about rain nor sleet nor dark of night. I think the fact that people would be so vicious as to put a deadly poison that can poison all along the way is another risk that we often don't think of postal carriers as being involved in.

Today we did not cover the processing centers, and at a future time obviously they are a major factor. Quite frankly, Mr. Rolando, the one that I am most concerned about, I believe letter carriers can be worked out on an attrition basis, where processing centers are a little bit more specific so that you can have a disruption if you are doing the right thing on right-sizing that portion,

I want to ask you just one closing question, Mr. Rolando. Do you believe that the post office should deliver on Saturday and Sunday if it can profitably do so?

Mr. ROLANDO. Yes.

Chairman ISSA. Now, the Postmaster has on different occasions, not just this latest one that prompted today's hearing, has proposed the idea of finding ways to have premium services on Saturday and Sunday. The current proposal, which we are respectful on this side of the dais, too, that sometimes you just take the lawyers' opinion and you live with it, but the current situation is one in which the Postmaster proposed a $5.60 of getting a Saturday flat envelope delivered.

My question to you, and it is to you because you represent 200,000 letter carriers, you represent the largest single portion of the workforce and the one that we relate to the most, do you believe that goal should be to find the right price, so that in fact we could have seven-day delivery, not six, but seven, but make sure that it is paid for, so that whether it is a bottle of medicine, pain patches or other things that one of our members referred to, that in fact there could be a scheme in which the Post Office could provide, to the greatest extent possible, to every point in America, every single day of the week, as long a they can do so profitably? In this day and age, would you support an attempt for the Postmaster to find the right price for that delivery?

Mr. ROLANDO. I believe pricing should certainly cover our costs. It certainly doesn't do that now. I think we have to be real careful with what that proposal entailed with not having letter mail delivery when you are delivering parcels. I believe that could, having the shared network of keeping costs down with the overhead, be a problem.

Chairman ISSA. I appreciate that, although I believe letter, not called letter, but the flat pack, the express mail, was envisioned. I think, Mr. Donahoe, it was like $5.60 for a letter.

Mr. DONAHOE. That is a priority flat rate letter, yes.

Chairman ISSA. Maybe I will pose this to you to keep the dialogue on both sides. If you were given a mandate to find the ability to deliver all mail but have a premium Saturday stamp, what would that price look like at optimum volume for Saturday or Saturday and Sunday? Less than $5.60, more than 47 cents? Can you give us a target number?

Mr. DONAHOE. Off the top of my head, it would be awfully hard. I think the point of the $5.60 for a priority envelope, we would treat that like a package. That is why we said that would be the way we go with it. I think what would happen would be, the mailers, whether a first class mailer or standard mailer, they are very price sensitive.

As we have discussions of price goes up to keep Saturday or get rid of Saturday and keep prices down, the keep prices down winds hands-down. So I wouldn't even venture a guess to say that people would pay more other than your point of a priority envelope at $5.60. I don't think we would see a ton of volume there, because most people said, hey, I would do without Saturday delivery.

Chairman ISSA. I will close with just a comment on this. When I send a card to my mom or other people and I don't know whether it is going to get there on Friday or not, and somebody says it is a dollar to make sure that if it doesn't get there on Friday, it gets there on Saturday, I think every son in America would put that dollar stamp on. That is one of the reasons I mentioned it is, the what-if. Maybe it won't get until Monday because Saturday delivery, when you send it on Friday, because you forgot, even though you think you are a good son, that is a dollar wasted. You send it on Wednesday and it gets there on Friday, and you put the stamp on because you want to be sure, that is a dollar wasted. But then if you are aggregating costs, it could in fact represent a very affordable price for the what-if.

I mention that because in the private sector, we have variable pricing for variable services. I think one of the challenges that the letter carriers are facing, that the ranking member and I are facing is, we don't want to arbitrarily tell you to stop doing six-day. What we want to tell you is, we want to work with you, we want to be your partner in maintaining quality living wages for your Federal employees doing the public service, do it within a budget without appropriation if at all possible. We hope without any appropriation. And maintain the service.

I have serious doubts about the innovation leading to vast new products. But having said that, in our bill we did have a fund to expand innovation. And we will in the next bill.

So we called you here today because we thought the American people deserved to hear about this confusion between five-day anticipated and six-day, which we will continue to have at least until October. I have a long list of things my staff has given to beat you up, to be honest, Patrick. And I considered using every bit of it. But to be constructive, I know you have a tough job. I have been a CEO, I know what it is like when you have rising revenues and you just throw money at it, everything looks great.

Sadly, I also was sitting on the board as we went through some tough times. And you have been through some tough times for your entire time, both in the number two position and number one.

Mr. Rolando, I don't know what it is like to represent hundreds of thousands of people. I do know what it is like to be a rank and file union member and to look to your union and say, why am I giving back? Why are things not always better?

So my hope is that this is the beginning of a cycle where by the time October comes this year, we will have at least language that can pass out of the House that can maintain the respect for people who already work or are already retired from letter carrying and other services for the Post Office, but meet the requirement of getting a pathway to break even. If we can do that, I think we set the stage for America believing that there are adults on this side of the dais, which according to current polls, they don't believe. That is one of the goals I have.

So I will throw away all the other questions. I have a couple that I would ask if we give you questions to be answered after the fact, would you agree to answer them?

Mr. DONAHOE. Yes.

Chairman ISSA. We will have staff give you, for some of the members that couldn't.

Does the ranking member have any other statement?

Mr. CUMMINGS. Very, very quickly. Thank you very much, Mr. Chairman.

I started off this hearing by reminding us that we must minimize our distractions to reach our goals. And the other thing that I reminded us of is that you can lose what you have by trying to hang on to what you used to be. That is a serious statement.

And it sounds like, Mr. Postmaster General, you are trying to make the adjustments that you have to make. And Mr. Rolando, I understand, and I thank you for being patient with me and answering my question. Because I understand what you are saying. You are saying, okay, the Post Office is going to change and you want to make sure that the personnel is there for those changes.

Still, it is going to be a kind of interesting dance. Because we have to figure out what that future looks like so that we can even figure out what we need and at the same time try to make sure that we maintain a healthy postal system whereby the rates are not skyrocketing, there is no uncertainty, unreasonable uncertainty. All of those things.

So I just hope that all of us can sit down and come to an agreement. Because one thing is for sure. We can do this.

Mr. DONAHOE. Yes.

Mr. CUMMINGS. If we can't do this, we might as well go home. I am serious. Or go play golf, even if you don't play golf. Do something. But the American people expect us to get this done. I think all of us agree that we need to have some kind of comprehensive legislation.

So I am looking forward to working with the Chairman as we try to resolve these matters in good faith. Again, I thank you all.

Thank you, Mr. Chairman.

Chairman ISSA. I thank you all. We stand adjourned.

[Whereupon, at 1:30 p.m., the committee was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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Opening Statement
Rep. Elijah E. Cummings, Ranking Member

Committee on Oversight and Government Reform
Hearing on "Options to Bring the Postal Service Back from Insolvency"

April 17, 2013

Thank you, Mr. Chairman, for convening today's hearing, and thank you for agreeing to my request to invite Mr. Fred Rolando, the President of the National Association of Letter Carriers. Labor is the foundation on which our Postal Service is built, and we must honor the employees who have served this institution for decades by ensuring that labor representatives are central partners to our reform efforts.

Delivering mail to more than 150 million addresses and operating 32,000 post offices nationwide, the Postal Service remains a vital link that binds our nation together. Last year, however, the Postal Service reported losses of approximately $16 billion, and it lost $1.3 billion in the most recent quarter. It continues to lose approximately $25 million a day, and it has borrowed all of the $15 billion it is authorized to borrow from the Treasury.

Obviously, such losses are unsustainable. However, much of this loss is attributable to the burden the Postal Service faces in pre-funding its retiree health costs—a requirement not imposed on any other agency or business in this country.

The Postal Service has taken numerous steps to reduce its costs, including offering buy-outs to employees, reducing operating hours at thousands of post offices, and closing dozens of mail processing facilities.

In addition, in January, the Postal Service's Board of Governors directed the Postal Service to eliminate the delivery of all Saturday mail except packages. This change effectively would have ended six-day delivery.

Every appropriations measure enacted since 1984 has included a rider requiring six-day mail delivery. It states that "6-day delivery, and rural delivery of mail shall continue at not less than the 1983 level." The plain language of this rider clearly prohibits the changes ordered by the Board of Governors. In March, Congress extended this rider in the appropriations measure to fund the government for the remainder of fiscal year 2013. As a result, the Board rightly reversed course and delayed implementation of five-day delivery until Congress passes legislation authorizing such a change.

As I have said repeatedly, Congress needs to pass comprehensive reform legislation that addresses not only delivery standards, but the full range of reforms needed to re-engineer the Postal Service for the next century. This legislation must amend the schedule for retiree health payments, recalculate the Postal Service's FERS surplus using postal-specific characteristics, and provide key tools to right-size the Postal Service workforce.

As I proposed in my Innovate to Deliver Act, we should also create a new Chief Innovation Officer position in the Postal Service. Too many people argue that the Postal Service should be self-sustaining, like a business, while at the same time arguing that it should be banned from competing against the private sector. I believe we must allow the Postal Service to expand into new business lines, and my bill would have done just that.

Unfortunately, the most significant challenge facing the Postal Service today remains what it has been for the last two years: Congress's failure to act. Although the Senate passed a comprehensive and bipartisan bill during the last Congress, the House failed to consider any postal reform legislation whatsoever.

Last fall, the House and the Senate did come together to negotiate potential solutions in a serious and sustained manner. We did not resolve a bill, but as I stated when Chairman Issa and I testified before the Senate Homeland Security and Governmental Affairs Committee in February, I believe we can quickly finalize legislation that puts the Postal Service on the path to a sustainable financial future.

This legislation is urgently needed, and we should begin work on it immediately. Thank you, Mr. Chairman, for holding this important hearing, and I look forward to working with you and our colleagues in the days to come.

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MEMORANDUM

TO: Mary Anne Gibbons
FROM: Jeffrey S. Bucholtz
DATE: April 5, 2013
RE: Implementation of 5-day delivery proposal

EXECUTIVE SUMMARY

You have asked our opinion on several matters related to the Postal Service's proposal to discontinue Saturday delivery of First-Class and Standard mail beginning in early August 2013. Specifically, this memorandum addresses the following questions:

1. Whether the full-year continuing resolution for Fiscal Year 2013 carries forward the 6-day delivery proviso attached to the Postal Service's FY 2012 Budget appropriation.

2. Whether the 6-day proviso may be satisfied through Saturday delivery of Express Mail, Priority Mail, and parcels, as suggested in floor statements by the Chairman of the House Government Oversight Committee.

3. Whether the Postal Service may avoid the 6-day proviso by refusing the appropriated funds to which it is attached.

4. Whether the fiduciary duty owed by Governors of the Postal Service authorizes them to decline to comply with the 6-day proviso.

5. What risks would be entailed by implementing the 5-day delivery proposal notwithstanding the appropriations rider.

6. Whether the Postal Service could ask the President to invoke the Impoundment Control Act to obtain rescission of the reimbursement appropriation containing the 6-day rider.

In brief, we conclude that the continuing resolution does carry forward the 6-day delivery proviso and that the proviso prohibits cancelling Saturday delivery of First-Class and Standard mail. Although GAO is mistaken that the proviso has any legal force apart from its attachment to appropriated funds, the Postal Service very likely cannot refuse to accept the reimbursement appropriation, either under the Impoundment Control Act (if that Act applies) or under the constitutional separation of powers (if it does not). Contrary to suggestions made by certain Members of Congress, the Governors' fiduciary duty to the public does not permit them to violate the 6-day proviso in order to maintain fiscal solvency, and proceeding with such a plan would entail substantial risks, including removal for cause, action by the Comptroller General, or judicial review. It is possible, however, to ask the President to invoke the Impoundment Control Act to obtain speedy congressional consideration of a request to rescind the reimbursement appropriation to which the 6-day delivery proviso is attached.

BACKGROUND

Federal law requires the Postal Service to carry certain material for the blind, overseas voters, and certain foreign diplomats free of charge. 39 U.S.C. §§ 3217, 3403-06. To compensate for this revenue forgone, Congress has authorized the Postal Service to receive an annual appropriation for reimbursement. *Id.* § 2401(c). The Postal Service's annual request for reimbursement must also include an estimate of revenue that will be forgone in the fiscal year, along with a true-up amount to reconcile prior-year estimates with actual mail volume. *Id.* (authorizing an annual appropriation of "a sum determined by the Postal Service to be equal to the difference between the revenues the Postal Service would have received if [the statutes requiring that free mail carriage] had not been enacted and the estimated revenues to be received on mail carried under such sections"). Because Congress provided insufficient reimbursement appropriations in Fiscal Year (FY) 1991 through FY 1993, it has also authorized the Postal Service to receive an annual appropriation of $29 million to compensate for the deficiency. *Id.* § 2401(d).

Congress has traditionally conditioned the Postal Service's annual reimbursement appropriation on, among other things, the continuation of 6-day delivery of the mail. *E.g.*, Consolidated Appropriations Act, 2012, Pub. L. No. 112-74, 125 Stat. 786 (FY 2012 Budget).

Until FY 1999, revenue-forgone appropriations to the Postal Service were "regular" appropriations—*i.e.*, appropriations for the same fiscal year governed by the budget. *See, e.g.*, Postal Service Appropriations Act, 1988, Pub. L. No. 100-202. But in the FY 1999 budget, Congress began funding part or all of the Postal Service's revenue-forgone reimbursement using "advance appropriations." An advance appropriation is "[b]udget authority in an appropriation act that becomes available 1 or more fiscal years after the fiscal year for which the appropriation act was enacted." Government Accountability Office, *A Glossary of Terms Used in the Federal Budget Process*, GAO-05-734SP, at 8 (2005). When Congress enacts an advance appropriation, the appropriated amount "is not included in the budget totals of the year for which the appropriation act is enacted but rather in those for the fiscal year in which the amount will become available for obligation." *Id.* The Office of Management and Budget provides a similar explanation: http://www.whitehouse.gov/sites/default/files/omb/budget/fy2013/assets/aaa.pdf

For example, in the FY 1999 budget, Congress appropriated $71,195,000 to the Postal Service for revenue forgone, but delayed payment of the entire amount until October 1, 1999—

the first day of FY 2000. *See* Postal Service Appropriation Act, 1999, Pub. L. No. 105-277 ("none of the funds provided shall be available for obligation until October 1, 1999"). Thus, the appropriated funds were counted against the federal budget in FY 2000 rather than FY 1999. In subsequent years, Congress sometimes relied on a mixture of regular and advance appropriations to fund the Postal Service's reimbursement. In the FY 2010 budget, for example, Congress appropriated "$118,328,000, of which $89,328,000 shall not be available for obligation until October 1, 2010." Consolidated Appropriations Act, 2010, Pub. L. No. 111-117, 123 Stat. 3034, 3200.

The most recent act specifically appropriating money to the Postal Service is the FY 2012 Budget. Enacted December 23, 2011, that Budget contained no "regular" appropriation to the Postal Service; the entire $78,153,000 appropriated amount took the form of an advance appropriation, "not...available for obligation until October 1, 2012," *i.e.*, the first day of FY 2013. 125 Stat. 786, 923. Like previous Postal Service appropriations, the FY 2012 Budget contained the proviso requiring the continuation of 6-day service. *Id.*

The text of the 2012 appropriation reads in full (*id.*):

> For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsections (c) and (d) of section 2401 of title 39, United States Code, $78,153,000, which shall not be available for obligation until October 1, 2012: *Provided*, That mail for overseas voting and mail for the blind shall continue to be free: *Provided further*, That 6-day delivery and rural delivery of mail shall continue at not less than the 1983 level: *Provided further*, That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further*, That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in fiscal year 2012.

DISCUSSION

A. The FY 2013 Continuing Resolution Carries Forward The 6-Day Service Proviso

1. Congress has not passed a regular budget for FY 2013. Instead, on March 26, 2013, the President signed H.R. 933, a full-year continuing resolution for this fiscal year (the "FY 2013 CR"). A continuing resolution "provides budget authority for federal agencies, specific activities, or both to continue in operation when Congress and the President have not completed action on the regular appropriation acts by the beginning of the fiscal year." General

Accountability Office, *Principles of Federal Appropriations Law*, Vol. II, at 8-2 (3d ed. 2006) (Red Book) (quotation marks omitted). "Once passed by both houses of Congress and approved by the President, a continuing resolution becomes a public law and has the same force and effect as any other statute." *Id.* at 8-3; *Oklahoma v. Weinberger*, 360 F. Supp. 724, 726 (W.D. Okla. 1973).

The FY 2013 CR contains several provisions pertinent here. Section 1101(a) appropriates, for FY 2013,

> [s]uch amounts as may be necessary, at a rate for operations as provided in the applicable appropriations Acts for fiscal year 2012 and under the authority and conditions provided in such Acts, for continuing projects or activities (including the costs of direct loans and loan guarantees) that are not otherwise specifically provided for in this joint resolution, that were conducted in fiscal year 2012, and for which appropriations, funds, or other authority were made available in [certain FY 2012 budget acts].

Section 1102 provides that "[a]ppropriations made by section 1101 shall be available to the extent and in the manner that would be provided by the pertinent appropriations Act." Section 1105 says that "[e]xcept as otherwise expressly provided in this division, the requirements, authorities, conditions, limitations, and other provisions of the appropriations Acts referred to in section 1101 shall continue in effect through [the end of the Fiscal Year]." Finally, section 1111, which was not included in the previous partial-year CR, provides as follows:

> With respect to any discretionary account for which advance appropriations were provided for fiscal year 2013 or 2014 in an appropriations Act for fiscal year 2012, in addition to amounts otherwise made available by this division, advance appropriations are provided in the same amount for fiscal year 2014 or 2015, respectively, with a comparable period of availability.

Section 1111 plainly carries forward the Postal Service's reimbursement appropriation from the FY 2012 Budget because it was an "advance appropriation . . . provided for fiscal year 2013 . . . in an appropriations Act for fiscal year 2012." *Id.* As we explain below, it is also reasonably clear that § 1111 will be construed to incorporate the conditions under which the original funds were appropriated.

2. Congress's historical practice has been not to carry forward advance appropriations in partial-year CRs, but instead to wait until a regular budget or full-year CR is enacted. Partial-year CRs typically include the language of §§ 1101 and 1102—thereby continuing regular appropriations from the prior year—but not that of § 1111, or § 1105. *Compare* Department of Defense and Full-Year Continuing Appropriation Act, 2011, Pub. L. No. 112-10, *with* Continuing Appropriations Act, 2011, Pub. L. 111-242. Full-year CRs generally contain all four provisions. *See* Department of Defense and Full-Year Continuing Appropriation Act, 2011, Pub. L. No. 112-10; Revised Continuing Resolution, 2007, Pub. L. No. 110-5. The natural inference

from this history is that §§ 1101 and 1102 by themselves (or the identical provisions found in partial-year CRs) do not carry forward the advance appropriations described in § 1111. Otherwise, § 1111 would be rendered impermissibly superfluous. *See Corley v. United States*, 556 U.S. 303, 314 (2009) ("[A] statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant." (quoting *Hibbs v. Winn*, 542 U.S. 88, 101 (2004)).

It could be argued that because § 1111 (unlike §§ 1101, 1102, and 1105) does not contain any express provision that its carried-forward appropriations are made subject to their original conditions, the provisos attached to them have not been carried forward. Admittedly, it is odd that both §§ 1102 and 1105 refer only to appropriations made by § 1101; neither explicitly requires that appropriations made *by § 1111* be subject to their original conditions and limitations. *See* FY 2013 CR § 1102 ("Appropriations made *by section 1101* shall be available to the extent and in the manner. . . .") (emphasis added); *id.* § 1105 ("conditions, limitations, and other provisions of the appropriations Acts referred to *in section 1101* shall continue in effect") (emphasis added). But nevertheless § 1105 literally covers our case: the 6-day proviso, like the rest of the Postal Service's appropriation in the 2012 Budget, is contained in the acts referred to by § 1101(a)(2), "[t]he Financial Services and General Government Appropriations Act, 2012 (division C of Public Law 112-74)."

Even if that were not true, or if §§ 1101, 1102, and 1105 were interpreted to deal only with regular appropriations, there is no realistic possibility that a court would accept that § 1111 frees federal agencies from the conditions attached to advance appropriations. Section 1111 tracks the language historically employed by Congress to carry forward advance appropriations. *See* Department of Defense and Full-Year Continuing Appropriation Act, 2011, Pub. L. No. 112-10, § 1118 ("With respect to any discretionary account for which advance appropriations were provided for fiscal year 2011 or 2012 in an appropriations Act for fiscal year 2010, in addition to amounts otherwise made available by this Act, advance appropriations are provided in the same amount for fiscal year 2012 or 2013, respectively, with a comparable period of availability."); Revised Continuing Resolution, 2007, Pub. L. No. 110-5, § 109 ("With respect to any discretionary account for which advance appropriations were provided for fiscal year 2007 or 2008 in an appropriations Act for fiscal year 2006, the levels established by section 101 shall include advance appropriations in the same amount for fiscal year 2008 or 2009, respectively, with a comparable period of availability."). These prior enactments confirm that § 1111 is a boilerplate provision intended to adopt Congress's ordinary procedures for continuing resolutions. And there is no reason for Congress to make a general practice of dispensing with conditions on spending when the spending happens to take the form of an advance appropriation subject to § 1111, rather than a regular appropriation subject to § 1101. Absent any reason to believe that Congress actually intended this boilerplate language to lift the conditions attached to advance appropriations, such an interpretation would likely be rejected as one of the "absurdities of literalism that show that Congress could not have been writing in a literalistic frame of mind." *Corley*, 129 S. Ct. at 1568.

B. Discontinuing First-Class And Standard Mail Delivery On Saturdays Would Violate the 6-Day Delivery Proviso

Because we conclude that the FY 2013 CR carries forward the 6-day delivery proviso, the next question is whether the Postal Service would violate that proviso by discontinuing First-Class and Standard mail delivery on Saturdays, but maintaining 6-day delivery of Express Mail, Priority Mail, and parcels. We think the answer unambiguously is yes.

1. "Statutory construction must begin with the language employed by Congress and the assumption that the ordinary meaning of that language accurately expresses the legislative purpose." *Park 'N Fly, Inc. v. Dollar Park & Fly, Inc.*, 469 U.S. 189, 194 (1985). The text of the 6-day service proviso requires that "6-day delivery and rural delivery of mail shall continue at not less than the 1983 level." Consolidated Appropriations Act, 2012, Pub. L. No. 112-74, 125 Stat. 786, 923. Even if the statute did not explicitly refer to 1983 delivery levels, the words "6-day...delivery of mail" would probably be best read to refer to the thing most commonly meant by "mail," *i.e.*, First-Class and Standard mail.

That interpretation is supported by the full phrase "6-day delivery *and rural delivery* of mail" (emphasis added). The phrase "delivery of mail" should be given the same meaning in the statute when modified by both *6-day* and *rural*. But it is very unlikely that Congress meant to permit the Postal Service to discontinue *all rural delivery* of First-Class and Standard mail so long as parcels could still be delivered to rural addresses. Because that result would follow from the proposed interpretation, it is very likely to be incorrect.

But the additional phrase "at not less than the 1983 level" removes all doubt. That phrase ensures that the Postal Service must not only deliver some mail on Saturdays, but must provide the same "level" of Saturday delivery it provided in 1983. In our view, there is no colorable argument that "the 1983 level" could refer to the delivery only of Express Mail, Priority Mail, and parcels. In 1983, as we understand it, First-Class Mail and Standard Mail were delivered to most places on Saturdays and comprised the vast majority of all postal volume. As a result, discontinuing Saturday delivery of those types of mail cannot be reconciled with any plausible view of what it means to continue "the 1983 level" of "6-day delivery . . . of mail."

The history of the 6-day rider also suggests that its very purpose was to preempt the Postmaster General's warning that 6-day delivery of all mail might be discontinued. As we understand the background, the rider originated in response to a congressional threat to cut Postal Service funds as part of a 1980 anti-inflation initiative. When the Postmaster General warned that these cuts would likely result in the cancellation of a delivery day, Congress enacted the 6-day delivery proviso. Moreover, the most recent example available to Congress of Saturday-delivery suspension—a brief period in 1957—reportedly involved "no deliveries on Saturdays, except special deliveries." Jay Walz, "Post Office Ends Saturday Service Till It Gets Funds," *New York Times*, Apr. 12, 1957, at 1. To the extent Congress had this episode in mind, it is unlikely the 6-day proviso was meant to permit, rather than to prohibit, a repetition of that solution.

2. The most promising counterargument, though we do not think it ultimately is colorable, is based on a floor statement during debate on the FY 2013 CR by Rep. Darrell Issa, the Chairman of the House Government Oversight Committee, which has responsibility for the Postal Service's authorizing legislation. Chairman Issa opined in that capacity that maintaining Saturday delivery only of Express Mail, Priority Mail and parcels would be consistent with the 6-day proviso.[1] For several reasons, however, this snippet of legislative history is not likely to be persuasive.

First, legislative history is not to be consulted unless the text of a statute is ambiguous. *Milner v. Dep't of the Navy*, 131 S. Ct. 1259, 1266 (2011) ("Those of us who make use of legislative history believe that clear evidence of congressional intent may illuminate *ambiguous* text. We will not take the opposite tack of allowing ambiguous legislative history to muddy clear statutory language." (emphasis added)); *United States v. Gonzales*, 520 U.S. 1, 6 (1997). In our view, the text of the 6-day rider is not ambiguous on this point. The Postal Service must continue Saturday delivery of "mail" at "the 1983 level." While that phrase is susceptible to some ambiguity at the margins—for example, whether it would be permissible to discontinue Saturday delivery to a few locations, or of less common classes of service—it cannot be read to permit cancellation of the two largest classes of service. Legislative history cannot alter the plain text of the rider.

Second, even if legislative history could be consulted, Chairman Issa's statement is not powerful evidence of congressional intent. Courts now "exercise extreme caution" before relying on "a statement made in floor debate" to interpret a statutory text. *Natural Resources Defense Council v. EPA*, 706 F.3d 428, 437 & n.9 (D.C. Cir. 2013); *Texas Mun. Power Agency v. EPA*, 89 F.3d 858, 875 (D.C. Cir. 1996). And even when legislative history was more frequently consulted, the Supreme Court made clear that "the remarks of a single legislator, even the sponsor, are not controlling in analyzing legislative history." *Chrysler Corp. v. Brown*, 441 U.S. 281, 311 (1979). Chairman Issa, moreover, is not even the sponsor of the FY 2013 CR or the chairman of the Appropriations Committee: He is instead the chairman of the committee with substantive authority over the Postal Service's authorizing legislation, giving him a special interest in the CR's effect on the Postal Service, but no special insight into the intention of the CR's drafters. And although it is true that no Member of Congress disputed Chairman Issa's interpretation on the floor, the Supreme Court has rejected such silence as a proper basis for interpreting a statute. *Barnhart v. Sigmon Coal Co., Inc.*, 534 U.S. 438, 457 n.15 (2002) ("[T]he dissent's additional reliance on the absence of a response to the Senators' explanation simply makes no sense. . . . [W]ere we to adopt this form of statutory interpretation, we would be placing an obligation on Members of Congress not only to monitor their colleague[s'] floor statements but to read every word of the Congressional Record including written explanations inserted into the record. This we will not do.").

[1] http://youtu.be/UbnB0DtN3s4

Third, Chairman Issa's statement does not purport to interpret language in the bill under consideration before the 113th Congress, *i.e.*, the FY 2013 CR. The CR does not itself contain the 6-day service proviso, but rather a blanket provision carrying forward all advance appropriations from certain previous budgets. Instead, it is the 2012 Budget, enacted by the 112th Congress, that contains the language to be interpreted. "And whatever interpretive force one attaches to legislative history, the Court normally gives little weight to statements, such as those of the individual legislators, made after the bill in question has become law." *Barber v. Thomas*, 130 S. Ct. 2499, 2507 (2010); *accord Doe v. Chao*, 540 U.S. 614, 626–27 (2004) (Justices who consult legislative history are "wary about expecting to find reliable interpretive help outside the record of the statute being construed," and thus "subsequent legislative history will rarely override a reasonable interpretation of a statute that can be gleaned from its language and legislative history prior to its enactment" (quotation marks omitted)).

For these reasons, we do not think Chairman Issa's statement will affect the plain meaning of the 6-day delivery rider included in the FY 2012 Budget. Nor do we think any reasonable legal argument exists that the Postal Service would remain in compliance with that rider if it discontinued Saturday delivery of First-Class and Standard mail.

C. The Postal Service Very Likely Cannot Avoid the 6-Day Rider By Declining Appropriated Funds

We have also considered whether the Postal Service could avoid the strictures imposed by the 6-day delivery proviso by refusing to accept the reimbursement funds appropriated by the FY 2013 CR. For the reasons that follow, we think the answer is no. Although we think GAO is wrong that the 6-day proviso has any force *apart* from its attachment to appropriated funds, we conclude that either the Congressional Budget and Impoundment Control Act of 1974 or (if that Act does not apply) the constitutional separation of powers would very likely forbid the Postal Service from withholding budget authority because of a disagreement with Congress over a policy matter.

1. By letter of March 21, 2013, GAO offered its opinion that the legal force of the 6-day service proviso is not "tied to the receipt of annually appropriated funds for revenue foregone," but rather is "a legislative directive establishing an operational standard for USPS." GAO Letter at 4 (quotation marks omitted). With respect, we think this conclusion is unsupportable.

It is undisputed that, absent amendment, the discretion conferred on the Postal Service by its permanent authorizing legislation would permit it to establish a 5-day delivery schedule.[2]

[2] The authorizing statute requires the Postal Service to "provide prompt, reliable, and efficient services to patrons in all areas," 39 U.S.C. § 101(a), "give the highest consideration to the requirement for the most expeditious...delivery of important letter mail," *id.* § 101(e), "receive, transmit, and deliver throughout the United States, its territories and possessions...written and printed matter, parcels, and like materials," *id.* § 403(a), "maintain an efficient system of collection, sorting, and delivery of the mail nationwide," *id.* § 403(b)(1), and "provide for the...delivery...of mail," *id.* § 404(a)(1).

Although Congress *could* repeal that authority in an appropriations bill, *United States v. Will*, 499 U.S. 200, 222 (1980), there is a "very strong presumption" in the law that appropriations acts do not modify the substantive law in this way, *Building & Const. Trades Dep't, AFL-CIO v. Martin*, 961 F.2d 269, 273 (D.C. Cir. 1992) (citing *Tennessee Valley Authority v. Hill*, 437 U.S. 153, 190 (1978)). That presumption is an application of the "'cardinal rule . . . that repeals by implication are not favored,'" except that the rule "applies with even *greater* force when the claimed repeal rests solely on an Appropriations Act." *Hill*, 437 U.S. at 189–90 (quoting *Morton v. Mancari*, 417 U.S. 535, 549 (1974)). The reason is that "[w]hen voting on appropriations measures, legislators are entitled to operate under the assumption that the funds will be devoted to purposes which are lawful and not for any purpose forbidden"—not that the appropriations measure *itself* is making those purposes lawful by repealing whatever other statutes might regulate the subject. *Hill*, 473 U.S. at 190.[3]

GAO, however, erroneously reverses this presumption. The only reason it gives for construing the 6-day rider as more than an appropriations condition is that "[n]o language in the [6-day proviso] indicates that its applicability is predicated upon and restricted to amounts appropriated in the 2012 Appropriations Act or in any other fact." GAO Letter at 4. But the absence of language *confirming* the ordinary presumption against implied repeals proves nothing; to count as substantive legislation, the 6-day proviso must contain language *rebutting* that presumption, and GAO points to none. GAO's comment is also wrong. There is indeed statutory language tying the 6-day rider to the appropriation: The words "[p]*rovided further*" serve no grammatical function other than to condition the receipt of the appropriated sum on compliance with the condition.

In sum, we conclude that the 6-day proviso does not require the Postal Service to maintain Saturday delivery unless it accepts the appropriated reimbursement funds.

2. But the Postal Service very likely cannot avoid accepting the appropriated reimbursement funds. At the outset, declining the funds would violate the Congressional Budget and Impoundment Control Act of 1974, Pub. L. 93–344, 88 Stat. 297, 2 U.S.C. §§ 601–688 ("ICA"), assuming for the moment that that statute applies.

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[3] Another reason the rule makes sense in the appropriations context is that the Appropriations Committees "ha[ve] no jurisdiction over the subject" of underlying authorizing legislation that would be purportedly repealed by appropriations bills, and therefore would normally have held no hearings or investigative proceedings in an effort to establish sound substantive policy. *See Hill*, 473 U.S. at 191. For that reason, the "rules of both the Senate and the House of Representatives prohibit 'legislating' in appropriation acts. However, this merely subjects the provision to a point of order and does not affect the validity of the legislation if the point of order is not raised, or is raised and not sustained. Thus, once a given provision has been enacted into law, the question of whether it is 'general legislation' or merely a restriction on the use of an appropriation, that is, whether it might have been subject to a point of order, is academic." Red Book, Vol. I, at 2-34.

The ICA describes two kinds of impoundment actions that can be proposed by the Executive: rescissions and deferrals. A rescission is a total cancellation of an appropriation, and it can be accomplished only by legislation. *See* 2 U.S.C. § 683(b). A "deferral of budget authority," by contrast, means "(A) withholding or delaying the obligation or expenditure of budget authority (whether by establishing reserves or otherwise) provided for projects or activities; or (B) any other type of Executive action or inaction which effectively precludes the obligation or expenditure of budget authority, including authority to obligate by contract in advance of appropriations as specifically authorized by law." *Id.* § 682(1). Unlike a proposed rescission,[4] a deferral request does not require legislative action for approval, *see id.* § 684, but labeling a rescission as a deferral will not prevent adverse congressional action. GAO will treat a deferral proposal as a de facto rescission if its timing is such that "funds could be expected with reasonable certainty to lapse before they could be obligated, or would have to be obligated imprudently to avoid that consequence." Red Book, Vol. I, at 1-33 to 1-34; *see also* 2 U.S.C. § 686(b) (if the Comptroller General believes the President has incorrectly classified a deferral or rescission request, he must "make a report to both Houses of Congress setting forth his reasons").

The ICA imposes specific restrictions on deferrals of budget authority. Deferrals may not be proposed beyond the current fiscal year, *id.* § 684(a), and are permissible only for certain purposes. In a subsection titled "Consistency with legislative policy," the law provides that:

> Deferrals shall be permissible only—
>
> (1) to provide for contingencies;
>
> (2) to achieve savings made possible by or through changes in requirements or greater efficiency of operations; or
>
> (3) as specifically provided by law.
>
> No officer or employee of the United States may defer any budget authority for any other purpose.

2 U.S.C. § 684(b).

These provisions, if applicable, would certainly preclude the Postal Service from refusing reimbursement funds absent a successful request for rescission of the appropriation. Refusing the funds would be at least a deferral within the meaning of the ICA, since it would involve "withholding" or "preclud[ing]" the "expenditure of budget authority." 2 U.S.C. § 682(1)(A) and (B). And because that deferral would be for the purpose of avoiding compliance with the 6-

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[4] In cases of rescission proposals, the special message or report triggers a 45-day window within which Congress must approve the rescission by legislation. 2 U.S.C. § 683(b). Otherwise, the funds "shall be made available for obligation." *Id.*

day service proviso, rather than for one of the permissible purposes enumerated by Congress, it would violate the Act's restrictions. We have not identified any argument to the contrary.

Violating the ICA entails a risk of legal action. The Act provides that "[w]henever...the head of any department or agency of the United States, or any officer or employee of the United States proposes to defer any budget authority provided for a specific purpose or project, the President shall transmit to the House of Representatives and the Senate a special message" defending the deferral. *Id.* § 684(a). If the President fails to do so, the Comptroller General must send a report on the deferral, which has the same legal effect as a special message. *Id.* § 686(a). The Comptroller General also has power to bring an enforcement action in district court to prevent an unlawful impoundment. *See id.* § 687.[5]

3. As we have indicated, there is a substantial question whether the ICA applies to the Postal Service. A provision of the Postal Reorganization Act of 1970 provides:

> Except as provided by subsection (b) of this section, and except as otherwise provided in this title or insofar as such laws remain in force as rules or regulations of the Postal Service, *no Federal law dealing with* public or Federal contracts, property, works, officers, employees, *budgets, or funds*, including the provisions of chapters 5 and 7 of title 5, *shall apply to the exercise of the powers of the Postal Service.*

39 U.S.C. § 410(a) (emphasis added). Subsection (b) of § 410 then enumerates specific provisions of federal law that do apply to the Postal Service, notwithstanding subsection (a). *E.g. id.* § 410(b)(7) ("section 19 of the Occupational Safety and Health Act of 1970"); *id.* § 410(b)(10) ("the Inspector General Act of 1978").

A literal reading of this provision may exempt the Postal Service from the ICA. "Federal law[s] dealing with . . . budgets, or funds" do not apply to the Postal Service, § 410(a), and it is difficult to see how the Congressional Budget and Impoundment Control Act is not a "law dealing with . . . budgets, or funds."

Two basic canons of statutory construction support that reading. First, "it is a commonplace of statutory construction that the specific governs the general." *Morales v. Trans World Airlines, Inc.*, 504 U.S. 374, 384 (1992). "The general/specific canon is perhaps most frequently applied to statutes in which a general permission or prohibition is contradicted by a

[5] "If, under this chapter, budget authority is required to be made available for obligation and such budget authority is not made available for obligation, the Comptroller General is hereby expressly empowered, through attorneys of his own selection, to bring a civil action in the United States District Court for the District of Columbia to require such budget authority to be made available for obligation, and such court is hereby expressly empowered to enter in such civil action, against any department, agency, officer, or employee of the United States, any decree, judgment, or order which may be necessary or appropriate to make such budget authority available for obligation." *Id.*

specific prohibition or permission. To eliminate the contradiction, the specific provision is construed as an exception to the general one." *RadLAX Gateway Hotel, LLC v. Amalgamated Bank*, 132 S. Ct. 2065, 2071 (2012). Because § 410(a) deals with the Postal Service in specific terms, while the ICA is a general law dealing with the federal budget that does not mention the Postal Service, the general/specific canon suggests that the Postal Service's exemption from budget laws trumps the ICA's seemingly comprehensive coverage.

Second, there is the canon against implied repeals. *Mancari*, 417 U.S. at 549. Because the ICA postdates the enactment of § 410(a), it would normally be read not to impliedly repeal the Postal Service's pre-existing exemption. That presumption is probably strengthened in this case by Congress's decision to enumerate, in § 410(b), specific statutes that *do* apply to the Postal Service notwithstanding § 410(a). It would be odd for Congress to expand that specifically enumerated list through the disfavored mechanism of implied repeal. The Second Circuit has invoked the implied-repeal doctrine to reject an attempt to subject the Postal Service to the Paperwork Reduction Act. *Kuzma v. USPS*, 798 F.2d 29, 32 (1986) ("No specific reference to the USPS is made in the [Paperwork Reduction Act], which was enacted ten years after the Postal Reorganization Act, and we adhere to the rule that repeals by implication are not favored. In contrast, the Postal Rate Commission is referred to specifically as an agency subject to the requirements of the [Paperwork Reduction Act]. *See* 44 U.S.C. § 3502(10). It is clear, therefore, that Congress could have explicitly subjected the USPS to the terms of the PRA had it wished to do so.").

But we do not think it clear that the Postal Service is exempt from the ICA. There is authority interpreting § 410(a) to cover only those federal laws related to the "efficient day-to-day management" of the Postal Service's business. *City of Rochester v. United States Postal Service*, 541 F.2d 967 (2d Cir. 1976) (Postal Service subject to National Environmental Policy Act because § 410(a) "is 'managerial' in orientation" while NEPA is "policy-oriented"); *Chelsea Neighborhood Association v. USPS*, 516 F.2d 378, 383 (2d Cir. 1975) (despite § 410(a), Postal Service is subject to NEPA, a law "designed to cover almost every form of significant federal activity"). While these older decisions reflect a purposive method of interpreting federal statutes, they do provide a hook for a reviewing court to reach what it will surely think is the sensible outcome; it is difficult to imagine why Congress would want the Postal Service to be exempt from procedures governing impoundment of appropriated funds, since receipt of such appropriations (and the accompanying need to abide by their conditions) is not a respect in which the Postal Service is like an ordinary business needing to operate with greater freedom.

4. Nevertheless, even though we think it is arguable that the Postal Service is not subject to the ICA, prevailing on that argument will not aid our cause unless, in the absence of the ICA, the Postal Service would have the right to refuse funds appropriated for obligation by Congress. The great weight of authority on that score—cases decided during President Nixon's attempt to use impoundment to combat inflation—suggests the Postal Service would not have that right. *See State Highway Comm'n v. Volpe*, 479 F.2d 1099, 1114 (8th Cir. 1973) ("We find nothing within these provisions of the Act which explicitly or impliedly allows the Secretary to withhold approval of construction projects for reasons remote and unrelated to the Act . . . . To reason

that there is implicit authority within the Act to defer approval for reasons totally collateral and remote to the Act itself requires a strained construction which we refuse to make. It is impossible to find from these specific grants of authority discretion in the Secretary to withhold approval on projects Congress has specifically directed because of a system of priorities the Executive chooses to impose on all expenditures.").

It would be one thing if Congress purported to authorize the Postal Service to exercise discretion to refuse appropriated funds; but in the absence of such explicit authorization, the 6-day delivery rider will not likely be construed to permit unilateral impoundment. *Cf. Train v. City of New York*, 420 U.S. 35, 47 (1975) (President's decision leading to "withholding of authorized funds cannot be squared with the statute"). Even the President's power to impound funds appropriated by Congress is constitutionally doubtful. *See Guadamuz v. Ash*, 368 F. Supp. 1233, 1244 (D.D.C. 1973) ("Money has been appropriated by the Congress to achieve the purposes of both programs and the Executive has no residual constitutional power to refuse to spend these appropriations."); *Oneida County v. Berle*, 49 N.Y.2d 515, 522 n.6 (1980) ("Federal courts have rebuffed claims that the Federal Constitution invests the president with inherent power to impound lawful appropriations.") (citing cases). Compared to the President, the Governors of the Postal Service stand in a weaker position, as their office was created by Congress and they have no independent constitutional power. Because federal statutes are construed to avoid raising serious constitutional questions, *see Ashwander v. TVA*, 297 U.S. 288, 341–356 (1936) (Brandeis, J., concurring), it is doubtful that a court would conclude that the Postal Service has authority to refuse appropriated funds.

D. The Governors of the Postal Service May Not Invoke Broad Fiduciary Duties As Grounds To Violate The 6-Day Delivery Proviso

On March 21, 2013, Chairman Issa and Senator Tom Coburn, the ranking member of the Senate Committee on Homeland Security and Government Affairs, sent letters to the Postal Service's Board of Governors urging them to move forward with plans to implement 5-day delivery. The letters first asserted that the 6-day rider does not prevent implementation of the Postal Service's plan because "[a]s proposed, the Postal Service is not eliminating a day of service, but is merely altering what products are delivered on what day to maintain a sustainable level of service." Letter at 1–2. As explained in section B, *supra*, we unfortunately do not believe that there is a reasonable argument that the 5-day delivery plan proposed by the Postal Service comports with the 6-day rider. After asserting that the Postal Service's plan would satisfy the 6-day rider, the letter appeared to suggest that the Governors of the Postal Service have a broader fiduciary duty to implement the 5-day delivery plan *regardless* of whether that plan comports with the 6-day rider: "What's more, we believe that the Board of Governors has a fiduciary responsibility to utilize its legal authority to implement modified 6-day mail delivery as recently proposed. The deficits incurred by the Postal Service and the low level of liquidity under which it is operating leaves it in a perilous position; one that demands implementation of all corrective actions possible." Letter at 2.

You have asked us to consider whether the Governors' fiduciary responsibilities to the public entitle or require them to proceed with the proposal to move to 5-day delivery of First-

Class and Standard mail notwithstanding the appropriations proviso. In our view, any consideration of the prospect of ignoring a duly enacted federal statute must be undertaken with the greatest possible caution. In general, "an agency is not free simply to disregard statutory responsibilities." *Lincoln v. Vigil*, 508 U.S. 182, 193 (1993).

Whether the Executive Branch has any *legal* power to violate positive law, or whether such action (even when pragmatically justified as necessary) is essentially an extra-legal prerogative, is a matter of sustained and unresolved debate. *Compare* Letter of Thomas Jefferson to John C. Breckenridge (Aug. 12, 1803) (acknowledging that Executive action in completing the Louisiana Purchase was "an act beyond the Constitution" and arguing that Congress "in casting behind them metaphysical subtleties, and risking themselves like faithful servants, must ratify & pay for it, and throw themselves on their country for doing for them unauthorized what we know they would have done for themselves had they been in a situation to do it."), *with* President Abraham Lincoln, Message to Congress in Special Session (July 4, 1861) (defending legality of President's unilateral suspension of habeas corpus on the ground that "[t]he whole of the laws which were required to be faithfully executed were being resisted and failing of execution in nearly one-third of the States. . . . [A]re all the laws but one to go unexecuted and the Government itself go to pieces lest that one be violated? Even in such a case would not the official oath be broken if the Government should be overthrown, when it was believed that disregarding the single law would tend to preserve it?"). The political branches have generally avoided bringing that debate to a head by reserving invocation of the prerogative power for the President alone, and only in cases of extreme necessity. We do not think this even arguably presents such a case.

A closer question would be presented if two federal laws genuinely established two valid and irreconcilable obligations, so that compliance with both would be actually impossible. Such a circumstance would be rare because apparent conflicts between statutes are normally resolved by reference to interpretive default rules, such as the presumption against implied repeals and the general/specific canon discussed earlier. *RadLAX*, 132 S. Ct. at 2071; *Mancari*, 417 U.S. 549. Here, while the Governors do have fiduciary obligations to the public, the appropriations proviso is a very specific limitation on how the Postal Service may exercise its judgment. For that reason, even if the Postal Service were unable to satisfy all its financial obligations, it is doubtful that it could choose to save money by violating a specific congressional limitation rather than through the exercise of its more general powers, including the power to raise rates.

Nor do we think that the fact that the 6-day requirement is contained in an appropriations rider, rather than in permanent legislation, affects the analysis. Appropriations laws, once enacted by Congress and signed by the President, are binding like any other statutes. *See City of Chicago v. U.S. Dep't of Treasury, Bureau of Alcohol, Tobacco and Firearms*, 423 F.3d 777, 782 (7th Cir. 2005) ("[A court] cannot ignore clear expressions of Congressional intent, regardless of whether the end product is an appropriations rider or a statute that has proceeded through the more typical avenues of deliberation."). Although internal rules of the House and Senate govern which committees have jurisdiction over different kinds of measures and prohibit "legislating" in appropriations acts, those rules are enforceable only through a Member's decision to raise a point of order. A violation of Congress's internal rules "does not affect the validity of the legislation if the point of order is not raised, or is raised and not sustained." Red Book, Vol. I, at 2-34; *see also Will*, 499 U.S. at 222 (Congress can alter the substantive law in appropriations acts if its intention to do so is clear); *The Last Best Beef, LLC v. Dudas*, 506 F.3d 333, 338 (4th Cir. 2007) ("While the canon of statutory interpretation disfavoring implied repeals in appropriations bills is strong, it is still just a canon of interpretation. It is not an absolute rule."). The 6-day rider has been enacted into law and as such it is binding; the internal legislative process that led to its enactment is academic.

A final point is that as an independent agency without the powers and protections of the presidency, the Postal Service should tread carefully in the highly controversial area of potential open disobedience of a federal statute—for however sound its arguments (whether legal or practical) for disobedience, those arguments will ultimately be judged by the political branches. Without support from Congress or the President, efforts to avoid compliance with enacted law are not likely to succeed.

That distinguishes this case from the Postal Service's decision, in 2011, to temporarily suspend statutorily required payments to the Federal Employees Retirement System (FERS). On that occasion, as we understand it, the Postal Service had over-contributed to FERS and was facing a budget shortfall that could have impaired its ability to make good its payroll obligations. Even if such action were unlawful, the lack of significant opposition by the political branches suggested that it could be safely managed. As discussed in the next section, however, we think substantial risks would attend a decision not to comply with the 6-day rider here.

E. Risks of Proceeding With the 5-day Delivery Proposal

Deciding to proceed with 5-day delivery despite the appropriations rider would entail a number of risks. *First*, violating a federal law would likely supply cause for the President to remove the Governors. Although the Supreme Court has never precisely defined what would constitute cause for removal, it has said that the good-cause standard enables the President to ensure that an independent officer "is competently performing his or her statutory responsibilities in a manner that comports with" applicable legislation. *Morrison v. Olson*, 487 U.S. 654, 692–93 (1988). *Second*, if the Comptroller General believes the ICA applies to the Postal Service, he could bring a civil action against the Governors to restrain an unlawful deferral of budget authority. 2 U.S.C. § 687.

Third, a decision of the Postal Service to discontinue Saturday delivery might be subjected to judicial review. Although 39 U.S.C. § 410(a) exempts the Postal Service from ordinary judicial review under the Administrative Procedure Act, the D.C. Circuit has held that the Postal Service is subject to traditional "nonstatutory" judicial review for *ultra vires* actions in excess of its statutory authority. *Aid Ass'n for Lutherans v. USPS*, 321 F.3d 1166, 1173 (2003); *see American School of Magnetic Healing v. McAnnulty*, 187 U.S. 94 (1902) (Postal Service case); *Chamber of Commerce v. Reich*, 74 F.3d 1322, 1327-31 (D.C. Cir. 1996). That doctrine reflects a "narrow exception" to the bar on judicial review, "closely paralleling the historic origins of judicial review for agency actions in excess of jurisdiction." *Lutherans*, 321 F.3d at 1173 (quoting *Griffith v. FLRA*, 842 F.2d 487, 492 (D.C. Cir. 1988)).

Because the contours of this nonstatutory review doctrine are vague, we cannot be sure whether a court would permit a plaintiff to obtain judicial review of a violation of the 6-day proviso. On the one hand, we do think the statute unambiguously prohibits the discontinuation of First-Class and Standard mail delivery on Saturdays; the clearer the statutory violation, the more likely a court is to invoke review of *ultra vires* actions. On the other hand, the fact that the 6-day proviso is an appropriations rider, rather than permanent legislation, may present different issues. Where only an appropriations proviso is concerned, a violation may be less likely to strike a court as the kind of grave departure from an agency's jurisdiction that amounts to *ultra vires* action. Further, it is not clear that the appropriations proviso confers any legal rights on specific members of the public, *cf. Reich*, 74 F.3d at 1328, 1330 (emphasizing importance of plaintiff's holding a legal right under the applicable statute); *McAnnulty*, 187 U.S. at 108 (same), much less confers on them a private cause of action on which to sue.

But while there are reasonable arguments against the availability of nonstatutory judicial review, as a practical matter it may make no difference. At best, the question is close—the kind of issue about which reasonable judges might disagree. But because plaintiffs could bring suits challenging 5-day delivery throughout the country, the Postal Service would have to run the table and win every case in every court. That seems extraordinarily unlikely, especially because the violation would be so clear on the merits; the absence of any defense on the merits would make courts less likely to be fastidious about limiting nonstatutory judicial review and insisting on an express grant by Congress of a private right of action.

We do not believe, however, that the Governors would be subject to personal liability in a private suit. Because the Postal Service is covered by the Westfall Act, 28 U.S.C. § 2679; *see* 39 U.S.C. § 409(c) ("The provisions of chapter 171 and all other provisions of title 28 relating to tort claims shall apply to tort claims arising out of activities of the Postal Service."), a Federal Tort Claims Act action against the United States will generally be the exclusive remedy for tort claims arising out of their acts and omissions in the scope of their employment, 28 U.S.C. § 2679(b)(1). Under the Westfall Act, once the Attorney General certifies that the defendant is a federal officer acting in the scope of his office or employment, the United States is substituted as the party defendant, and the officer is dismissed from the suit; if the Attorney General fails to so certify, the defendant can petition the court to make that finding directly. *Id.* § 2769(c), (d)(1)-(3). Because any official action by the Governors adopting 5-day delivery would be taken within the scope of their employment, they should be dismissed from any tort suit resulting from that action.

Although there is an exception to the Westfall Act for constitutional torts, *see* 28 U.S.C. § 2679(b)(2)(A); *see generally Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388, 389 (1971), it is difficult to see how that exception could apply here. Refusing appropriated funds to escape a proviso may well be unlawful, but it does not violate the constitutional rights of a private person—at least under any extant constitutional doctrine. And because the *Bivens* remedy is an implied constitutional cause of action, the Supreme Court has been "reluctant to extend *Bivens* liability to any new context or new category of defendants." *Ashcroft v. Iqbal*, 556 U.S. 662, 675 (2009) (quotation marks omitted). Thus, even if there were some private constitutional right to block impoundments by federal agencies or to insist on compliance with appropriations riders, we think it is highly unlikely that the courts would permit a private plaintiff to obtain damages from the Governors in their individual capacity under *Bivens*.

F. The Postal Service Could Ask The President to Invoke the ICA And Rescind Its Reimbursement Appropriation

Finally, you asked whether the President could invoke the ICA on behalf of the Postal Service in order to obtain a rescission of the reimbursement appropriation. This question is essentially political, calling for pragmatic judgments about the expenditure of political capital with the President and allies in Congress. But as a legal matter, if the President agrees, we think it is likely the simplest solution to the present dilemma.

When the President determines that budget authority "should be rescinded for fiscal policy or other reasons," he "shall transmit to both Houses of Congress a special message specifying" the reasons for the rescission. 2 U.S.C. § 683(a). Congress then takes up a rescission bill using statutorily prescribed, streamlined procedures with limited debate. *Id.* § 688. If the bill passes, the appropriation is cancelled.

We see no impediment to the President's exercise of this authority. Although there is some doubt about whether the ICA applies to "the exercise of the powers of the Postal Service" in light of 39 U.S.C. § 410(a), the President's own determination that a rescission is prudent and his transmittal of a special message to Congress is not an exercise of the Postal Service's powers; it is an exercise of the President's powers under the ICA.

The only wrinkle to this approach is that GAO's recent opinion letter suggests that the 6-day proviso is not linked to the underlying appropriation, but rather is independent substantive legislation. If that is true, rescinding the reimbursement appropriation would do no good. Nevertheless, we are not very troubled by that argument. In our view, GAO's argument that the 6-day rider is unconnected to the appropriation is weak, and it would be wholly refuted by congressional action rescinding the reimbursement appropriation for the very purpose of eliminating the 6-day rider.

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United States Government Accountability Office
Washington, DC 20548

B-324481

March 21, 2013

The Honorable Gerald E. Connolly
Ranking Member
Subcommittee on Government Operations
Committee on Oversight and Government Reform
House of Representatives

Subject: *U.S. Postal Service—Applicability of Appropriations Act Provision Under Continuing Resolution*

Dear Mr. Connolly:

This responds to your February 22, 2013, request for our legal opinion concerning whether the Continuing Appropriations Resolution, 2013, continues the applicability of a provision in the Financial Services and General Government Appropriations Act, 2012, that required the U.S. Postal Service (USPS) to continue 6-day delivery and rural delivery of mail at not less than the 1983 level. As explained below, we conclude that USPS continues to be bound by the provision in the Financial Services and General Government Appropriations Act, 2012.

In accordance with our regular practice, we contacted USPS to obtain its legal position on this matter. Letter from Assistant General Counsel for Appropriations Law, GAO, to General Counsel, USPS, Feb. 26, 2013; GAO, *Procedures and Practices for Legal Decisions and Opinions*, GAO-06-1064SP (Washington, D.C.: Sept. 2006), *available at* www.gao.gov/legal/lawresources/resources.html. USPS provided us a letter setting out its legal views. Letter from General Counsel, USPS, to Assistant General Counsel for Appropriations Law, GAO, Mar. 1, 2013 (USPS Letter).

BACKGROUND

USPS is an independent establishment of the executive branch of the U.S. Government. 39 U.S.C. § 201. USPS receives a permanent and indefinite appropriation of all revenues that it earns. 39 U.S.C. § 2401. USPS deposits its revenues into the Postal Service Fund, which is a revolving fund in the U.S. Treasury. 39 U.S.C. § 2003. In an appropriations act for fiscal year 1987, Congress also appropriated amounts to the Postal Service Fund to compensate

USPS for revenue foregone on free and reduced rate mail that it is required by law to carry, "[*p*]*rovided further*, That 6-day delivery and rural delivery of mail shall continue at not less than the 1983 level."[1] Postal Service Appropriations Act, 1987, Pub. L. No. 99-591, title II, 100 Stat. 3341 (Oct. 30, 1986) (emphasis in original). Congress has enacted a similar provision concerning 6-day delivery of mail in every regular USPS appropriations act since fiscal year 1987. *See, e.g.*, Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006, Pub. L. No. 109-115, 119 Stat. 2396, 2490 (Nov. 30, 2005). In the Financial Services and General Government Appropriations Act, 2012 (2012 Appropriations Act), Congress also appropriated amounts to the Postal Service Fund to compensate USPS for revenue foregone, with a provision identical to those enacted since fiscal year 1987 concerning 6-day delivery of mail.[2] Pub. L. No. 112-74, 125 Stat. 786, 884, 923 (Dec. 23, 2011).

To continue government operations into fiscal year 2013, Congress enacted a continuing resolution that, generally, provided appropriations to agencies to continue operations at a specified rate. Continuing Appropriations Resolution, 2013, Pub. L. No. 112-175, 126 Stat. 1313 (Sept. 28, 2012) (Continuing Resolution). The language of the proviso itself, however, does not appear in the Continuing Resolution.

On February 6, 2013, USPS announced that beginning the week of August 5, 2013, it would reduce mail delivery to street addresses from 6 days a week to 5 days a week.[3] USPS, Postal *Service Announces New Delivery Schedule*, Feb. 6, 2013, *available at* about.usps.com/news/national-releases/2013/pr13_019.htm (last visited Mar. 15, 2013). As we explain further below, USPS notes that because of the peculiar nature of its funding (a payment for foregone revenue made in the next

[1] Congress enacted other provisions concerning mail delivery frequency at least as early as 1980. Omnibus Reconciliation Act of 1980, Pub. L. No. 96-499, § 412, 94 Stat. 2599, 2607 (Dec. 5, 1980).

[2] The provision in the 2012 Appropriations Act states "[t]hat 6-day delivery and rural delivery of mail shall continue at not less than the 1983 level." Pub. L. No. 112-74, 125 Stat. at 923. A provision in an appropriations act is not permanent legislation unless the language or nature of the provision makes it clear that Congress intended the provision to be permanent. 65 Comp. Gen. 588 (1986). One way Congress indicates permanence is to include words of futurity, such as "henceforth," in a provision. *Id.* This provision contains no words of futurity. In addition, Congress has enacted this provision every year since fiscal year 1987.

[3] According to the announcement, packages will continue to be delivered 6 days a week, as would mail addressed to post office boxes. In this opinion, we consider only whether USPS continues to be bound by the provision in the 2012 Appropriations Act. We do not consider whether the planned service changes USPS has announced would comport with the provision.

fiscal year), the Continuing Resolution did not appropriate funds to USPS. USPS Letter, at 4. The 6-day delivery provision, USPS asserts, is a condition imposed only on amounts appropriated in 2012. *Id.*, at 3. USPS argues that the provision does not apply during the pendency of the Continuing Resolution for the simple reason that the Continuing Resolution appropriates no funds to USPS.[4] *Id.*, at 4.

DISCUSSION

At issue here is whether the provision from the fiscal year 2012 appropriations act continues to apply during the fiscal year 2013 continuing resolution.

It is commonly accepted that the purpose of a continuing resolution is to maintain the *status quo* with regard to government funding and operations. *See, e.g.*, GAO, *A Glossary of Terms Used in the Federal Budget Process*, GAO-05-734SP (Washington, D.C.: Sept. 2005), at 35–36. Over the years, our decisions have concluded that agencies operating under a continuing resolution are to preserve the *status quo* as established by the appropriations acts identified in the continuing resolution until Congress completes action on appropriations acts for the remainder of the fiscal year. We have stated that "continuing resolutions are intended by Congress to be temporary stop-gap measures enacted to keep existing federal programs functioning after the expiration of previous budget authority." 58 Comp. Gen. 530 (1979); *see also* B-300673, July 3, 2003; 66 Comp. Gen. 484 (1987); B-209583, Jan. 18, 1983. We have also said that a "continuing resolution generally maintains the *status quo* until Congress can pass a formal appropriations act." B-317022, Sept. 25, 2008.

There are a number of standard provisions[5] enacted in most continuing resolutions that, when taken together, establish an expectation that agencies will continue to carry out the *status quo* during a continuing resolution, unless otherwise specifically stated. For example, one standard provision, which appears as section 101 of the Continuing Resolution, states that agencies must act "under the authorities *and conditions provided*" in the fiscal year 2012 appropriations acts. Pub. L. No. 112-175, § 101 (emphasis added). Agencies also may continue projects or activities only if they were "conducted in fiscal year 2012." *Id.* In addition, section 101 refers to appropriations acts from fiscal year 2012 in their entirety, and the amount appropriated under the Continuing Resolution is determined by reference to the corresponding fiscal year 2012 appropriation. *Id.*

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[4] USPS states that "Congress will, of course, have the opportunity to enact further appropriations legislation prior to the Postal Service's proposed implementation date in August. For the Postal Service to move forward with its plan, Congress will have to refrain from re-enacting a 6-day rider in such legislation . . . ." USPS Letter, at 6.

[5] For an explanation of standard provisions in continuing resolutions, see GAO, *Continuing Resolutions: Uncertainty Limited Management Options and Increased Workload in Selected Agencies*, GAO-09-879 (Washington, D.C.: Sept. 2009).

Three other standard provisions are important here. Section 103 incorporates restrictions from the prior year's appropriations acts. *Id.*, § 103. Under section 104, amounts appropriated under the Continuing Resolution are not available to initiate or resume projects or activities for which appropriations, funds, or authority were not available during the prior fiscal year. *Id.*, § 104. Under section 111, appropriated entitlements and other mandatory payments whose budget authority was provided in prior year appropriations acts are to continue at a rate to maintain program levels under current law. *Id.*, § 111.

The Supreme Court has indicated that the meaning of a statute is to be determined not just "by reference to the language itself," but also by reference to "the specific context in which that language is used and the broader context of the statute as a whole." *Robinson v. Shell Oil Co.*, 519 U.S. 337, 341 (1997). In our view, as we have stated before in our case law, continuing resolutions are temporary measures that require agencies to continue operating under the *status quo* established by the previous appropriations acts until Congress completes action on appropriations acts for the remainder of the fiscal year.

It is in this context that we must interpret the Continuing Resolution as it applies to USPS. The 6-day delivery provision has been enacted into law every year since 1987, and was enacted once again in the 2012 Appropriations Act. When we read section 101 with other provisions in the context of its broader purpose, it is clear that it extends all the authorities and conditions of the identified appropriations, including the 2012 Appropriations Act, for the duration of the Continuing Resolution. The 6-day delivery provision is one of the "authorities and conditions provided" in the 2012 Appropriations Act. It would be anomalous, and inconsistent with the nature and purpose of a continuing resolution, to conclude that Congress intended in this Continuing Resolution, without specific legislative language, to eliminate this directive, especially since Congress had imposed it on USPS in the previous fiscal year and every year since 1987.

USPS asserts that it need not comply with the provision during the period of the Continuing Resolution because the Continuing Resolution did not appropriate any amounts for the Postal Service Fund.[6] USPS Letter, at 3. We disagree. This conclusion rests upon a faulty USPS premise, which is that the provision is "explicitly tied to the receipt of annually appropriated funds for revenue foregone." *Id.* No language in the provision indicates that its applicability is predicated upon and restricted to amounts appropriated in the 2012 Appropriations Act or in any other act. Instead, the provision is a legislative directive establishing an operational standard for USPS. An appropriations act is a law like any other law, and Congress is free to

[6] USPS has stated that it will abide by the 6-day delivery provision if a full-year continuing resolution were to include language providing an appropriation for the Postal Service Fund. USPS Letter, at 6; *see, e.g.*, Department of Defense and Full-Year Continuing Appropriation Act, 2011, Pub. L. No. 112-10, div. B, § 1118, 125 Stat. 38, 107 (Apr. 15, 2011).

enact operational directives and prohibitions in appropriations acts, as well as appropriations themselves. *See Atlantic Fish Spotters Association v. Evans*, 321 F.3d 220, 224 (1st Cir. 2003). USPS's interpretation of the Continuing Resolution and of the 2012 Appropriations Act parses the statutes in a fashion that frustrates both the nature and the purpose of the Continuing Resolution.

CONCLUSION

The Continuing Appropriations Resolution, 2013, continues the applicability of a provision in the Financial Services and General Government Appropriations Act, 2012, that required the U.S. Postal Service to continue 6-day delivery and rural delivery of mail at not less than the 1983 level. Absent specific legislative language, a continuing resolution maintains the *status quo* regarding government funding and operations. Although the provision at issue herein is an operational directive, not an appropriation, we see no language in the fiscal year 2013 Continuing Resolution to indicate that Congress did not expect it to continue to apply during the Continuing Resolution.

If you have any questions, please contact Edda Emmanuelli Perez, Managing Associate General Counsel, at (202) 512-2853, or Julia C. Matta, Assistant General Counsel for Appropriations Law, at (202) 512-4023.

Sincerely yours,

Susan A. Poling
General Counsel

BOARD OF GOVERNORS

UNITED STATES
POSTAL SERVICE

April 18, 2013

The Honorable Darrell Issa
Chairman
Committee on Oversight
and Government Reform
House of Representatives
Washington, DC 20515-6143

The Honorable Elijah Cummings
Ranking Member
Committee on Oversight
and Government Reform
House of Representatives
Washington, DC 20515-6143

Dear Chairman Issa and Congressman Cummings:

Thank you for the opportunity to testify before the House Oversight and Government Reform Committee to discuss the options to restore the United States Postal Service to financial solvency.

I want to correct a statement I made during my testimony. I stated that Publishers Clearing House (PCH) was an example of a mailer who was not covering the cost of its mailings. To clarify, PCH covers its cost of mail usage, and provides substantial, profitable revenue to the Postal Service.

I would ask that this correction be made a part of the hearing record.

Sincerely,

Mickey D Barnett

Mickey D. Barnett
Chairman

UNITED STATES POSTAL SERVICE
475 L'ENFANT PLAZA SW
WASHINGTON, DC 20260-1000
WWW.USPS.COM

cc: Mr. Andrew Goldberg, President and Chief Executive Officer, Publishers Clearing House
Mr. Patrick Donahoe, Postmaster General, Chief Executive Officer, U.S. Postal Service

April 17, 2013

Options to Bring the Postal Service Back from Insolvency
Committee on Oversight and Government Reform
Congressman Cardenas
Wednesday, April 17, 2013

- Thank you Chairman Issa and Ranking Member Cummings for calling this important hearing today to discuss how we can solve the great problems facing the United States Postal Service.

- The Postal Service is America: it reaches every corner and ensures that every citizen can remain connected and communicate as our country changes throughout time. It ensures that people, like some my constituents, who have been left behind by the digital divide can still send and receive letters from their families or loved ones.

- It allows for millions of seniors to receive the medications critical to their health in a timely fashion and delivered right to their doorstep. It also allows millions of small businesses to send and receive packages and carry on with their commercial activity day in and day out.

- The Postal Service handles 40 percent of all the world's mail volume. That is truly impressive and I can't imagine the negative impact that any reduction in operations would have on the delivery of this correspondence.

- At the same time, the post office faces immense challenges, both within and from outside market forces. This committee has often heard the cost savings that be gained by switching from streetside mailboxes to clustered boxes.

- However, the committee has also heard about the massive pension contribution cost faced by the Postal Service. Half this dais refuses to acknowledge the simple fact that the Postal Service is the only agency under the control of government that is forced to pre-fund every single employee's pension. We all recognize that the pension fund, now in question, is grossly overpaid and almost fiscally irresponsible.

- The Postal Service also faces challenges from private delivery service, which cannot possibly accomplish the universal delivery mandate the post office proudly achieves. It is no surprise since they are far more agile and capable when it comes to monetizing their service options, and creating new revenue streams.

- We must do our best as a committee to address both the internal challenges faced by the United States Postal Service, and to create a greater ability to compete in the public square for value-added delivery customers.

- As a legislator for many years, I am well aware of this issue and one that I believe is imperative to resolve. As it stands, the current situation is absolutely unsustainable and if we do not find solutions and allow the Postal Service to realign its business model we will witness the breakdown of this institution that has been part of America for over 200 years!

- It is in our best personal and commercial interest to have these discussions, implement solutions, and I look forward to learning more about our options and hearing what the witnesses have to say today.

GAO U.S. GOVERNMENT ACCOUNTABILITY OFFICE

441 G St. N.W.
Washington, DC 20548

May 14, 2013

The Honorable Darrell Issa
Chairman
Committee on Oversight and Government Reform
United States House of Representatives

Responses to Questions for the Record: Committee on Oversight and Government Reform, April 17, 2013, Hearing on "Options to Bring the Postal Service Back from Insolvency."

Dear Mr. Chairman:

This letter responds to your April 30, 2013, request that we address questions submitted for the record related to the April 17, 2013 hearing entitled *"Options to Bring the Postal Service Back from Insolvency."* Our answers to these questions are enclosed and are based on our previous work, updates to that work, and our knowledge of the areas addressed.

If you have any questions or would like to discuss our responses, please contact me or Lorelei St. James at (202) 512-2834 or Stjamesl@gao.gov.

Sincerely yours,

Gene L. Dodaro

Gene L. Dodaro
Comptroller General
of the United States

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Minority Member

Questions for
The Honorable Gene Dodaro
Comptroller General of the United States
Chairman Darrell Issa
Committee on Oversight and Government Reform
Hearing: "Options to Bring the Postal Service Back from Insolvency"

1. With regard to the prefunding requirement for retiree health care benefits, please clarify how USPS's prefunding schedule could be restructured in light of expected obligations to current employees, retirees, and beneficiaries, whether such prefunding is a best or common practice and what is known about other entities that prefund this benefit, whether this benefit is becoming more or less common in the private sector, and whether the requirement includes prefunding for people who have not yet been born?

We have organized our response by the following components of the question:

(a) How the U.S. Postal Service's (USPS's) prefunding schedule could be restructured in light of expected obligations to current employees, retirees, and beneficiaries.

In our report on alternative approaches to fund retiree health benefits, we analyzed various proposals to restructure the prefunding schedule, including the implications of different approaches.[1] At the most basic level, we noted that less prefunding now means greater costs, and a greater unfunded liability, later. With regard to USPS's current required prefunding schedule, we commented on three specific aspects of this

[1] GAO, *U.S. Postal Service: Status, Financial Outlook, and Alternative Approaches to Fund Retiree Health Benefits*, GAO-13-112 (Washington, D.C.: Dec. 4, 2012).

schedule. First, we explained that the current prefunding schedule consists of two distinct sets of prefunding rules over different time periods: for fiscal years 2007-2016, a schedule of "fixed" prefunding payments—meaning that the prefunding amounts are set by statute and do not vary with the actuarial cost of the benefits; and for fiscal years from 2017 on, actuarially determined prefunding amounts. We found that the fixed prefunding requirements for 2007-2016 were significantly in excess of what actuarially determined amounts would be. We support proposals to replace the fixed payments with actuarially determined amounts. Second, we pointed out that under current law, the actuarial assumptions used in determining the size of unfunded liability and USPS's required prefunding amounts (from fiscal year 2017 on) are based on accounting rules that were designed to accomplish financial reporting objectives rather than funding objectives. We support proposals to change the assumptions to make them consistent with those used for determining USPS's funding obligations for Civil Service Retirement System (CSRS) and Federal Employees Retirement System (FERS) pensions. Third, we analyzed the implications of proposals to lower the funding target from 100 percent of the liability (as under current law) to 80 percent of the liability. We raised concerns about such an approach, which would enable a permanent, significant unfunded liability. We do not support a lowering of the funding target from 100 percent.

(b) Whether such prefunding is a best or common practice and what is known about other entities that prefund this benefit.

In our report on alternative approaches to fund retiree health benefits, we reported information on other entities that prefund this benefit.[2] We found that, although prefunding is generally not required, a number of private sector, state and local government, and federal entities have elected to prefund some percentage of their retiree health benefits. For example, for the private sector, the USPS Inspector General reported in 2012 that 38 percent of Fortune 1000 companies that offer retiree health

[2] GAO-13-112.

care benefits prefund them, at a median funding level of 37 percent.[3] In the state and local government sector, we found in 2009 that 18 states and 13 of the 39 largest local governments had done some prefunding.[4] In the federal sector, we found that while most federal civilian agencies do not prefund these benefits, a few small, civilian, federal agencies do so. In addition, we reported that the Department of Defense (DOD) prefunds its retiree health benefits for Medicare-eligible retirees and beneficiaries, with a 100 percent target funded percentage. The fund was started in 2002 in reaction to rapidly rising health care costs, and had assets of $166 billion as of September 30, 2010, which represented an actuarially-determined funding level of 38 percent up to that point. We also reported that DOD, while prefunding retiree health benefits for Medicare-eligible retirees, does not prefund its retiree health benefits for pre-Medicare-eligible retirees—but that DOD's independent Board of Actuaries has recommended that it consider prefunding these costs as well, in order to reflect the full costs of these future benefits and promote a greater understanding of the program's value.

In our report on alternative approaches to fund retiree health benefits,[5] we noted several key potential reasons to prefund, which include: (1) protecting the future viability of an enterprise by not saddling it with bills after employees have already retired; (2) providing greater benefit security to employees, retired employees, and their beneficiaries; (3) providing security to any third party that might become responsible for an unfunded liability in the event of an enterprise's inability to pay; and (4) achieving an equitable allocation of cost over time by paying for retirement benefits as they are earned, over employees' working years.

(c) Whether this benefit is becoming more or less common in the private sector.

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[3] U.S. Postal Service Office of Inspector General, "*Pension and Retiree Health Care Funding Levels: Management Advisory Report,*" FT-MA-12-002 (June 18, 2012).

[4] GAO, *State and Local Government Retiree Health Benefits: Liabilities Are Largely Unfunded, but Some Governments Are Taking Action*, GAO-10-61 (Washington, D.C.: Nov., 2009).

[5] GAO-13-112.

The proportion of employers with more than 200 employees that offer retiree health benefits is declining, according to an annual national survey. In 2012, about 25 percent of these employers that offer health insurance to employees also offered retiree health insurance, according to a survey by the Kaiser Family Foundation and the Health Research & Educational Trust. By comparison, in 2007 this same survey reported that 32 percent of these employers offered retiree health insurance, and in 2002, 35 percent offered retiree health insurance. It should be noted, however, that this survey reports on behavior of both private-sector and state and local public-sector employers. Among only private-sector employers, the percentage of large employers that offered retiree health benefits in 2012 ranged from 9 percent in the retail sector to 40 percent in both the finance sector and the transportation/ communications/ utilities sector.

(d) Whether the USPS prefunding requirement includes prefunding for people who have not yet been born.

As we noted in our report on alternative approaches to fund retiree health benefits, the USPS prefunding requirement does not include prefunding for anyone who has not yet been born.[6] The prefunding is only for current workers and retirees and their beneficiaries, and does not include anyone not yet hired or not yet born.

In our report,[7] we also dispel the misimpression that the USPS prefunding requirement requires USPS to prefund 75 years of retiree health benefits over a ten year period. The references to "75 years of benefit payments" represent a shorthand description of the benefits being prefunded. The prefunding is actually for (1) all projected future benefits for current retirees and their beneficiaries, plus (2) a portion of projected future benefits for current workers and their beneficiaries, such portion accruing over the workers' careers at USPS. This prefunding target at any point in time would include some benefits projected to be paid beyond 75 years—because, for example, some

[6] GAO-13-112.

[7] GAO-13-112.

current workers can be expected to live beyond 75 years—but it would also exclude some payments projected to be paid within the next 75 years—because it only includes a portion of the benefits that will ultimately be paid to current workers.

As we reported, the prefunding for these projected benefit payments is not limited to ten years, but rather is spread out over more than 50 years. In addition, we noted that the payments are significantly "frontloaded," with the payments in the first ten years of the schedule (fiscal years 2007-2016) being significantly in excess of what actuarially determined amounts would be, as noted in our answer to part (a) of this question.

2. Your testimony touches on how delivery standards have "evolved" over time and how they still vary to some degree in various areas around the country. Can you elaborate on that?

USPS is required by law to provide prompt, reliable, and efficient services, as nearly as practicable. The Postal Regulatory Commission (PRC) has reported that delivery frequency is a key element of universal postal service. Key aspects of the Postal Service's universal service obligation are broadly outlined in multiple statutes and encompass multiple dimensions including delivery frequency. Other key dimensions include geographic scope, range of products, access to services and facilities, affordable and uniform pricing, service quality, and security of the mail.[8] The frequency of USPS mail delivery has evolved over time to account for changes in communications, technology, transportation, and postal finances. For example, prior to 1950, city carriers generally delivered letters twice a day to homes and up to four times a day to urban businesses. The second residential delivery was discontinued in 1950 in most cities. Multiple deliveries to businesses were phased out over the next few decades as changing transportation patterns made most mail available for first-trip delivery. Currently, while most customers receive 6-day delivery, some customers receive 5-day

[8] GAO, *U.S. Postal Service: Strategies and Options to Facilitate Progress toward Financial Viability*, GAO-10-455 (Washington, D.C.: April, 12, 2010).

or even 3-day-a-week delivery, including businesses that are not open 6 days a week; resort or seasonal areas not open year-round; and areas not easily accessible, some of which require the use of boats, airplanes, or trucks. For example, mail is transported by snowmobiles for delivery in some areas of Alaska and by boats for delivery on islands in Maine and other states.[9]

Of current relevance to the delivery frequency discussion is the increase in electronic modes of communication. The Postal Regulatory Commission has stated that the Postal Service needs a flexible approach to mold its network to address multiple factors, including shifts in population; growth and development of cities; improvement in modes of transportation; and changes in modes of communication.[10] We also support increased flexibility for the Postal Service to adjust its delivery service to meet changing demands and improve its financial condition. This is particularly important in light of increasingly new modes of electronic communication.

[9] GAO, *U.S. Postal Service: USPS Needs to Clearly Communicate How Postal Services May Be Affected by Its Retail Optimization Plans*, GAO-04-803 (Washington, D.C.: July 2004).

[10] Postal Regulatory Commission, *Report on Universal Postal Service and the Postal Monopoly* (Washington, D.C., Dec. 19, 2008).

GOVERNMENT RELATIONS

UNITED STATES
POSTAL SERVICE

May 15, 2013

The Honorable Darrell E. Issa
Chairman
Committee on Oversight and
Government Reform
House of Representatives
Washington, DC 20515-6143

Dear Chairman Issa:

Enclosed please find responses to the questions for the record in their entirety for the Committee on Oversight and Government Reform's April 17, 2013 hearing entitled, "Options to Bring the Postal Service Back from Insolvency.". The responses are submitted on behalf of Postmaster General Patrick R. Donahoe.

If you have any questions, please let me know.

Sincerely,

Sheila T. Meyers

Sheila T. Meyers
Manager, Government Liaison

Enclosures

475 L'ENFANT PLAZA SW
WASHINGTON DC 20260-3500

HOUSE OVERSIGHT AND GOVERNMENT REFORM COMMITTEE
"Options to Bring the Postal Service Back from Insolvency"
Wednesday, April 17, 2013

Post-Hearing Questions for the Record
Submitted to the Honorable Patrick R. Donahoe

From Chairman Darrell Issa (R-CA):

1. In your testimony, one of the "key legislative goals" you list is to "require defined contribution system for future postal employees." OGR staff were first informed of this proposal on August 17, 2011. In the 20 months since that date no new information has been provided to the Committee. In fact, there has been effectively no mention of the proposal until it appeared in one sentence of a four page white paper on "Postal Service Governance" provided to the Committee on March 12, 2013. Further, in the official "Postal Service Legislative Proposals" document on provided to the Committee April 8, 2013, there was no mention of the proposal.

   a. Please elaborate on the proposal. How would it work? Who would be covered by it?

      We propose that career employees hired on or after January 1, 2015 be covered by a defined contribution pension plan only (in addition to Social Security). Current employees would experience no change to their present retirement plans.

      Under existing law, new career hires are covered by FERS, which includes a defined benefit component in addition to Social Security and a defined contribution component (the Thrift Savings Plan, or TSP). However, the use of defined benefit pensions is declining in the private sector, including among large employers. Adopting the Postal Service's proposal would therefore accord with prevailing private sector practice. The design we propose will protect the Postal Service financially and provide a benefit that gives sufficient retirement income.

      In 2011, the Postal Service submitted to Congress a White Paper detailing this proposal. We have attached, with this response, an updated version of that paper.

   b. Has USPS drafted the necessary legislative language for this program? If so, please provide it.

      Yes. It is attached.

c. Is legislative language necessary to implement this proposal? If so, why was legislative language not included with the rest of the Postal Service legislative proposals?

Yes, as discussed below legislative change is necessary to implement this proposal. The Postal Service did not include language with the other proposals because it wanted to discuss the matter further with relevant stakeholders before presenting specific language to Congress.

d. Have you discussed this proposal with the Postal unions, what was their reaction?

We have shared the white paper with the unions and they took it under advisement.

e. Do you believe you have the current legal authority to shift new employees who are not members of a collective bargaining unit from FERS into a new defined contribution plan? If not, why not?

No, we do not have the current legal authority to shift new non-bargaining employees out of FERS. Section 1005(d) of title 39, United States Code, states that "[t]he officers and employees of the Postal Service...shall be covered by chapters 83 and 84 of title 5." (The cross-references are to CSRS and FERS, respectively.) Unlike health benefits, the Postal Service has no authority to substitute a different pension system for postal employees. Employee participation in the Federal Employees Health Benefits Program is conferred by section 1005(f), which expressly states that coverage under that Program (chapter 89 of title 5) continues "unless varied, added to, or substituted for, under this subsection." Therefore, the Postal Service can "substitute" a different health benefits program for non-bargaining employees so long as it adheres to its consultation requirements. However, no comparable "substitution" authority exists with respect to retirement benefits under section 1005(d). Accordingly, the plain language of section 1005(d) provides that new Postal Service employees must be covered by FERS. *See also American Postal Workers Union, AFL-CIO v. United States Postal Service*, 707 F.2d 548, 555-57 (D.C. Cir. 1983) (distinguishing between retirement benefits under section 1005(d) and benefits that can be changed by the Postal Service under section 1005(f)).

2. Your testimony also states USPS would like the ability to appeal final EEOC decisions to the federal court. Can you elaborate on why you believe such a change is warranted?

EEOC currently possesses unreviewable authority in applying employment discrimination statutes to federal employers. While individual employees and applicants for employment may file *de novo* actions in the federal courts when they are dissatisfied with the EEOC's decisions, federal employers do not have that right.

This asymmetrical situation is unfair. The Postal Service proposes language that would give it the right to file a similar *de novo* action in the federal courts.
The Postal Service's inability to challenge EEOC decisions in court has serious financial consequences. In particular, unbridled class action litigation that has been certified by the EEOC in contravention of class action standards used in Federal court poses a substantial threat to the Postal Service. For example, the Postal Service has litigated for many years a class action involving over 40,000 current and former employees in which EEOC's rulings clearly contradicted Supreme Court precedent regarding class actions. Other class actions have included even more putative class members, with potential liabilities running into the hundreds of millions of dollars. Given the significance of these cases, and the EEOC's heretofore unreviewable authority over them, legislative change is needed to give the Postal Service the ability to challenge EEOC decisions in court.

HOUSE OVERSIGHT AND GOVERNMENT REFORM COMMITTEE
"Options to Bring the Postal Service Back from Insolvency"
Wednesday, April 17, 2013

Post-Hearing Questions for the Record
Submitted to the Honorable Patrick R. Donahoe

From Subcommittee Chairman Blake Farenthold (R-TX):

1. Approximately how many reports does the USPS receive each year of election materials, such as voter registration cards (VRC) and absentee ballots, going missing?

   The Postal Service has in place procedures that are followed whenever it receives reports of issues with all mail, including election materials. It should be noted that there is a distinction between various types of election materials and the timing of mailing for these items. Ballots, for example, are typically mailed in conjunction with scheduled elections which generally occur every two years. For items such as Voter Registration Cards (VRC), however, municipalities or counties often utilize a staggered schedule for the mailing of these items. They do not typically adhere to a two-year cycle and they are not mailed within any specific timeline, as is the case with ballots.

   Regardless of when items are mailed, including election materials and VRCs, the Postal Service takes seriously any report of missing or delayed mail. Local postal officials work with customers to research and resolve all such reports. In addition, each election year, the Postal Service forms an Election Mail Task Force (EMTF) to ensure further that all issues concerning election and political mail are reported and resolved in a timely manner. During the 2012 election mail season, the Postal Service's EMTF received two reports of isolated incidents, regarding what were thought to be missing election mail items, but that were later confirmed as delivered following investigation of each incident.

2. What actions does the USPS take in response to cases of missing or stolen election materials?

   The procedures for responding to reports of missing or delayed election materials usually begin at the local level. Standard Operating Procedures (SOP) exist which direct each Plant Manager, Postmaster, or other local manager to investigate. When the Postal Service becomes aware of any such situation, the District Manager, who is the highest-ranking postal official in the local area, investigates and researches the reported incident. If warranted, the District Manager will further escalate the matter up the chain of command, which includes elevating the issue to the Vice President, Area Operations. If the circumstances warrant, the U.S. Postal Inspection Service (USPIS) is notified. They investigate the claims and determine the scope and validity of each case. There is a distinction with regard to investigatory activity. The USPIS investigates any external criminal activity. They

also review and report on any security deficiencies discovered and assist the Postal Service in assuring that missing materials are not present in postal facilities. The Postal Service Office of the Inspector General (OIG) investigates internal activity, such as intentional employee misconduct, and any such case would be referred to that group.

3. The USPS OIG recently completed an investigation into missing VRCs in Fort Bend County, Texas, at the request of Rep. Pete Olson (TX-22). The investigators were unable to ascertain either the whereabouts of the VRCs or how they went missing. What is the next step in an investigation of this sort? Will the USPS continue to investigate or will the USPS give up and acknowledge that they cannot guarantee the security of election materials?

The Postal Service is unable to comment on any aspect of the investigation conducted by the OIG, as we have received no information from the OIG regarding their investigation or the outcome. When the Postal Service became aware, in June of 2012, of the situation involving Fort Bend County mailings sent in March and April of 2012, the District Manager immediately began an investigation of the matter. Local postal management ascertained that the mail in question was received, verified and documented through the Postal Service's Business Mail Entry Unit (BMEU). They conducted a review to verify that there were no VRCs from Fort Bend County present within the applicable mail processing facility or delivery units. All VRCs received at the applicable delivery offices were delivered.

In July 2012, a representative from the Postal Service provided a synopsis of the investigatory efforts to a representative from the Fort Bend County elections office. Additionally, the District Manager met with local county election officials in August 2012 to further discuss this mailing. Also discussed at this meeting was an upcoming additional mailing of VRCs by Fort Bend County that would be sent in September 2012. It was mutually agreed that the Postal Service would closely monitor the September mailing and election officials appeared to be satisfied with the responses provided by the Postal Service. There were no issues reported with the September VRC mailing. To further assist in determining what might have occurred with this case, the Postal Service reviewed addresses provided by Fort Bend County elections officials and found no discernible pattern to indicate non-delivery on any particular route or ZIP Code.

The security of all mail, including election materials, is of paramount importance to the Postal Service. Working with the USPIS, the Postal Service provides the highest possible level of security for the mail, including election materials, from point of acceptance to final delivery.

a) What policies did the USPS have in place at the time of the Fort Bend County incident to ensure the integrity and security of election materials? Have there been any changes in those policies since then? If so, why?

The mailing in question for Fort Bend County occurred in March and April 2012. As noted previously, the Postal Service puts in place additional procedures in advance of each election cycle every two years. These heightened processes normally begin approximately four to six months prior to each Election Day date. At the time of this mailing, these additional procedures were not yet activated. It is important to note, however, that issues of mail security are always at the forefront of the Postal Service's operational processes, each and every day of the year.

Postal Service policies currently in place to prevent the theft or loss of mail include: ensuring the security of mail processing and delivery facilities to protect against the intrusion of unauthorized individuals; ensuring the security and handling of mail transported for delivery by mail carriers and contractors; and rigorous personnel security policies requiring appropriate background investigations on employees and contractors. There have been no significant changes in Postal Service procedures since the incident involving the Fort Bend VRCs; however, the Postal Service is constantly striving to improve its processes and is focused on keeping the mail safe and secure. The Postal Service has been named the Most Trusted Government Agency for seven years and the fourth Most Trusted Business in the nation by the Ponemon Institute.

4. In light of the inability of the OIG to get to the bottom of the missing VRCs in Fort Bend County, Texas, what policies does the USPS plan to institute in order to ensure that this never happens again?

   As previously stated, the Postal Service is unable to comment on the OIG investigation. We will continue to afford mail security to election materials by enhancing visibility within the mailing system. We currently utilize tools such as tagging, logging, and tracking of election mail. In addition, there are tools available that election officials can use to track individual mail pieces, such as the Full Service Intelligent Mail barcode (IMb). This system provides for scanning and tracking capability that offers optimal security and visibility. The Postal Service will continue to work closely with election officials and election organizations to further improve existing processes and ensure the security of election materials.

HOUSE OVERSIGHT AND GOVERNMENT REFORM COMMITTEE
"Options to Bring the Postal Service Back from Insolvency"
Wednesday, April 17, 2013

Post-Hearing Questions for the Record
Submitted to the Honorable Patrick R. Donahoe

From Representative Tammy Duckworth (D-IL):

1. Postmaster General Donahoe, during the hearing Chairman Barnett mentioned that in your previous discussions with businesses who deliver prescription drugs, presentations were given on ways to ensure timely delivery of medicine to customers without increasing the costs to businesses. Could you please elaborate on this point and share with us additional information that USPS' management or the Board of Governors may have about any expected cost shifting to postal customers. I am particularly concerned about this, because in an April 10, 2013, Subcommittee hearing CVS Caremark testified that it was possible that moving to 5 day delivery could affect their margins and lead to cost shifting to their customers.

   The Postal Service has no current plans to implement a fee or surcharge for Saturday package delivery. In addition, the Postal Service is making every effort to ensure the transition to five-day delivery with Saturday package delivery is as seamless for our customers as possible.

5/4/2013

A USPS RETIREMENT PROGRAM FOR NEW EMPLOYEES

I. INTRODUCTION

Given the continuing deterioration in our financial situation, additional steps must now be taken to enable the Postal Service to reduce costs at an accelerated pace, in addition to the legislative changes we have already identified and the steps already taken or planned on matters within our control. As we discuss in more detail below, it is imperative that we reduce our retirement costs which, along with our health care costs, comprise one-third of our total labor costs.

As part of our plan to address rising benefit costs, The Postal Service is proposing changes to the retirement plan for newly hired employees. At this time we do not propose to change the current benefits for any current employees and annuitants enrolled in the Civil Service Retirement System (CSRS), the Federal Employees Retirement System (FERS) and the Thrift Savings Plan (TSP). Our objective is to provide a different approach to retirement; one that is more consistent with the private sector comparability standard under the Postal Reorganization Act. We believe the approach described in this paper will better serve the interests of both the Postal Service and our employees.

II. THE POSTAL SERVICE PROPOSED PLAN OF ACTION –EXECUTIVE SUMMARY

The Postal Service does not control retirement benefits for its employees. While the law requires that compensation and benefits for postal employees are comparable to that in the private sector, the Postal Service is treated like any other entity of the federal government for purposes of retirement benefits. The federal government set up, administers and controls the Civil Service Retirement System (CSRS), Federal Employees Retirement System (FERS) and Thrift Savings Plan (TSP) retirement programs, and our employees participate in those programs like any other federal employee. The Postal Service does not believe that our current benefit programs meet the private sector comparability standard, and this view is supported by a report recently prepared by the Congressional Budget Office.[1] And as we show, the current system is far more generous than retirement benefits provided by employers in the private sector. By moving to a new Postal Service retirement system for new employees, the Postal Service will more fully reflect private sector trends, and incorporate private sector "best practices".

In the following paragraphs, we will address two issues:

1. Why the Postal Service should have its own Retirement Program;
2. How the Postal Service would approach the design of a Retirement Program for new employees

Following this Executive Summary, we also provide information regarding the following:

- Retirement savings trends in the private sector;
- The current funding requirements for both FERS and the TSP program;
- A proposed plan design for a defined contribution plan for new hires;
- Investment options and past investment performance under the TSP program

[1] Please see the following link: http://www.cbo.gov/sites/default/files/cbofiles/attachments/01-30-FedPay.pdf

1. Why the Postal Service Should Have its Own Retirement Program

The Postal Service believes that it should have its own program for four principal reasons. First, under the Postal Reorganization Act, the Postal Service is obligated to provide wages and benefits comparable to those provided in the private sector. The FERS system is not comparable to retirement benefits provided in the private sector; it is more costly. The private sector is adjusting constantly to market conditions through changes in plan design, portability, investment strategy, eligibility, provider services, employee engagement, cost management, and a host of other factors that reflect "best practices" in compensation and benefit policies. The Postal Service cannot meet the private sector standard if it is locked into the federal retirement system.

Second, benefit costs constitute roughly 40% of total labor costs. As has been well reported, approximately 80% of Postal Service total costs are labor costs. We cannot resolve our fiscal issues without addressing our labor costs.

Third, the Postal Service believes it is in the interest of the federal government, our retirees and active employees, our stakeholders and the postal community as a whole to segregate over time the Postal Service retirement obligation from that of the federal government. Since 1971, there have been ongoing disputes between the Office of Personnel Management (OPM) and the Postal Service concerning fair accounting of the Postal Service funding obligation and that of the rest of the federal government. On more than one occasion, Congress has been asked to step in to resolve the controversy through legislation. Indeed, even as this paper is being distributed, there is a dispute as to whether the Postal Service has underfunded CSRS, and the extent to which it has overfunded FERS. Furthermore, current law does not address the FERS overfunding. Postal Service careers are different from federal employee careers, yet the Postal Service FERS funding is based on combined Postal and non-Postal experience. We believe such tensions will continue as long as the Postal Service's retirement programs remain intertwined with those for the rest of the federal government. This is especially true because, by any accounting, the Postal Service has funded substantially more of its pension obligations than the federal government.

Finally, our mix of employees and their needs and ours are changing. A more portable and flexible retirement program, built along sound design principles, will have greater appeal to our emerging workforce. The design we propose will be within our means, and still provide sufficient benefits at retirement so that our career employees can reasonably maintain their pre-retirement standard of living throughout their retirement years.

2. How the Postal Service Would Approach a New Retirement Program

While the Postal Service would need the flexibility to design a retirement program that is appropriate to the varying needs of its participants, fairness and practical considerations would guide how the Postal Service would approach the design of an appropriate retirement program for new hires. For new hires, our objective is to conform our retirement benefits program to private sector practice, consistent with the comparability standard. In the private sector, defined benefit plans are in decline. There are a growing number of Americans for whom retirement savings is being provided through an employer sponsored defined contribution plan.

Our view is that the best course for the provision of retirement benefits to new hires would be through a defined contribution plan with benefits provided through the Thrift Savings Plan (TSP) or a separate savings program with similar features. We describe the proposed plan design and the major advantages we see below. The TSP program is well designed and well managed, and the infrastructure is already in place to serve the needs of USPS and participants. This approach would allow the USPS to incorporate private sector best practices concerning employer contributions, portability, distribution options, eligibility and investment options, including those features already embedded in the TSP program.

III. PROPOSED DEFINED CONTRIBUTION PLAN DESIGN FOR NEW USPS EMPLOYEES

While the growth of defined contribution plans has largely reflected financial considerations for plan sponsors, including efforts to constrain costs and manage the volatility in plan costs that is characteristic of defined benefit pension plan funding, it is important to note that certain advantages are also perceived by participants in defined contribution plans, compared with defined benefit plans. Such advantages include:

- The benefits and the **accumulating value** in the participant's retirement plan accounts are reflected in periodic statements. In today's world, participants can access information about the plan, the performance of their investment choices and their account balances daily. The benefit is thus more tangible and visible than benefits provided under a defined benefit plan, especially for younger plan participants;

- The benefit is **readily portable**, since on termination of the participant's employment the balances accrued, subject to the provisions of the particular plan, can be:
  - Maintained in the former employer's plan; or
  - Rolled over to a rollover Individual Retirement Account; or
  - Rolled over to a successor employer's plan;

- Benefit **distribution options** are virtually unlimited at retirement or termination of employment. Participants have the option to receive their benefit:
  - In a single lump sum, paid in cash or rolled over to an IRA; or
  - Annuitized either through the plan or through an annuity purchase outside the plan, with annuity terms (single life, joint life, deferred annuity, etc.) chosen by the participant; or
  - Some combination of the prior two options, i.e. receive part of the distribution in a lump sum and annuitize the residual amount; and
  - The decision to annuitize can be made at retirement, or later as the participant's needs and investment considerations dictate

- Participants can tailor their **investment choices** to meet their particular needs, including taking into account such factors as:
  - Their personal risk tolerance;
  - The time horizon remaining until they will need to use the funds accumulated for income after retirement;
  - Other retirement income assets; and
  - Other factors which will influence their investment choices.

- Participants have **greater control** over their savings over their working career, can modify their savings rate to adjust to changing circumstances, and can access a portion of their account to meet immediate needs such as financing a home purchase.

The proposed plan has been designed around the following principles:

- Currently, participants in FERS and TSP participate significantly in saving for their own retirement. The contribution for FERS, which is a condition of employment and is mandatory, is 3.1% of pay for employees entering the plan now. In addition, participants who take full advantage of the matching contributions under the TSP program contribute 5% of pay. The TSP program has high rates of participation among USPS employees, with employees in the various crafts and other subsets of employees participating in the plan contributing on average between 4% and 4.5% of pay. The proposed plan design continues to require a mandatory employee contribution, and will provide for additional voluntary contributions.

- The TSP has an automatic contribution of 1% of pay. The proposed plan design will also include an automatic contribution, set initially at the same 1 % of pay provided under TSP.

- The plan will provide a matching contribution against the mandatory employee contribution.

- The plan will also encourage additional employee savings through contributions that will match a participant's voluntary contributions of up to 5% of pay.

The overriding objective is to provide a benefit, including both USPS and participant contributions, that will be sufficient to provide adequate income at retirement for any career employee who retires at or near Social Security normal retirement age.

In Figure 1 below, we show the proposed plan design with each of its elements of employee and USPS contributions, and the vesting provision that will apply to each level of contribution:

FIGURE 1 - USPS DEFINED CONTRIBUTION PLAN DESIGN

Employee Contributions	USPS Contributions	Percentage of Pay		Vesting
		Employee	USPS	
	Automatic 1%		1%	After 5 Years of Service
Mandatory 3%	50% match	3%	1.5%	100% Immediate
Voluntary up to 5%	50% match	5%	2.5%	100% Immediate
Additional voluntary contributions up to IRS Limits	No match	+		100% Immediate
		8% +	5%	

Figure 1—USPS Defined Contribution Plan for New Hires—Key Features

The contributions in the proposed plan are the total contributions, and thus include the current participant and USPS contributions (automatic and matching) under the TSP.

Employees will also be able to make additional voluntary contributions which will not be matched, up to the IRS limits on contributions in defined contribution plans.

We provide information about comparable levels of employer contributions toward defined contribution plans in the private sector in Appendix C.

IV. INVESTMENT RETURN CONSIDERATIONS FOR PARTICIPANTS

An additional consideration is particularly worth noting with respect to the proposal to replace the FERS plan with a defined contribution only approach for USPS new hires. That is associated with the investment returns that might be expected for the individual participant versus the returns that are earned over time given the constraints that are currently in place for those assets that are maintained in the FERS fund. We discuss those constraints in more detail in Section VII below.

While the literature available on the subject has generally shown that the investment returns earned on average by defined contribution plan participants is less than that earned by pension plan sponsors, we believe that is not likely to be the case with respect to comparing expected investment earnings on assets held for the FERS program with returns that might be expected for participants in the new plan, given the current and likely future constraints on how those assets in FERS must be invested.

For the purpose of the comparison of potential benefit outcomes and costs if the current FERS plus TSP plan is replaced by the proposed defined contribution plan, it is not unreasonable to assume that plan participants will on average do as well on their own, or better, than the investment returns earned on assets held for the FERS system. If that assumption is correct, that will contribute further to the potential for savings to USPS which may be obtained while still producing benefit outcomes for participants that will provide sufficient income combined with Social Security for our career employees.[2]

In Figure 2 below, we show the expected income available at retirement from the current FERS + TSP plans and Social Security. We then compare that expected income with the income that would be produced under the proposed defined contribution plan design for new hires, under the following assumptions:

- Age at hire—Age 30
- Age at retirement—Age 62
- Average earnings--$50,000 annually
- Form of annuity—life annuity, with Cost of Living Adjustment (COLA) after retirement consistent with the COLA provided under FERS
- Real rate of investment return assumed: 4%

[2] Please see the following link: http://www.towerswatson.com/united-states/newsletters/insider/3955

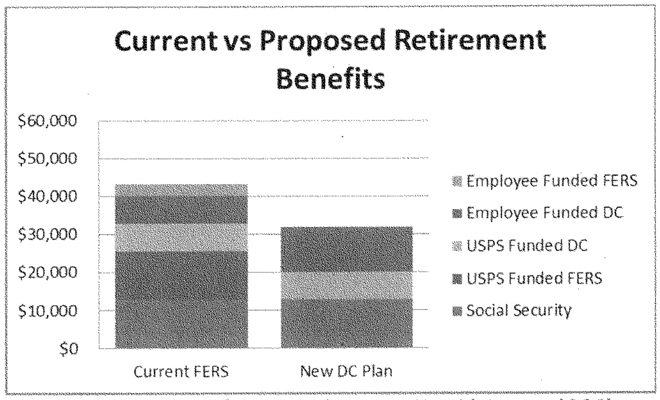

Figure 2– Comparison of Income under FERS + TSP with Proposed DC Plan

USPS employees investing in either Lifestyle funds or their own mix of the funds can be expected to earn a return over a career that exceeds inflation by between 3% and 5%. Figure 2 shows the income at retirement assuming a 4% real return (i.e. a 4 percent return above inflation), well within the range of investment return expectations over a career.

An employee retiring under the assumptions in this illustration under FERS plus TSP, assuming a continuing employee contribution of the 5% which qualifies for matching contributions, will retire at 107% of take homel pay. That is more than is necessary to maintain the employee's standard of living after retirement. An employee who retires under the proposed defined contribution plan, who also contributes the 5% voluntary contributions qualifying for matching contributions and who earns the 4% real return in the illustration, will retire at 79% of take home pay. This employee would have cost of living protection under Social Security. And, as we point out in the assumptions above, the annual income at retirement from the accumulated value of the employee's savings is based on an annuity with cost of living protection at 2% annually, comparable to the inflation protection in the current FERS plan.

That is sufficient to achieve the objective we stated earlier—to provide a benefit, including both USPS and participant contributions, that will be sufficient to provide reasonable income at retirement for any career employee who retires at or near Social Security normal retirement age.

V. INVESTMENT OPTIONS UNDER A DEFINED CONTRIBUTION PLAN FOR NEW HIRES

USPS would propose to use the existing Thrift Savings Plan structure to provide benefits under the new arrangements proposed for new employees. That program is soundly designed, well-managed and has both very low administrative fees and sufficient diversification to meet the needs of participants throughout their career with USPS.

Participants in the Thrift Savings Plan have access to several investment options, including government securities, a fixed income portfolio, small cap and large cap stock funds, and an international stock fund. In addition, the TSP has target retirement funds ("Lifestyle funds") which invest in these other funds and reallocate the assets in line with a target retirement year. Appendix B summarizes the objectives and investments of these funds.

These funds have very low expense ratios, as some of the investment fees are offset by the forfeitures of agency automatic (1%) contributions on behalf of FERS employees who leave federal service before they are vested, other forfeitures, and loan fees. Because these amounts are not sufficient to cover all of the TSP's expenses, TSP participants share in the small remainder of the costs.

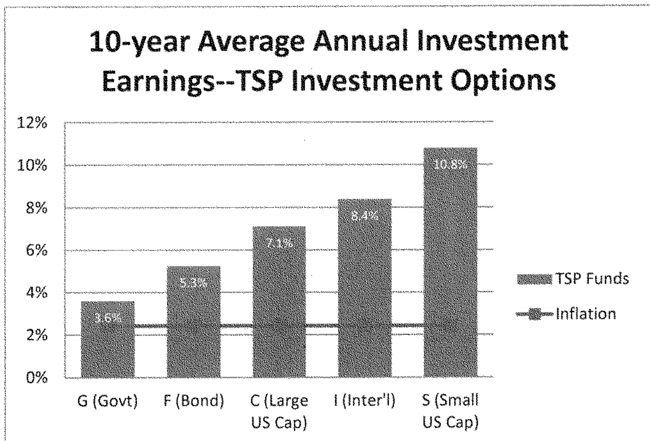

Figure 3– Ten-Year Average Annual Investment Earnings (2003-2012)

As shown in Figure 3, all funds exceeded the inflation rate over the last 10-years, with Funds C, I, and S exceeding inflation by on average 4.7% to 8.4% over the last 10 years. The Lifestyle funds have not been in existence for 10 years, as they started in August 2005.

VI. RETIREMENT PLAN TRENDS IN THE PRIVATE SECTOR

A driving objective in this proposal is to move toward greater comparability with the private sector. It is increasingly clear that defined contribution plans are the retirement savings plan of choice for U.S. private sector employers. And that is true not just in the broader U.S. economy, but among the very largest U.S. employers. In the broader economy, this divergence in the prevalence of defined contribution versus defined benefit plans is long standing and continuing. In 1985, 30.5% of American workers in the private sector were covered by a defined benefit plan, including both single employer and multi-employer plans. By 2009, the last year for which the data book published by the Pension Benefit Guaranty Corporation (PBGC) reported on the percentage of U.S. private sector workers covered by a defined benefit plan, that percentage had dropped by half, to 15.0%, or fewer than one in six American workers in the private sector.

Moreover, these data effectively understate the continuing decline in defined benefit plan coverage for private sector workers. Many employers who continue to maintain such plans have converted to less expensive plans such as hybrid or so-called cash balance plans, and many more have frozen benefits, which is simply an intermediate step on the way to eventual plan termination.

Over this same period of continuing decline in the prevalence of defined benefit pension plans, defined contribution plans have continued to grow. That relative growth and decline of these two major types of retirement plans in the U.S. economy as a whole is illustrated further in Figure 4 below.

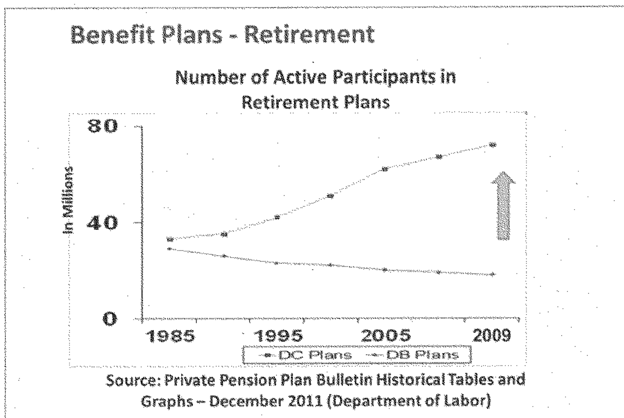

Figure 4 – Relative Growth/Decline in Defined Benefit and Defined Contribution plans

Defined Benefit and Defined Contribution Plans among Large U.S. Private Sector Employers

It is important to point out that essentially the same pattern is evident among the very largest U.S. employers.

As Figure 5 below shows, using data from the Towers Watson 2012 survey[3] over the past 11 years among the Fortune 100 companies, the percentage of those companies who provide a defined contribution plan as the only retirement savings vehicle for employees has grown steadily, while the percentage maintaining a defined benefit plan has steadily decreased.

[3] Towers Watson Insider – October 2012

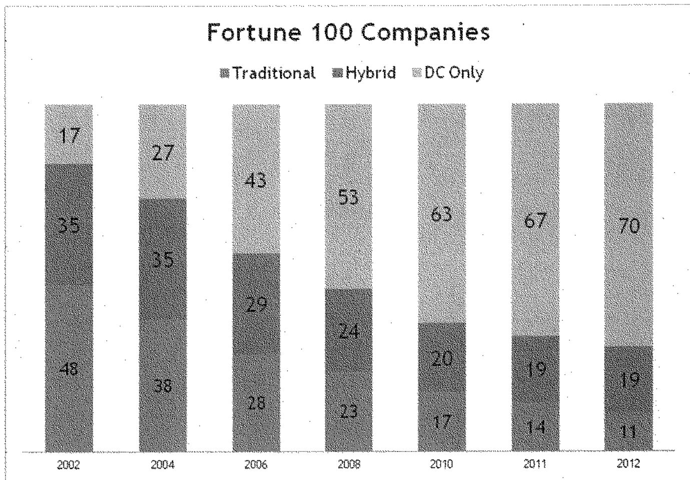

Figure 5 – Prevalence of Retirement Plan Designs among Large U.S. Employers

In Figure 6 below, we show the continuing actions being undertaken by pension plan sponsors in the U.S. to terminate their pension plans or to take other steps to reduce costs and the volatility of costs associated with maintaining a defined benefit pension plan. Those additional modifications include such actions as:

- Introducing a so-called "soft freeze" providing for no new entrants to the plan among new hires;

- Introducing a "hard freeze" which also involves discontinuing further accruals of benefits for present plan participants in addition to excluding new hires;

- Converting the plan to a "hybrid plan" also known as a cash balance pension plan. While such plans are technically a defined benefit plan their provisions mirror in some respects the operation of defined contribution plans, and also serve to reduce plan costs and volatility compared with more traditional "final pay" pension plans; or

- Introducing other measures to reduce benefits and costs, such as converting from a final pay formula for determining benefits to a so-called "career average" benefit formula.

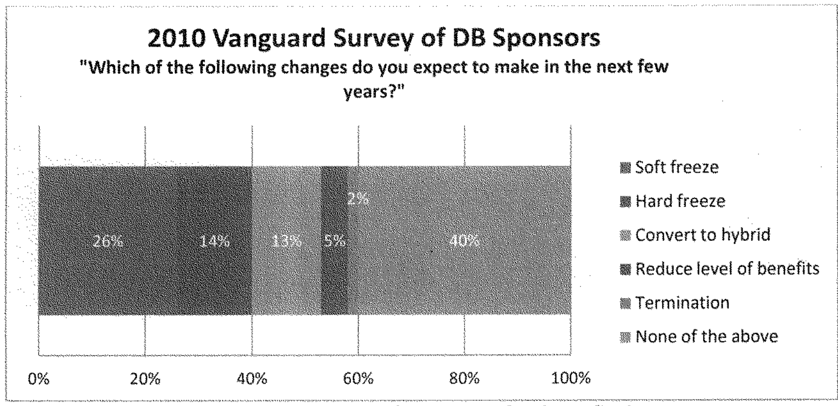

Figure 6 – Trends in Modification to Defined Benefit Plans

As these data make clear, our proposal to provide a defined contribution plan as the retirement vehicle for new employees will serve the purpose of moving toward greater comparability with past and emerging private sector practice, and will continue to provide sufficient savings at retirement for our career employees to maintain their preretirement standard of living after they retire. And that is accomplished with no increase in employee contributions, mandatory and voluntary, compared with those contributions under the current FERS plus TSP structure.

VII. CURRENT STRUCTURE AND FUNDING OF RETIREMENT BENEFITS FOR NEWLY HIRED USPS EMPLOYEES

In 1983, legislation provided that new USPS and federal employees would be eligible to participate in Social Security for the first time beginning in 1984. At the same time the Civil Service Retirement System was replaced with the Federal Employees Retirement System for new hires and the Thrift Savings Plan was introduced. No other changes had been made for 30 years until the increase in the contributions required for new FERS participants that took effect January 1, 2013.

The current cost for funding retirement benefits for newly hired employees who participate fully in the TSP is 14.6% of pay[4]. As we discuss in more detail below, there is a substantial risk that these costs will rise in the immediate future by 1.3% when the new FERS Normal Cost rate is implemented and will likely increase again in the near future.

USPS Current Retirement Structure

Newly hired USPS career employees are enrolled in FERS and are eligible to participate in the TSP program. Employee contributions are a condition of participation in FERS whereas the employee

[4] FERS Normal Cost rate of 12.7% less Revised Annuity Employee contributions of 3.1%, plus 5% Thrift Savings Plan Contribution, assuming employee contributes 5%.

contributions to TSP are voluntary. We set out the key benefit provisions of the FERS plan in Appendix A. We describe the contribution provisions of TSP immediately below.

USPS Funding Cost for the Thrift Plan

The Thrift Plan provides for an automatic 1% of pay funded by USPS, plus matching employer contributions. The first 3% of employee contributions are matched 100% and the next 2% are matched 50%. Figure 7 shows the employer contributions based on the level of employee contributions. USPS funding for the Thrift Plan is therefore to some degree dependent on employee contribution levels and currently ranges between 4% and 4.5% of pay for the various crafts and other subsets of USPS participants in the plan.

Figure 7 Thrift Plan Funding		
Employee Contribution	USPS Contribution	Total
Zero	1%	1%
1%	2%	3%
2%	3%	5%
3%	4%	7%
4%	4.5%	8.5%
5%	5.0%	10%

Figure 7 – Employee and Employer Contributions--TSP

USPS Funding Cost for FERS Employees

The USPS funding cost for FERS is determined based on three factors:

1) The Total Normal Cost, as determined by OPM, using system-wide actuarial assumptions, less
2) Employee contributions, plus
3) An additional amortization payment, if OPM determines that the plan has an unfunded liability (i.e. plan liabilities exceed the plan assets).

The USPS FERS plan has been in surplus since 1985 and therefore the USPS cost is currently determined based on just the first two factors. The employee contribution rate for employees hired after December 31, 2012 is 3.1%.

Figure 8 shows the history of the FERS Total Normal Cost and new hire USPS cost. The Total Normal Cost rate for FY13 is 12.7%, however the latest OPM valuation report shows the FERS Total Normal Cost is 14.0% when calculated using the new actuarial assumptions recently adopted by OPM. The revised rate of 14.0% has not been published in the Federal Register and thus is not yet in effect, so USPS currently pays the rate of 11.9% for employees hired prior to December 31, 2012 and 9.6% for employees hired after December 31, 2012.

Historical Assumptions and Normal Costs							
Assumption Change Date	**Effective Date**	**Interest Rate**	**Inflation**	**Salary Growth**	**Demographic Assumptions**	**Total Normal Cost**	**New Hire USPS Cost**
10/1/1983	FY 83	6.50%	5.00%	5.50%	Updated	16.1%	15.3%
10/1/1987	FY 88	7.00%	5.00%	5.00%		13.8%	13.0%
4/1/1989	FY 90	7.00%	5.00%	5.00%	Updated	13.7%	12.9%
12/31/1992	FY 94	7.00%	4.50%	4.50%		12.2%	11.4%
2/11/1997	FY 99	7.00%	4.00%	4.25%	Updated	11.5%	10.7%
3/16/2001		6.75%	3.75%	4.25%	Updated	11.5%	10.7%
5/8/2003	FY 04	6.25%	3.25%	4.00%		12.0%	11.2%
6/8/2006		6.25%	3.50%	4.25%		12.0%	11.2%
7/25/2008	FY 09	6.25%	3.50%	4.25%	Updated	12.3%	11.5%
6/11/2010	FY 11	5.75%	3.00%	3.75%		12.7%	11.9%
Law change	CY 13					12.7%	9.6%
7/13/2012	TBD	5.25%	3.00%	3.25%	Updated	14.0%	10.9%

Figure 8 – Historical Costs of FERS

Projected FERS Funding Cost for New Hires

For USPS new career employees hired after December 31, 2012, the FERS funding cost is 9.6% of pay (the current 12.7% less the "Revised Annuity Employee" of 3.1%). This will increase to 10.9% from the effective date after the revised Normal Cost rate of 14.0% is published in the Federal Register.

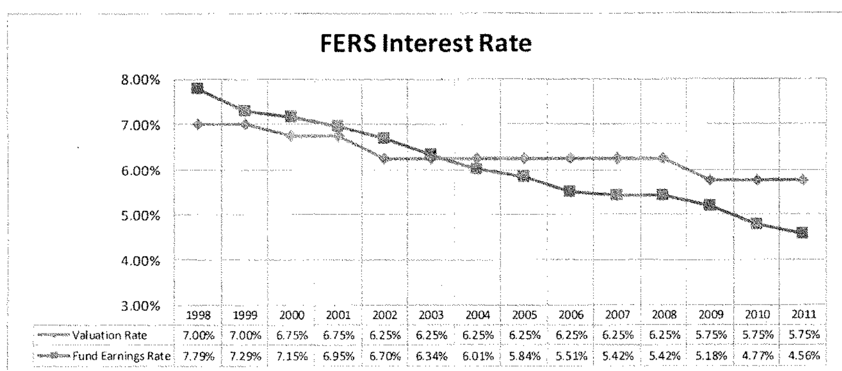

Figure 9 - FERS Fund Earnings

Figure 9 shows the recent experience of the USPS FERS fund earnings and valuation rate. Given the FERS investment structure, and the historically low investment yields on U.S. Treasury securities, it is reasonable to expect that the earnings rate will decline to less than 4% and remain below 4% for the next decade. This will likely lead to the valuation interest rate being further reduced, resulting in an increase in the Total Normal Cost, and therefore additional increases in the USPS funding cost.

An analysis of the current FERS securities shows that the earnings rate is expected to decline to under 3.5% by 2018, as shown in Figure 10.

FIGURE 10 – PROJECTED FERS INVESTMENT EARNINGS								
	2013	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**
Current Holdings	4.03%	3.95%	3.84%	3.69%	3.57%	3.45%	3.43%	3.31%
With New Securities	4.03%	3.82%	3.66%	3.56%	3.50%	3.48%	3.56%	3.60%

Figure 10 – Projected FERS Fund Earnings through 2020

This analysis shows the high risk that the Normal Cost will increase by between 1.5% and 3.0% in the next few years if the discount rate is reduced by 0.50% or 1.00%. Furthermore, as the USPS FERS assets will be earning less than the valuation interest rate, the plan's surplus will shrink by about $1 billion each year. Should the FERS plan have an unfunded liability, the USPS cost would further increase with a required amortization payment.

VIII. SUMMARY AND CONCLUSIONS

Adopting a new defined contribution plan for new employees along the lines proposed will continue to provide adequate income at retirement for those employees who choose to make their career with the United States Postal Service. It can accomplish that result while also:

- Providing a portable benefit for those employees who choose to leave USPS to pursue other career opportunities available to them;
- Providing diversification opportunities and well-managed investment vehicles for participants' retirement savings, through the current Thrift Savings Plan or a new plan which would largely replicate that plan's structure and approach to communicating and managing retirement plan savings for participants;
- Bringing the retirement savings plan into better alignment with private sector practice, while maintaining more generous contributions (and ultimately more generous benefits) than are provided on average in comparable private sector plans;
- Providing USPS with lower costs, and less volatility in costs, than under the current combination plan structure;
- Providing greater consistency with USPS' ability to manage our costs going forward; and
- Recognizing through the lower costs that will be produced the fiscal constraints and fiscal reality that we face.

APPENDIX A – SUMMARY OF FERS RETIREMENT BENEFIT PROVISIONS

Retirement Benefits	
RETIREMENT BENEFIT	Guaranteed annuity based on service and salary.
ALTERNATIVE ANNUITY	Lump-sum payment generally available only to non-disability retirees with life- threatening or critical condition and only with spousal consent.
COVERAGE	All employees who were first employed in a covered position after December 31, 1983, or who were hired after December 31, 1986, with less than 5 years of creditable civilian service, or who transferred to FERS during an open season.
EMPLOYEE CONTRIBUTIONS	Cost of FERS basic benefit plus Social security taxes generally equal 7%. Special employee groups contribute an additional 0.5%. FERS-RAE employees generally hired after December 31, 2012, contribute an additional 2.3% of pay.
REFUND OPTION	Withdrawal of contributions plus interest is allowed when leaving Federal employment (employee must have more than one year of covered service to accrue interest). Effective for 2010 forward, contributions may be deposited after reemployment with the Federal government for annuity credit.
AMOUNT OF ANNUITY	A retiree's annuity is based on an average of the retiree's highest three consecutive years of basic pay in the Federal career (high-three average salary = HT) and is calculated by the following formulas: Generally: (1.0% x HT x # years of service) Age 62+ with 20+ years of service: (1.1% x HT x # years of service)
SPECIAL RETIREMENT SUPPLEMENT	At the MRA with 30+ years of service OR at age 60 with 20+ years of service, payable (subject to an earnings test) until Social Security benefits are payable at age 62 (approximates the portion of a full- career Social Security benefit earned while under FERS); only payable when employee receives an immediate annuity.
COLAs	COLAs are paid annually to retirees over age 62, to disability benefit recipients (after one year of payments), to survivor benefit recipients, and to certain other special groups. COLA is based on the Consumer Price Index (CPI) as follows: CPI — COLA 0 to 2% — CPI 2 to 3% — 2% 3% or more — CPI minus 1%

Retirement Benefits	
REGULAR RETIREMENT (benefits payable immediately upon retirement)	UNREDUCED BENEFITS: MRA (see below), 30+ years of service 60 years old, 20+ years of service 62 years old, 5+ years of service MINIMUM RETIREMENT AGE (MRA) Birth Year — MRA Before 1948 — 55 1948 — 55 and 2 months 1949 — 55 and 4 months 1950 — 55 and 6 months 1951 — 55 and 8 months 1952 — 55 and 10 months 1953-1964 — 56 1965 — 56 and 2 months 1966 — 56 and 4 months 1967 — 56 and 6 months 1968 — 56 and 8 months 1969 — 56 and 10 months 1970 and after — 57
	REDUCED BENEFITS: MRA, 10+ years of service; reduction will be 5% per year for each year payment begins below age 62
DEFERRED RETIREMENT (delayed benefit payments)	UNREDUCED BENEFITS: 62+ years old, 5+ years of civilian service 60+ years old, 20+ years of service MRA, 30+ years of service
	REDUCED BENEFITS: MRA, 10+ years of service; reduction will be 5% per year for each year payment begins before age 62
INVOLUNTARY EARLY RETIREMENT	UNREDUCED BENEFITS: Any age, 25+ years of service 50+ years old, 20+ years of service
	REDUCED BENEFITS Not applicable; however, special retirement supplement does not begin until MRA.

Disability Benefits	
QUALIFICATIONS	An employee must have 18+ months of creditable civilian service and must apply for or show ineligibility for Social Security benefits. An employee must be unable to do his/her job and must not refuse a suitable vacancy within the agency in the same commuting area at the same grade or pay level as the current position. Disability benefits will end if the employee recovers from the disabling condition or earns more than 80% of the current salary of the position from which retired. Disabled employees may be required at times to prove continued disability.
AMOUNT OF BENEFITS	Benefits differ depending on how many years an employee is disabled. During the first year of disability, FERS pays 60% of an employee's high-three average salary minus 100% of any Social Security benefits received. No COLAs are paid during this year. During the second year and any additional years of disability until an employee reaches age 62, the employee will receive 40% of his/her high-three average salary minus 60% of any Social security benefits received. COLAs are paid for these years. FERS disability benefits are recomputed at age 62 to equal the individual's non-disability benefit, including credit for the period the individual was receiving disability benefits, with the average salary increased by all FERS COLAs that were effective during the periods of disability. Whenever the individual's earned benefit based on years of service and average salary provide a higher benefit than that payable under the disability provisions, the person is entitled to the earned rate.

Survivor Benefits	
QUALIFICATIONS	Eligible survivors of an employee may receive benefits if the employee had at least 18 months of creditable civilian service. Eligible survivors may include current and former spouses and children who meet certain age and/or length of marriage requirements.
AMOUNT OF BENEFITS	Survivor benefits are based on the relationship of the survivor and the employee's length of Federal service and are calculated by the following formulas:
SPOUSE OF AN EMPLOYEE WHO DIES	With 18 months to 10 years of service, lump-sum payment only; in 2012 the amount is 30,792.98* plus the LARGER of (1) 50% of the employee's annual salary at death OR (2) 50% of the employee's HT With 10+ years of service, lump sum payment as above plus annuity equal to 50% of the employee's accrued basic benefit

Survivor Benefits	
SPOUSE OF AN ANNUITANT WHO DIES	50% (or 25% if jointly elected by employee and spouse) of the retiree's annuity amount plus a special retirement supplement if the spouse is younger than age 60 and not yet eligible for Social Security benefits
SPOUSE OF AN EMPLOYEE WHO DIES AFTER LEAVING FEDERAL SERVICE BUT BEFORE ANNUITY PAYMENTS BEGIN	With less than 10 years of service, refund of contributions. With 10+ years of service without a refund of contributions, 50% of the employee's accrued basic benefit beginning when the employee would have reached age 62.
CHILD(REN)	Varies according to the number of children and whether there is a surviving parent who was married to the employee, reduced by Social Security benefits the child(ren) are entitled to receive.
ANNUITY REDUCTION TO COVER SURVIVOR BENEFITS	A retiree's annuity will be reduced 10% (or 5%) of the entire annual benefit in order to provide for a survivor benefit unless waived by both the retiree and the spouse. Note: The 50% (or 25% if jointly elected by employee and spouse) spouse's benefit is based on the amount of the annuity before this reduction is taken.

APPENDIX B – THRIFT SAVINGS PLAN OPTIONS

Fund	Objective	Investments
G	Produce a rate of return that is higher than inflation while avoiding exposure to credit (default) risk and market price fluctuations.	Fund invests exclusively in a nonmarketable short-term U.S. Treasury security that is specially issued to the TSP. The earnings consist entirely of interest income on the security.
F	Match the performance of the Barclays Capital U.S. Aggregate Bond Index, a broad index representing the U.S. bond market.	Invests in U.S. Government, mortgage-backed, corporate, and foreign government (issued in the U.S.) sectors of the U.S. bond market. The earnings consist of interest income on the securities and gains (or losses) in the value of the securities.
C	Match the performance of the Standard and Poor's 500 (S&P 500) Index, a broad market index made up of stocks of 500 large to medium-sized U.S. companies	Invests in a stock index fund that fully replicates the Standard and Poor's 500 (S&P 500) Index. The earnings consist primarily of dividend income and gains (or losses) in the price of stocks.
S	Match the performance of the Dow Jones U.S. Completion Total Stock Market Index, a broad market index made up of stocks of U.S. companies not included in the S&P 500 Index.	Invests in a stock index fund that tracks the Dow Jones U.S. Completion Total Stock Market Index. The earnings consist of dividend income and gains (or losses) in the price of stocks.
I	Match the performance of the Morgan Stanley Capital International EAFE (Europe, Australasia, Far East) Index.	Invests in a stock index fund that fully replicates the Morgan Stanley Capital International EAFE (Europe, Australasia, Far East) Index. The earnings consist of gains (or losses) in the price of stocks, dividend income, and change in the relative value of currencies.
L- Year	The L Funds, or "Lifecycle" funds, use professionally determined investment mixes that are tailored to meet investment objectives based on various time horizons. The objective is to strike an optimal balance between the expected risk and return associated with each fund.	Invests in an appropriate mix of the G, F, C, S, and I Funds for a particular time horizon, or target retirement date. The investment mix of each L Fund becomes more conservative as its target date approaches

APPENDIX C – DEFINED CONTRIBUTION PLANS IN THE PRIVATE SECTOR

In Figure 11 below, we show the data from the latest survey published by the Profit Sharing Council of America (PSCA) depicting the average contributions for defined contribution plans provided by employers in the private sector, and compare those employer contributions with employer contributions under the proposed USPS plan for new employees

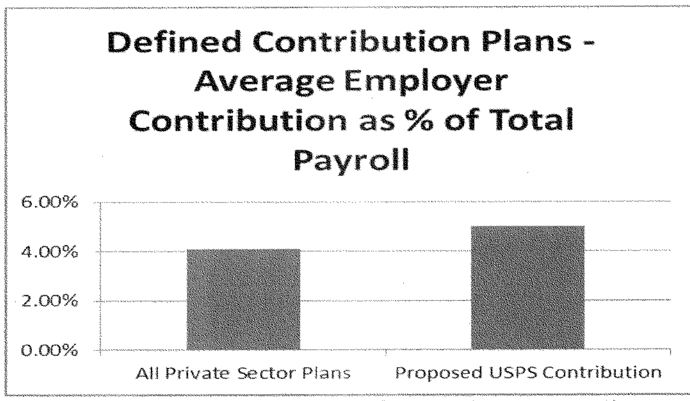

Figure 11 – Average Employer Contributions, Private Sector DC Plans Compared with Proposed USPS Plan for New Employees
Source: Profit Sharing Council of America 55th Annual Survey of Profit Sharing and 401(k) Plans - 2011 Data

PSCA reported the following percentages for the various types of defined contribution plans maintained by employers responding to the Survey:

- 401(k) Plans—2.5% of payroll
- Profit Sharing Plans—8.5%
- Combination Plans (401(k) plans with an additional profit sharing component)—4.4%
- All Private Sector Plans—4.1%

The proposed USPS plan will provide for a maximum USPS contribution of 5% of pay for participants who make voluntary contributions of the full 5% of pay qualifying for a matching USPS contribution. That contribution is higher than the contribution level of 4.1% reported for all private sector employers responding to the latest PSCA survey.

4/12/2013

USPS LEGISLATIVE PROPOSAL—HEALTH BENEFITS—APRIL, 2013

This white paper has been updated from the previous version and takes into account the following changes:

- The position is now as of 2014, the earliest possible start date for the USPS Health Plan (prior measurement was as of 2013);
- The measurement uses census data as of October 2012 (prior measurement used older data);
- The measurement uses OPM's latest assumptions, including a lower assumed rate of return on the fund (5.25% compared with 5.75% in the prior measurement), and updated per capita claims costs and updated health care cost trend rates;
- Lastly, the Postal Service Retiree Health Benefits Fund assets have been updated to the actual 9/30/12 values and projected to 2014 using an anticipated earnings rate of 3.5%.

4/12/2013

EXECUTIVE SUMMARY

This white paper provides an updated explanation of USPS' proposal to control and significantly reduce health care costs for the Postal Service and our employees, annuitants and their families; while providing health care benefits comparable to or better than provided through Federal Employees Health Benefits (FEHB) plans. Key elements:

- USPS is a 238+ year old institution, and is the cornerstone of an industry that employs over seven million Americans and represents 5% of the country's GNP.
- In spite of unprecedented cost and staffing reductions, USPS is facing the equivalent of bankruptcy.
- 80% of USPS total costs are labor costs. Fully one-third of our labor costs are benefit costs.
- USPS has determined that, to survive, it must reduce and control these costs.

USPS has proposed legislation that would have the following key elements:

- USPS would administer its own Health Benefits Program and would be the Plan Sponsor.
- Unions and the management associations would be represented in plan governance.
- Benefits and the allocation of contributions would be subject to the bargaining/consultation process.
- The new program would cover all current and future employees and annuitants.

Resolving the retiree health benefits liability and funding issue is the central objective of the proposal. A key point cannot be overemphasized—without addressing the liability issue in a responsible way, there is no possible way for the Postal Service to sustain the current approach to providing health benefits to retirees.

Adopting the approach used universally in the private sector and in state and local government plans to integrate retiree health benefits with Medicare and conforming other elements of our health benefits program to the comparability standard set forth in the Postal Reorganization Act will accomplish this objective.

Moreover, through this approach USPS will continue to provide benefits comparable in value to current benefits provided through the Federal Employees Health Benefits Program (FEHB). In addition, most employees and annuitants will benefit from a lower premium structure, and the resulting lower contributions for plan participants.

The resolution of the health care funding and liability issue and the reduced costs these changes will produce for active employees, annuitants and USPS will provide approximately one-third of the savings the Postal Service must realize to avert insolvency. This is the one major element of our business plan that can be achieved without eliminating a single job or closing a single post office or facility.

The savings from effectively eliminating the unfunded liability for retiree health benefits and eliminating the need for further scheduled payments under PAEA would reduce USPS obligations by approximately $50 billion between now and 2018, if a restructured plan were in place beginning in 2014. And current and future annuitants would be protected more fully regardless of what the future holds, since our retiree health benefits liability would be essentially fully funded, and remain funded on an actuarially sound basis indefinitely into the future.

Exhibit 2 from the body of this paper summarizes the powerful effect these changes will have on the liability for retiree health care benefits for USPS.

UNITED STATES POSTAL SERVICE

USPS Retiree Health Benefits ($ in Millions)

Assumptions	2014 Liability	2014 Assets	2014 Unfunded Liability	2014 Funding
Accounting Liability	$100,028		$50,931	$8,665
Change from Federal accounting standards to OPM funding assumptions	$95,977		$46,880	$8,665
Element 1: Non Medicare Annuitants and Survivors assumed to enroll in Medicare A and B with no penalty	$72,912		$23,815	$3,597
Element 1 + Element 2: Additional savings arising from EGWP plan for Post-65 Enrollees.	$47,201	$49,097	($1,895)	$1,522
USPS Plan: Revised four tier retiree contributions; Additional savings of 8 percent for Pre-65 retirees from Purchasing; Savings due to Future Retirees having Carve-out (Co-pay / Co-Insurance)	$45,414		($3,683)	$1,340

Based on OPM Valuation as of September 30, 2011
Developed by Hay Group

USPS Health Care Proposal Presentation to Congress (Subject to collective bargaining, consultation and other legal obligations). 1

Exhibit 2—Effect of USPS Legislative Proposal on Liability and Funding, 2014

We discuss in more detail in the body of this paper the foundation for these changes, and their financial impact on USPS and our employees, annuitants and their families. We stand ready to answer any questions the Congress may have and to provide additional information to help in your deliberations.

USPS LEGISLATIVE PROPOSAL—HEALTH BENEFITS—MARCH, 2013

I. INTRODUCTION

The United States Postal Service is the cornerstone of an industry that employs over seven million Americans. Mail service providers, fulfillment companies, shipping firms, printers, transportation companies, and small business owners combined use the mail to generate over $800 billion in sales and revenue for the nation's economy. This represents five percent of the total Gross Domestic Product (GDP) in the United States.

Congress is well aware that the Postal Service is on the brink of insolvency. Major changes in legislation will be required to restore the balance between the Postal Service's operating expenses and revenues. Revenues have declined rapidly since 2007 and will continue to decline in the face of digital alternatives, especially the rapid growth in electronic commerce.

In this paper we update and discuss in depth the proposal we initially presented to the Congress in 2011 for a comprehensive solution to one of our biggest costs—the expense and liability for health benefits for our active workforce, our annuitants and their families.

II. THE USPS PLAN OF ACTION FOR ADMINISTERING ITS OWN HEALTH CARE PLAN

Right now, despite the fact that the law requires the Postal Service to provide employee compensation and benefits comparable to the private sector, the Postal Service does not control health care benefit programs for its employees or its retirees, other than bargaining for the apportionment of premium contributions between active employees and the Postal Service. In almost all other respects the Postal Service is treated like any other entity of the federal government, in that employees participate in the Federal Employees Health Benefits Program (FEHB).

The principal exception to that identical treatment is in the area of health benefit costs for annuitants, where the Postal Service has been treated differently from all other federal entities and private sector companies, both before and after the passage of the Postal Accountability and Enhancement Act (PAEA) in December, 2006. We discuss the subject of retiree health benefits and liability, and this disparate treatment, in more detail later in this paper.

The Postal Service believes that it should have its own program for two principal reasons. First, benefit costs constitute roughly one-third of total labor costs. Approximately 80% of USPS total costs are labor costs. The Postal Service cannot address its current economic challenges without gaining control of its legacy costs, defining their breadth and scope, and setting up a reasonable program to fund them. Our proposal accomplishes those objectives.

Second, under the Postal Reorganization Act, the Postal Service is obligated to provide wages and benefits comparable to those provided in the private sector. The private sector is adjusting constantly to changing market conditions with changes in plan design, care management, eligibility, cost management (including the availability of network discounts), and a host of other factors that reflect "best practices" in compensation and benefit policies. The Postal Service cannot fully meet the private sector standard as part of the current FEHB system.

III. GOVERNANCE AND OVERSIGHT

The Postal Service understands the importance of oversight, audit, transparency, fiduciary responsibility and disclosure. Moreover, we share a common interest with our employees and their families, as well as our other stakeholders, in assuring that the new Health Benefits Program is successful. To that end, commercial arrangements for administration (including especially claims administration), and related services must be competitive, at the outset and over time. The plan's benefits must also be provided and administered in alignment with best practices in the health care field. We also recognize that the oversight function now exercised over FEHB by OPM, with its staff of actuaries and experts, would no longer be available to us.

For these reasons, it is important to establish a solid structure for governance and oversight of the plan. Below are those key elements and the path we have recommended to the Congress to get a Health Benefits Program in place.

The Postal Service would be the plan sponsor. The Governors would establish benefit levels and initial contribution levels.

The governance and administration of plan assets would be placed in a Health Benefits Plan Management Committee. The members of the Committee would be fiduciaries with respect to the plan.

Standard principles of fiduciary responsibility, including rules about diversification and conflicts of interest, will apply to plan administration, reporting, disclosure and investment decisions. The Committee will provide an annual report to Congress on the performance of the plan.

The Committee will have members selected by the Postal Service, the unions and management associations, and the Treasury Department. It will have the authority to engage independent experts as required.

There are also models in the private sector as to how to structure a governance and oversight model for a Company Health and Welfare Plan. The Fortune 500 companies provide ample precedent and the Postal Service would be pleased to adopt a best practices approach.

IV. THE ROLE OF THE UNIONS

As noted, the proposed legislation would give the unions and management associations the right to participate in governance through representation on the Health Benefits Plan Management Committee. The Postal Service envisions future contribution levels and benefits for bargaining unit employees will be a subject for collective bargaining in accordance with the rights and limitations contained in the National Labor Relations Act, and supports that outcome.

V. USPS PROPOSAL FOR RESTRUCTURING HEALTH BENEFITS FOR EMPLOYEES AND RETIREES

A resolution of the retiree health benefits funding issue is the central objective of USPS' health benefits proposal to the Congress. The subject of retiree health benefits is both exceedingly complex and of critical importance to the future of the United States Postal Service. We discuss that subject in some depth in this paper, including the implications of the Postal Accountability and Enhancement Act and S. 1789 passed by the Senate in April 2012. Quite simply, the fiscal issues facing the Postal Service cannot be resolved unless the Congress addresses the liability issue for retiree health benefits in a responsible way. Our proposal provides a path to doing so.

Retiree Health Expense Under Pay As You Go (the Status Quo)

Until 1987 the Postal Service was treated like any other entity within the federal government with respect to retiree health benefits. For federal employers participating in FEHB, including off budget agencies such as the Federal Reserve Board, the FDIC, and the Office of the Comptroller of the Currency, the employers are required to remit to the Treasury through OPM both the employee and employer share of the health benefit premiums for all active employees. But when an employee retires, for all federal employers other than the Postal Service, OPM takes the annuitant's premium contributions through deductions from the annuitant's pension check, and the balance of the premiums is absorbed by the Federal Treasury at no cost to the agency from which the annuitant retires.

And that is the way it worked for the Postal Service until 1987. But in 1987, as part of an Omnibus Budget Reconciliation Act, the Congress for the first time imposed a levy on the Postal Service for a share of the annuitant premiums. That initial payment was $10.3 million, a nominal payment even allowing for the passage of time. However, over the years the formula that evolved for determining the Postal Service's share of annuitant health care premiums created the most rapidly growing expense for the Postal Service. It is important to explain why.

The Postal Service's growing costs for retiree health care on the current pay as you go basis (ignoring for the moment PAEA) reflect three independent factors:

First, the growth of health care premiums within FEHB—over the 5 years ending in 2012, those premiums have increased at an average pace of 5.7%, significantly above the rate of increase in postal rates and inflation generally and similar to the trend in employer health care premiums in the private sector.

Second, the "apportionment factor"—this is the formula by which OPM determines what share of the retiree premiums the Postal Service must pay, and what share is absorbed by the Treasury for pre-reorganization (pre-1971) service. The apportionment factor is the percentage derived by dividing all post-reorganization years of service for all USPS retired participants by all the years of service for all

USPS retired participants. Since those retired participants with pre-reorganization service are much older than those with none, and since virtually all new entrants into the retiree population have no pre-reorganization service, new entrants and mortality among those with pre-reorganization service combine to make the apportionment factor grow at a rapid pace, adding a 3% annual compound increase in costs over and above the increase in premiums from 2002 through 2012.

Finally, the retiree population covered under FEHB continues to grow and that growth also adds to this expense—another full percentage point in recent years.

In Exhibit 1 below, we illustrate how rapidly USPS' cash expense on the current pay as you go basis for retiree health care has grown in the recent past, and how rapidly it is projected to grow in the near future. The blue bars show the actual expense for the eleven fiscal years through FY2012; the red bars show the projected expense through 2018.

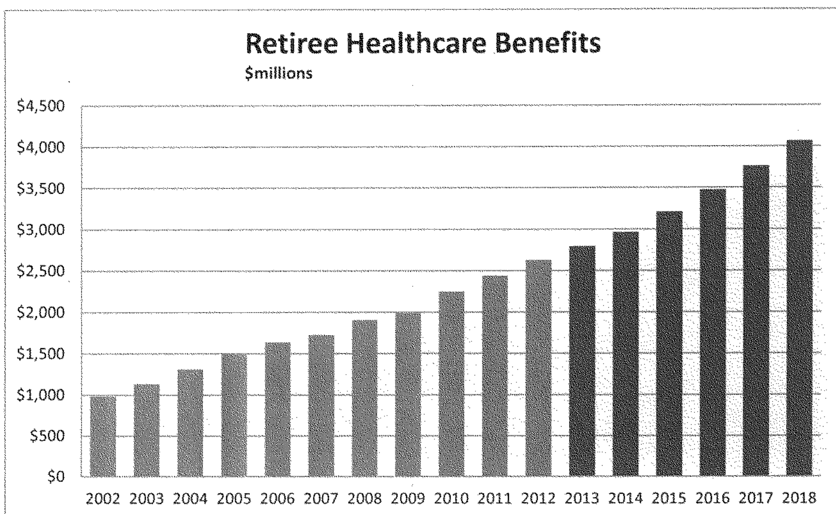

Exhibit 1 Actual (Blue) and Projected (Red) Retiree Healthcare Premium Costs

In FY2002, USPS' expense for retiree health care coverage was just $987 million. But by FY2012 that expense had grown to $2.629 billion. That is a pace of growth over that period of 10.29% a year. At that pace these expenses double every seven years.

Exhibit 1 also shows that while this growth is expected to abate somewhat in the immediate future, the pace of growth remains at unacceptable levels. Over the six year period from FY2012 through FY2018, the growth in this expense projected by OPM is more than 7.5% per year resulting in a projected expense in FY2018 of just under $4.1 billion, or 55% more than in FY2012. Given the factors which drive the growth in these costs, retiree health benefit costs will overtake USPS' expenditure for active employee health benefits in just a few years. No other cost is growing so rapidly for the Postal Service as these pay as you go costs for retiree health care.

The Effect of the Postal Accountability and Enhancement Act

Under current law the Postal Service is obligated to make a series of payments to fund the Postal Service Retiree Health Benefit Fund (PSRHB Fund), over and above continuing to pay our share of the FEHB premiums for retirees on a pay as you go basis. At present the Postal Service is in default with respect to the payments required under the statute for FY2011 and FY2012, and does not have the funds or the borrowing authority that would be required to make those payments.

In addition to those cash payments which USPS has made, PAEA provided for the transfer of $17.1 billion from overpayments to the Civil Service Retirement Fund, for total cash remittances to the PSRBH Fund of $38 billion since the inception of the Fund.

With interest, the assets in the Fund as of 2014 are projected to be $49.1 billion, compared with liabilities of $100 billion. The unfunded liability at that point is the difference, or $50.9 billion.

Under PAEA, the Postal Service has the burden both of the scheduled advance funding payments and continuing to pay the cash cost of our share of annuitant premiums on a pay as you go basis. The Act provides no access to the Fund for defraying retiree health care costs until after the last scheduled payment is due in 2016.

S.1789 passed by the Senate in April 2012 provides for a change in the pace of funding for retiree health benefits compared with current law. However, since S.1789 failed to address the liability issue, the combination of the continuing dual payments—the advance funding payments PAEA requires and continuation of pay as you go for the USPS share of FEHB premiums—would continue to leave the Postal Service in a completely untenable situation. Without addressing the liability these costs will rapidly become unaffordable, regardless of the method and pace of funding these costs.

The central problem is as we stated at the outset. The liability for retiree health benefits does not go away, in the absence of changes that would reduce the liability. Such changes for current annuitants are entirely in the hands of the Congress. The current pay as you go expense will continue to increase at an unaffordable pace, and eventually—and in relatively short order—costs will exceed those that would be incurred under the funding anticipated by PAEA or in any other arrangement involving prefunding, since no interest earnings would contribute toward those future payments.

The Effect of the Proposal on Active Employees

Active employees will also benefit if our proposal is enacted. The new plan will produce lower premium costs that will be shared with employees, and that will result in an average savings to participants of approximately $700 annually. In addition, by moving to a four tier system for participant contributions (self only, self and spouse, self and child or children, and self and full family) common in the private sector, single parents and those with a spouse and no dependent children will see markedly lower contributions. The lower premiums that will result if our proposal is adopted will permit contributions for full family coverage to remain about the same as now. Benefits will remain comparable to or better in value to benefits provided under FEHB now, but in a much simpler and more easily understood plan structure.

USPS Legislative Proposal—The Effect on Retiree Health Care Liability and Expense

The USPS proposal to the Congress would directly affect the liability and ultimately the expense for retiree health benefits in a dramatic way. It would provide a comprehensive solution both to the funding schedule in place under PAEA and to the significant problem associated with the growth in pay as you go costs under the status quo. None of the elements of the proposal would affect current annuitants adversely—indeed, it would improve their situation. And future annuitants would also benefit, through lower premiums and thus lower participant contributions.

The key elements of the USPS legislative proposal with respect to retiree health benefits are set forth in Exhibit 2 below, along with the fiscal impact that these changes would have for USPS.

UNITED STATES POSTAL SERVICE

USPS Retiree Health Benefits ($ in Millions)

Assumptions	2014 Liability	2014 Assets	2014 Unfunded Liability	2014 Funding
Accounting Liability	$100,028		$50,931	$8,665
Change from Federal accounting standards to OPM funding assumptions	$95,977		$46,880	$8,665
Element 1: Non Medicare Annuitants and Survivors assumed to enroll in Medicare A and B with no penalty	$72,912		$23,815	$3,597
Element 1 + Element 2: Additional savings arising from EGWP plan for Post-65 Enrollees.	$47,201	$49,097	($1,895)	$1,522
USPS Plan: Revised four tier retiree contributions; Additional savings of 8 percent for Pre-65 retirees from Purchasing; Savings due to Future Retirees having Carve-out (Co-pay / Co-Insurance)	$45,414		($3,683)	$1,340

Based on OPM Valuation as of September 30, 2011
Developed by Hay Group

USPS Health Care Proposal Presentation to Congress (Subject to collective bargaining, consultation and other legal obligations). 1

Exhibit 2—Effect of USPS Legislative Proposal on Liability and Funding, 2014

As Exhibit 2 shows, under current law and generally accepted accounting principles USPS has a projected liability for retiree health benefits in 2014 of just over $100 billion. Assets at that point will be $49.1 billion, leaving an unfunded liability of $50.9 billion. The required funding for 2014 under current law is projected to be $8.7 billion, including pay as you go cash costs and the scheduled payment under PAEA.

We describe below the changes that the legislative proposal would make as summarized in Exhibit 2, and the effect on liability and costs, one by one.

First, a measurement change would be required to move from the accounting liability to the funding liability. The funding assumptions are used since under the proposal the benefit payments will come from the Postal Service Retiree Health Benefit Fund and these assets are assumed to earn 5.25% over the long-term (OPM's assumptions as set by the independent Board of Actuaries). The funding assumption would be used to determine the actuarially required funding amount needed to fully fund the benefits, which is the sum of the Normal Cost and the Amortization Payment. Both of these amounts are calculated using the funding assumptions set by OPM.

This change will have the effect of bringing down the 2014 liability by $4.05 billion, to $96 billion.

Exhibit 2, Element 1—Medicare Integration

The second change is referred to in Exhibit 2 as Element 1. Element 1 assumes that all current annuitants eligible for Medicare will enroll in Parts A and B of Medicare with no penalty. That will be achieved in the same way it is essentially universally achieved in the private sector and in state and local government plans which provide retiree health benefits. This requires a brief explanation, including some pertinent history.

Medicare was signed into law by President Lyndon Johnson on July 1, 1965. Federal annuitants, however, were not eligible for Medicare unless they qualified through quarters of Medicare coverage earned in other employment settings. That changed in 1983, when legislation provided that federal employees (including USPS employees) were made eligible for Medicare coverage for the first time.

FEHB has been available to federal employees and annuitants since 1960. But even though federal employees have been eligible for Medicare through their federal employment for almost 30 years, and through other employment for almost 50 years, OPM has never changed the way that benefits under FEHB are coordinated with Medicare for annuitants who are Medicare eligible.

This is especially important for annuitants since, by law, Medicare is the primary payer for an annuitant who is also eligible for benefits under an employer sponsored health care plan. The statutory construct was created by the Congress to encourage employers who provided benefits to retirees to continue to do so. So long as a Medicare eligible participant is covered as an employee, the employer plan is primary; when the employee retires, Medicare becomes the primary payer, essentially to making the continuation of coverage affordable for employers.

In FEHB, in contrast with universal practice in the private sector and in state and local government plans, there is no consequence to the federal annuitant in terms of their FEHB plan coverage if they fail to enroll in Medicare. Their benefits are paid at exactly the same level as they would have been paid prior to Medicare eligibility, under most of the FEHB plans.

There is still an advantage to enrolling in Medicare, however, for the great majority of annuitants and for that reason many Medicare eligible federal annuitants, including USPS annuitants, do enroll. (The exception is for some of the HMOs where no additional benefits are provided for enrolling in Medicare coverage.) That advantage comes from the effective elimination of deductibles, copays and coinsurance under the FEHB plans, some of which explicitly waive such payments for Medicare enrollees. And some plans, including the Blue Cross/Blue Shield plans which cover the majority of FEHB participants, offer additional incentives such as lower copays for prescription drugs for participants who enroll in Medicare.

Nonetheless, the rates of non-participation among annuitants are too high, with serious consequences for the cost of health benefits to USPS and to participants. Currently, 24% of USPS annuitants over age 65 are not enrolled in Medicare Part B. And 10% of those annuitants are not enrolled in Part A, despite the fact that Part A is free. More troubling is the observation that nonparticipation rates in part B are growing among the most recently retired annuitants. Based on OPM data, 30% of annuitants age 65-74 are not enrolled in part B. And non-participation in Part A has remained about the same, at 9% of the annuitants age 65-74.

A participant's election not to enroll in Part B of Medicare, which covers outpatient hospital and non-hospital medical expenses, is to a degree understandable because that coverage comes at a cost to the participant. Most participants pay $104.90 monthly (in 2013). Participants with annual incomes of more than $85,000 ($170,000 if married and filing jointly) pay more. And as we pointed out above, the additive benefit that the participant receives is limited to the deductibles, copays, and coinsurance that would be eliminated or reduced in the FEHB plan in which they participate. So an annuitant in good health could reasonably conclude that they are better off avoiding the Part B contributions. (We should point out that on average the decision not to participate in part B will be costly to the participant, since they are exposed to those deductibles, copays and coinsurance payments in years in which they generally have higher medical expenses.)

The nonparticipation in Part A (which covers inpatient hospital expenses), however, is not easily explained, because Part A is free. But it is useful to note that for those employees retired under CSRS who are not eligible for Social Security signing up for Part A requires some action on their part. It is not automatic and that no doubt accounts for at least some of the nonparticipation in Part A. It is also relevant that for retirees who are eligible for Part B of Medicare, OPM will not deduct the Part B premiums from the annuitant's pension check without a written authorization from the Center for

Medicare and Medicaid Services. A written request from either the participant or Social Security is not sufficient, and these additional hurdles to enable such payments no doubt contribute to the nonparticipation rates in Part B.

What is clearly not well understood by FEHB participants is that these levels of nonparticipation come at a significant cost, both to USPS and to all USPS employees and annuitants and to their federal counterparts. The net effect of the nonparticipation rates in Medicare is to shift costs that would normally be absorbed by Medicare to the FEHB plans. For Medicare, the $104.90 monthly that most participants pay represents about 12% of the combined value of both Parts A and B. Yet USPS annuitants, in common with their federal employee counterparts, pay 30% of the FEHB premiums on average.

This cost shifting is a very poor bargain for the employees and annuitants, because both pay for this cost shifting in the blended rate structure that is used for premiums in FEHB (i.e., all rates for the FEHB plans are the same for active employees and for annuitants whether they are enrolled in Medicare of not). And this effect also saves money for the Federal Treasury, since the portion of the cost of the benefit borne by the participant is much greater in FEHB than in Medicare.

The net effect is that FEHB premiums are higher than they would otherwise need to be by virtue of the FEHB plans absorbing these additional claims costs, driving up premiums for both active employees and annuitants.

The way the legislative proposal would achieve universal participation in Medicare is simple, and consistent with practice in the private sector as well as in state and local government health benefit plans.

The standard approach for employers who maintain retiree health benefit plans to ensure Medicare participation is to offset the benefits the employer plan will pay by the amount that would have been paid by Medicare, for annuitants who are eligible for Medicare but who are not enrolled. That effectively requires the participant to self-insure the benefit Medicare would pay if they fail to enroll, and removes any economic consequence of a participant's failure to enroll for the plan sponsor. In practice, all participants will generally enroll.

The effect of moving to 100% enrollment in Medicare is shown in what is referred to as Element 1 of Exhibit 2. As the exhibit shows, this change would reduce the liability by $23.1 billion, to $72.9 billion. In addition, the cash costs to the Postal Service would come down by $473 million in the first year, by simply reversing the cost shifting now in place so that Medicare is always the primary payer for annuitants age 65 and older.

It is important to point out that because of the completely different scale the cost to Medicare is inconsequential. In 2012 the total expenditures in Medicare were approximately $550 billion, or $10.6 billion per week. The annual savings of $473 million to USPS thus represents less than half a day of claims under Medicare. Moreover, the cost to the Medicare trust fund is substantially less than the savings for USPS, because it is offset by new participant contributions for Part B (approximately $138 million annually).

Finally, costs to participants would also be reduced through the lower premiums that would be created through the new USPS health plan contemplated by the proposal, with no reduction in benefit levels. Even if USPS did not sponsor its own health plan, annuitants who sign up for Medicare Part A and B could purchase lower cost FEHB plans and this would reduce premium costs for both the annuitant and the Postal Service.

Exhibit 2, Element 2—Adoption of an EGWP Plan for Prescription Drug Benefits

Element 2 in Exhibit 2 shows the effect of the Postal Service's proposal to adopt a so-called "Employer Group Waiver Plan" (EGWP) for prescription drug benefits, wrapping the employer plan around the drug benefits under Part D of Medicare. Under this plan, prescription drug benefits would remain as generous as now for all participants. And for some participants (those with catastrophic drug expenses) benefits would significantly increase. With the exception of participants with income above $85,000 (or $170,000 if married filing jointly) participants would pay the same contributions for prescription coverage as before, including their combined contributions for Part D and the USPS plan.

This type of plan takes advantage of the purchasing power of the Part D program, including the closing of the "donut hole" for Part D participants and the discounts negotiated with the pharmaceutical manufacturers for brand name and prescription drugs in the negotiations leading up to passage of the Patient Protection and Affordable Care Act (PPACA) that are embedded in the Act.

The effect on USPS' cash expense in the first year would be about the same as Element 1, a savings of about $559 million. But the effect on the retiree health care liability is greater, since future increases in the discounts and the closing of the donut hole generate more substantial savings in the future. The liability would be reduced by $25.7 billion, to $47.2 billion.

In total, integrating the plan properly with Medicare and adopting the EGWP plan, in common with practice in the private sector, would reduce the liability by $48.8 billion.

It is also important to reiterate here as well, that the additive cost to the Medicare program is substantially smaller than the savings that would be created for USPS and participants. The discounts and better purchasing power under Part D of Medicare will offset the cost to Medicare by approximately $170 million annually.

Exhibit 2, USPS Plan—Four Tier Contributions for Dependents Coverage

USPS' proposal contemplates moving from the current two tier contribution approach FEHB (contributions are based on having self only coverage or family coverage, regardless of the number of family members covered) to the four tier approach more typical in the private sector as well as state and local government plans. Employees would have the following choices available:

- Self only
- Self and spouse
- Self and child or children
- Self and full family

Usually this type of change is a zero sum game, in that the lower contributions for self and spouse or self and child(ren) would have to be offset by higher contributions for self and full family coverage. However, since premiums are projected to be so much lower, principally due to the savings through proper coordination with Medicare, the cost for full family coverage will remain about the same for those who need full family coverage, and will come down significantly for single parents and households with no dependent children. We should note that family status is dynamic, so virtually all USPS employees and annuitants will benefit from this change at some point in their careers and in retirement.

The net effect of this change, however, is to increase the liability, since employee and retiree contributions to their health care coverage will in the aggregate be reduced substantially through the combination of lower premiums and the move to four tier coverage. The liability will be increased in the first year by $3.4 billion, to $50.6 billion.

Exhibit 2, USPS Plan—Purchasing Power in a USPS Health Benefits Plan

The effect of combining the purchasing power for health benefits under a single USPS sponsored plan is significant. While the largest plans within FEHB certainly have equivalent purchasing power, that purchasing power is dissipated through the maintenance of more than 200 plans, many of which are very small, though in the aggregate they cover a significant share of the participant population.

These savings from consolidation of the plans are projected to be approximately 8% of premiums, and will have the effect of reducing the retiree health care liability by an additional $1.65 billion to $49 billion. The reduction of the retiree liability will apply to pre-Medicare retirees only, since network discounts do not apply where coverage is secondary to Medicare, and the EGWP savings are already reflected in Element 2 in these liability calculations.

Exhibit 2, USPS Plan—The Adoption of Carve Out for Coordinating Claims Payments with Medicare

The final element of the USPS Plan reflects the savings that will accrue by adopting a so-called "carve out" approach to coordinating the plan's benefits with Medicare for annuitants who retire on or after January 1, 2014. Carve out is the most common approach used in the private sector as well as in state and local government plans for coordinating benefits with Medicare.

Under FEHB's current approach for most of the plans in the FEHB program—the so called Coordination of Benefits—the participant who is covered by both Medicare and an FEHB plan will typically receive payment for 100% of all medical expenses. The primary plan (in this case Medicare) will pay its liability first. The secondary plan (the FEHB plan) will then pay the balance of expenses for the claim up to its limit of liability if no other plan were available. In practice, the participant will usually collect 100% of the charges, with no deductibles, copays or coinsurance.

Under carve out, the primary plan (Medicare) pays first; the employer plan then pays the amount that would be required to place the participant in the same economic position as if only that plan were available to pay benefits. That maintains a level playing field for all participants (active employees, pre-Medicare annuitants, and Medicare eligible annuitants whether they participate or not) and maintains the same deductibles, copays and coinsurance as if the employer plan were the only plan available. That change will also serve an important purpose in terms of sound plan design by discouraging overutilization of health care services. (That effect was recognized in the administration's proposal in September, 2011, to impose a tax on generous Medicare Supplement plans which effectively eliminate all copayment requirements.)

The adoption of carve out for future annuitants would reduce the liability by an additional $3.6 billion, to $45.4 billion.

The Combined Effect of the Proposal on USPS Expense and Liability

In aggregate, the USPS proposal if in effect at the beginning of 2014 would eliminate the unfunded liability, and result in a surplus of just under $3.7 billion. That compares with the unfunded liability projected as of 2014 compared with current law and continued participation in the FEHB plans of $50.9 billion. Effectively, retiree health benefits would be fully funded. The proposal further contemplates that USPS would continue to fund the normal cost for future retiree health benefits, and amortize any unfunded liability that might arise in the future, assuring that the fund would be actuarially sound and sufficient to cover these costs regardless of USPS' future.

Now let's turn to USPS cash expenses. In the first year (2014) cash savings in total are projected to be approximately $2.1 billion for USPS. These savings principally reflect two factors:

1. Claims expense would be reduced through the additional coverage provided under Medicare compared with the status quo, reversing the cost shifting currently in place; and
2. The PSRHB Fund assets would be used to pay the claims and expenses for current and future annuitants. That would produce a funding expense in 2014 of $1.340 billion in total, compared with a combined expense of $8.7 billion (cash expense plus the scheduled payment required under PAEA) under current law in 2014.

In addition, employees and annuitants will save approximately $660 million in reduced contributions, or about $700 annually per participant.

We summarize the cash savings to the Postal Service separately for active employees and annuitants in Exhibit 3 below:

Cash Flow Differences, Status Quo versus Adoption of USPS Legislative Proposal

	Retiree Health Care Cash Flows ($ millions)					
	2014	2015	2016	2017	2018	Totals
A. Retiree Pay as you go (status quo)	$2,965	$3,208	$3,472	$3,763	$4,066	
B. Annual funding requirement	$1,340	$1,400	$1,462	$1,527	$1,595	
C. Annual Difference (A. - B.)	$1,625	$1,808	$2,010	$2,236	$2,471	$10,149
	Active Health Care Cash Flows ($ millions)					Totals
D. Active pay as you go (status quo)	$4,891	$4,810	$4,713	$4,596	$4,462	
E. Actives USPS health plan*	$4,428	$4,354	$4,267	$4,160	$4,039	
F. Annual Difference (D. - E.)	$463	$456	$446	$436	$423	$2,224
G. Total Cash Savings Annually (C. + F.)	$2,088	$2,263	$2,457	$2,671	$2,894	$12,373
H. Total Cash Savings 2014-2018 if Legislative Proposal Were in Place					$12,373	

*The savings on actives are just from the competitive bidding/improved purchasing. In the rate setting process, the savings will be allocated to actives and retirees in a blended rate structure consistent with FEHB practice now.

Exhibit 3—Retiree Health Care Cash Flows, 2014 through 2018

In addition, since the plan would be fully funded no further deferred or scheduled payments to the Postal Service Retiree Health Benefits Fund would be necessary. The avoidance of those payments will relieve the Postal Service of another $37.9 billion in retiree health benefit prefunding expenses under the provisions of current law. We summarize those additional savings in Exhibit 4 below:

Summary - Additional Savings from Eliminating Future Deferred and Scheduled Payments Under PAEA

	2009	2011	2012	2013	2014	2015	2016
Annual Amounts	$4,000	$5,500	$5,600	$5,600	$5,700	$5,700	$5,800
Total Amounts							$37,900

Exhibit 4—Additional Savings from Eliminating Further Payments under PAEA

The Apportionment Factor

For annuitants who had Postal careers that started under the Post Office Department, a portion of their retiree healthcare premiums is paid by the federal government. For example, if an employee started with the Post Office Department in July 1956 and retired in July 1986, half of their service would have been with the POD and half with the USPS, and therefore the federal government pays half the employer premium and USPS pays half. In addition, for annuitants who had military service, the federal government pays the portion of the healthcare premiums attributable to the military service.

Currently, USPS is invoiced monthly by OPM and the invoice includes the calculated portion of each annuitant and survivor's premium that is attributable to the USPS.

When the USPS Health Plan is implemented, USPS will be responsible for paying the claims for all annuitants, survivors, and employees and their dependents. A mechanism will therefore be needed to reimburse USPS for the portion of the annuitants' costs attributable to POD and military service.

This legislative proposal contemplates that the apportionment factor will continue to apportion the responsibility for annuitant health care costs between USPS and the Federal Treasury, based on the current mechanism for determining the responsibility for payments representing pre-reorganization and military service among USPS current and future annuitants.

Reserves Held under the FEHB Plans

The legislative proposal also contemplates an apportionment of the reserves currently held under the FEHB plans.

At present, experience rated FEHB plans maintain reserves to assure the plans' solvency over time. These reserves are made up of two pieces. The special reserve is maintained in a letter of credit account and contains reserves for incurred but not reported claims plus any plan surpluses that accrue when premiums collected exceed paid claims and administrative expenses.

An additional contingency reserve is held by OPM and is funded each year with a 4% margin included in each plan's premium rate. OPM has established guidelines that experience rated FEHB plans should maintain a minimum of three months of claims plus expenses in the combination of the special and contingency reserves. The actual level of reserves varies from plan to plan, but is frequently in excess of the three month target requirement. From time to time, OPM reduces the rates that would otherwise be required for particular plans to recognize that reserves are in excess of the level needed. That has the effect of reducing the reserves held to the appropriate level.

USPS, USPS employees and USPS annuitants have contributed to the accumulation of those reserves over the life of the program. As a matter of fundamental fairness, in the event Congress approves this legislative proposal those reserves currently held should be allocated on a plan specific basis proportional to the premium contributions of USPS and participants compared with the remainder of the federal employee participants. The proportion of the reserves attributable to USPS and USPS participants should be paid over to the fund which will be established to manage the finances of the new health benefits program.

That will equitably support the operations of the new plan going forward. It also avoids the inevitable result that, if this allocation is not made, the reserves held on the balance of federal participants will be increased by approximately one-third relative to premiums, compared with present reserve levels. That would effectively represent a subsidy from USPS and USPS FEHB participants to remaining participants in the FEHB program, serving to reduce future premium requirements, for the remaining participants at USPS expense.

The Legislative Proposal—Summary

This legislative proposal, by addressing the liability issue directly, primarily through proper coordination of the plan with Medicare, would produce a substantial portion of the savings that the Postal Service will need to return to financial stability. And these savings are achieved without eliminating a single job, or closing a single post office or postal facility.

We are prepared to meet with the Congress and other stakeholders to discuss the proposal and to answer fully any questions. We respectfully urge the Congress to consider and enact this proposal given its importance to the Postal Service and to our employees and annuitants and their families.

DEFINED CONTRIBUTION PLAN FOR NEW EMPLOYEES

Amend section 1005(d) of title 39 as follows:

39 U.S.C. § 1005. Applicability of laws relating to Federal employees

* * * * *

(d)(1) Except as provided in paragraph (2), ~~O~~officers and employees of the Postal Service (other than the Governors) shall be covered by chapters 83 and 84 of Title 5. The Postal Service shall withhold from pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in or determined under such chapter 83 and subchapter II of such chapter 84, respectively. The Postal Service shall pay into the Federal Retirement Thrift Savings Fund the amounts specified in or determined under subchapters III and VII of such chapter 84.

(2)(A) Officers and employees—

(i) first appointed to a position with the Postal Service on or after January 1, 2015; or

(ii) subject to subparagraph (B), who separate from service with the Postal Service (including those who become annuitants under chapter 83 or 84 of title 5), and who are reappointed to a position with the Postal Service on or after January 1, 2015

shall not be covered by chapter 83 or subchapter II, IV, V, or VI of chapter 84 of title 5 for the period of service occurring on or after January 1, 2015. Such officers and employees shall be eligible to participate in the Thrift Savings Plan under subchapters III and VII of chapter 84 of title 5 for that period of service, unless the Postal Service substitutes a different defined contribution plan in accordance with this chapter and chapter 12 of this title.

(B)(i) Nothing in this subparagraph shall be construed to deny any rights or benefits to which an officer or employee is otherwise entitled under subchapter I of chapter 81. An officer or employee who returns to service after receiving benefits under subchapter I of chapter 81 of title 5 shall continue to be covered by paragraph (1), without regard to whether the officer or employee also had the status of a disability annuitant under chapter 83 or 84 of title 5.

(ii) Nothing in this subparagraph shall be construed to deny an officer or employee rights or benefits to which the officer or employee is otherwise entitled under subchapter II of chapter 43 of title 38. An officer or employee who returns to service under subchapter II of chapter 43 of title 38 shall continue to be covered by paragraph (1).

~~(2)~~(3) Subject to the provisions of paragraph (2)(B), ~~T~~the provisions of subsections (i) and (m)(2) of section 8344 and subsections (f) and (j)(2) of section 8468 of title 5 shall apply with respect to the Postal Service. For purposes of so applying such provisions--

(A) any reference in such provisions to the head of an Executive agency shall be considered a reference to the Postmaster General; and

(B) any reference in such provisions to an employee shall be considered a reference to an officer or employee of the Postal Service.

* * * * *

[Conforming amendment: delete last sentence of 39 USC 1005(f)]

Amend chapter 84 of title 5 as follows:

5 U.S.C. § 8432. Contributions

(a)(1) An employee or Member may contribute to the Thrift Savings Fund in any pay period, pursuant to an election under subsection (b), an amount not to exceed the maximum percentage of such employee's or Member's basic pay for such pay period allowable under paragraph (2). Contributions under this subsection pursuant to such an election shall, with respect to each pay period for which such election remains in effect, be made in accordance with a program of regular contributions provided in regulations prescribed by the Executive Director.

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<u>(4) Notwithstanding any provision under this subsection, contributions by an officer or employee of the United States Postal Service eligible to contribute to the Thrift Savings Fund by virtue of section 1005(d)(2) of title 39 shall be determined by the Postal Service consistent with the provisions of chapters 10 and 12 of title 39.</u>

*****

(c)(1)(A) At the time prescribed by the Executive Director, but no later than 12 days after the end of the pay period that includes the first date on which an employee or Member may make contributions under subsection (a) (without regard to whether the employee or Member has elected to make such contributions during such pay period), and within such time as the Executive Director may prescribe with respect to succeeding pay periods (but no later than 12 days after the end of each such pay period), the employing agency shall contribute to the Thrift Savings Fund for the benefit of such employee or Member the amount equal to 1 percent of the basic pay of such employee or Member for such pay period.

(B) In the case of each employee or Member who is an employee or Member on January 1, 1987, and continues as an employee or Member without a break in service through April 1, 1987, the employing agency shall contribute to the Thrift Savings Fund for the benefit of such employee or Member the amount equal to 1 percent of the total basic pay paid to such employee or Member for that period of service.

(C) If an employee or Member--

(i) is an employee or Member on January 1, 1987;

(ii) separates from Government employment before April 1, 1987; and

(iii) before separation, completes the number of years of civilian service applicable to such employee or Member under subparagraph (A) or (B) of subsection (g)(2),

the employing agency shall contribute to the Thrift Savings Fund for the benefit of such employee or Member the amount equal to 1 percent of the total basic pay paid to such employee or Member for service performed on or after January 1, 1987, and before the date of the separation.

(2)(A) In addition to contributions made under paragraph (1), the employing agency of an employee or Member who contributes to the Thrift Savings Fund under subsection (a) for any pay period shall make a contribution to the Thrift Savings Fund for the benefit of such employee or Member. The employing agency's contribution shall be made within such time as the Executive Director may prescribe, but no later than 12 days after the end of each such pay period.

(B) The amount contributed under subparagraph (A) by an employing agency with respect to a contribution of an employee or Member during any pay period shall be the amount equal to the sum of--

(i) such portion of the total amount of the employee's or Member's contribution as does not exceed 3 percent of such employee's or Member's basic pay for such period; and

(ii) one-half of such portion of the amount of the employee's or Member's contribution as exceeds 3 percent, but does not exceed 5 percent, of such employee's or Member's basic pay for such pay period.

(C) Notwithstanding subparagraph (B), the amount contributed under subparagraph (A) by an employing agency with respect to any contribution made by an employee or Member during any pay period which begins after the date on which such employee or Member makes an election under subsection (b)(4) and before July 1, 1987, shall be the amount equal to the sum of--

(i) two times such portion of the total amount of the employee's or Member's contribution as does not exceed 3 percent of such employee's or Member's basic pay for such pay period; and

(ii) such portion of the total amount of the employee's or Member's contributions as exceeds 3 percent, but does not exceed 5 percent, of such employee's or Member's basic pay for such pay period.

(3)(A) There shall be contributed to the Thrift Savings Fund on behalf of each employee or Member described in subparagraph (B) the amount determined under subparagraph (C).

(B) An employee or Member referred to in subparagraph (A) is an employee or Member who--

(i) is an employee or Member on January 1, 1987;

(ii) has creditable service described in section 8411(b)(2) of this title; and

(iii) has not received a refund of the amount of the retirement deductions made with respect to such service under section 204 of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983.

(C) The amount referred to in subparagraph (A) in the case of an employee or Member is equal to the sum of--

(i) 1 percent of the total basic pay paid to such employee or Member for service described in section 8411(b)(2) of this title; and

(ii) interest on such amount computed with respect to such service in the manner provided in paragraphs (2) and (3) of section 8334(e) of this title.

(D) The Secretary of the Treasury shall credit to the Thrift Savings Fund, out of any sums in the Treasury not otherwise appropriated, the amounts determined by the Director to be necessary to carry out this paragraph.

(4) Notwithstanding paragraphs (1) and (2), the amount contributed by the United States Postal Service, with respect to an officer or employee of the Postal Service eligible to contribute to the Thrift Savings Fund by virtue of section 1005(d)(2) of title 39, shall be determined by the Postal Service consistent with the provisions of chapters 10 and 12 of title 39.

(d) Notwithstanding any other provision of this section, no contribution may be made under this section for any year to the extent that such contribution, when added to prior contributions for such year, exceeds any limitation under section 415 of the Internal Revenue Code of 1986. However, no contribution made under subsection (c)(3) shall be subject to, or taken into account, for purposes of the preceding sentence.

(e) The sums required to be contributed to the Thrift Savings Fund by an employing agency under subsection (c) for the benefit of an employee or Member shall be paid from the appropriation or fund available to such agency for payment of salaries of the employee's or Member's office or establishment. When an employee or Member in the legislative branch is paid by the Chief Administrative Officer of the House of Representatives, the Chief Administrative Officer may pay from the applicable accounts of the House of Representatives the contribution that otherwise would be contributed from the appropriation or fund used to pay the employee or Member.

(f) Amounts contributed by an employee or Member under subsection (a) and amounts contributed with respect to such employee or Member under subsection (c) shall be deposited in the Thrift Savings Fund to the credit of that employee's or Member's account in accordance with such procedures as the Secretary of the Treasury may, in consultation with the Executive Director, prescribe in regulations.

(g)(1) Except as otherwise provided in this subsection, all contributions made under this section shall be fully nonforfeitable when made.

(2) Contributions made for the benefit of an employee under subsection (c)(1) and all earnings attributable to such contributions shall be forfeited if the employee separates from Government employment before completing—

(A) 2 years of civilian service in the case of an employee who, at the time of separation, is serving in--

(i) a position in the Senior Executive Service as a noncareer appointee (as defined in section 3132(a)(7) of this title);

(ii) a position listed in section 5312, 5313, 5314, 5315, or 5316 of this title or a position placed in level IV or V of the Executive Schedule under section 5317 of this title; or

(iii) a position in the Executive branch which is excepted from the competitive service by the Office by reason of the confidential and policy-determining character of the position; or

(B) 3 years of civilian service in the case of an employee who is not serving in a position described in subparagraph (A) at the time of separation.

(3) Contributions made for the benefit of a Member or Congressional employee under subsection (c)(1) and all earnings attributable to such contributions shall be forfeited if the Member or Congressional employee separates from Government employment before completing 2 years of civilian service.

(4) Terms governing the forfeiture of contributions made under this section for the benefit of an officer or employee of the United States Postal Service eligible to contribute to the Thrift Savings Fund by virtue of section 1005(d)(2) of title 39 shall be determined by the Postal Service consistent with the provisions of chapters 10 and 12 of title 39.

~~**(4)**~~ **(5)** Nothing in paragraph (2) or (3) shall cause the forfeiture of any contributions made for the benefit of an employee, Member, or Congressional employee under subsection (c)(1), or any earnings attributable thereto, if such employee, Member, or Congressional employee is not separated from Government employment as of date of death.

(5) Notwithstanding any other provision of law, contributions made by the Government for the benefit of an employee or Member under subsection (c), and all earnings attributable to such contributions, shall be forfeited if the annuity of the employee or Member, or that of a survivor or beneficiary, is forfeited under subchapter II of chapter 83.

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May 14, 2013

The Honorable Darrell Issa
Chairman
House Oversight and Government
Reform Committee
2157 Rayburn House Office Building
Washington, DC 20515

The Honorable Elijah E. Cummings
Ranking Member
House Oversight and Government
Reform Committee
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Issa and Ranking Member Cummings:

Thank you for the opportunity to testify on April 17, 2013 at your committee's hearing on "Options to Bring the Postal Service Back to Solvency." I hope that you and your staff members have been able to review our written testimony as well.

I write to respond to the questions for the hearing record sent to me by Chairman Issa in a letter dated April 30, 2013. The responses to those questions are attached. Please don't hesitate to contact me if you have further questions. If you would like to discuss the issues raised in the hearing or in our written testimony, I am available to meet with either of you or both of you at your convenience.

NALC believes that a comprehensive restructuring of the Postal Service is necessary and that major stakeholders and both parties should work together to achieve it through legislation. Such a restructuring would allow the USPS to fully utilize its networks and pursue every opportunity to achieve long-term viability. It would involve all aspects of the Postal Service, including its management, corporate governance, and legal and regulatory environment, and it would address the key issues of pricing and products as well the fair and sensible means to finance pensions and retiree health benefits.

Our goal should be to address the Postal Service's financial crisis in a way that will strengthen a very valuable part of the nation's economic infrastructure in support of some 7.5 million private sector jobs. NALC stands ready to work with legislators in both parties to achieve this.

Thanks again for inviting me to testify before the Committee.

Sincerely,

Fredric V. Rolando
President

<u>Answers to Committee Questions to Fredric V. Rolando</u>

Re: Hearing on "Options to Bring the Postal Service Back to Solvency," April 17, 2013

1. No. Although the NALC worked with leaders from both parties and with stakeholders in the broader mailing industry to forge consensus on many provisions in the PAEA, we could not support the final bill for a variety of reasons. However, we did agree not to oppose its passage.

2. a. NALC stands by its testimony. The PAEA did set a 10-year schedule of pre-funding payments that was based on a 75-year projection of future retiree health premiums in 2006. The quote cited from our website is based on a briefing done for the NALC by Postal Service management in the summer of 2006 when the pre-funding policy was being formulated by OPM and GAO. We have seen no evidence from OPM that contradicts that briefing. We would need to review the OPM's valuation report on the Postal Service's retiree health liability in its entirety to comment further.

   To our knowledge, the OPM has never shared its full report (with all associated work papers) with the Postal Service or any other party. The OPM declined to share the full report when we asked for it. It has been the OPM's practice to provide the Postal Service a two-page summary of its valuation (on blank sheet of paper without attribution) – a practice that falls far short of private sector standards for valuation reporting. The summary offers very little detail on the actuarial methods and assumptions employed to calculate the Postal Service's retiree health liability – and none of the supporting calculations and documentation.

   b. The Postal Service annual report does note that the accrued liability for retiree health has increased to $93.575 billion -- even as the balance in its Postal Service Retiree Health Benefits Fund has increased to nearly $50 billion. Again, because of the lack of transparency by the OPM, it is not clear what is driving the liability increase – there is no explanation in the summary.

   On the one hand, we know interest rates have fallen to historic lows, which has clearly increased the liability – a trend that would be reversed when interest rates rise to more normal levels as the economy recovers. On the other hand, changes reportedly adopted by the OPM to use lower, more appropriate medical inflation trend assumptions and to reflect the sharp reduction in USPS employment since 2006 would normally reduce the liability. We cannot verify if these changes have been implemented and unless we can review the OPM's full valuation report and related work papers, it is impossible to comment on the accuracy of the $93.575 billion estimate.

   c. Your question partially quotes a sentence in a GAO report. The full sentence states "Contrary to statements by some employee groups and other stakeholders, PAEA did not require USPS to prefund 75 years of health benefits over a 10-year period." We believe the GAO misunderstood our statement. Please see our answer to 2.a.

   d. Please see our answer to question 2.a. It is impossible to answer this question without access to full valuation report from the OPM.

3. a. The Postal Service has among the lowest postage rates in the world. Of course, we would be concerned about the ability of low-income, older and rural Americans to afford higher postage rates that would result from the use of the CPI-Delivery Services. To address this concern, we would support using the CPI-All Items index for household-generated single piece letters (so-called Aunt Minnie mail). However, the vast majority of mail is produced by business mailers and any price index to regulate postage rates should be related to an appropriate private sector benchmark. As we argued in 2006 and in my recent testimony, the CPI for Delivery Services is the appropriate benchmark; it reflects the cost structure of our industry – the national delivery services industry. In our view, if the Congress is going to impose a massive pre-funding mandate on the Postal Service, its business customers should be asked to bear some of the cost.

   b. No customer in any industry wants to pay higher prices. However, cutting services and reducing the quality of service while charging the same rates, is tantamount to an increase in postage rates. We believe downsizing and reducing service in a way that degrades the value of the Postal Service's first- and last-mile networks is counterproductive and will do much more harm than good. It will drive away much more business than the modestly higher, but predictable, postage rates that would result from the adoption of the CPI-Delivery Services.

GOVERNMENT RELATIONS

UNITED STATES
POSTAL SERVICE

May 15, 2013

The Honorable Blake Farenthold
Chairman
Subcommittee on Federal Workforce,
U.S. Postal Service and Census
House of Representatives
Washington, DC 20515-4327

Dear Chairman Farenthold:

Enclosed please find responses to the questions for the record you submitted following the Committee on Oversight and Government Reform's April 17, 2013 hearing entitled, "Options to Bring the Postal Service Back from Insolvency." The responses are submitted on behalf of Postmaster General Patrick R. Donahoe.

If you have any questions, please let me know.

Sincerely,

Sheila T. Meyers

Sheila T. Meyers
Manager, Government Liaison

Enclosure

475 L'ENFANT PLAZA SW
WASHINGTON DC 20260-3500

HOUSE OVERSIGHT AND GOVERNMENT REFORM COMMITTEE
"Options to Bring the Postal Service Back from Insolvency"
Wednesday, April 17, 2013

Post-Hearing Questions for the Record
Submitted to the Honorable Patrick R. Donahoe

From Subcommittee Chairman Blake Farenthold (R-TX):

1. Approximately how many reports does the USPS receive each year of election materials, such as voter registration cards (VRC) and absentee ballots, going missing?

   The Postal Service has in place procedures that are followed whenever it receives reports of issues with all mail, including election materials. It should be noted that there is a distinction between various types of election materials and the timing of mailing for these items. Ballots, for example, are typically mailed in conjunction with scheduled elections which generally occur every two years. For items such as Voter Registration Cards (VRC), however, municipalities or counties often utilize a staggered schedule for the mailing of these items. They do not typically adhere to a two-year cycle and they are not mailed within any specific timeline, as is the case with ballots.

   Regardless of when items are mailed, including election materials and VRCs, the Postal Service takes seriously any report of missing or delayed mail. Local postal officials work with customers to research and resolve all such reports. In addition, each election year, the Postal Service forms an Election Mail Task Force (EMTF) to ensure further that all issues concerning election and political mail are reported and resolved in a timely manner. During the 2012 election mail season, the Postal Service's EMTF received two reports of isolated incidents, regarding what were thought to be missing election mail items, but that were later confirmed as delivered following investigation of each incident.

2. What actions does the USPS take in response to cases of missing or stolen election materials?

   The procedures for responding to reports of missing or delayed election materials usually begin at the local level. Standard Operating Procedures (SOP) exist which direct each Plant Manager, Postmaster, or other local manager to investigate. When the Postal Service becomes aware of any such situation, the District Manager, who is the highest-ranking postal official in the local area, investigates and researches the reported incident. If warranted, the District Manager will further escalate the matter up the chain of command, which includes elevating the issue to the Vice President, Area Operations. If the circumstances warrant, the U.S. Postal Inspection Service (USPIS) is notified. They investigate the claims and determine the scope and validity of each case. There is a distinction with regard to investigatory activity. The USPIS investigates any external criminal activity. They

also review and report on any security deficiencies discovered and assist the Postal Service in assuring that missing materials are not present in postal facilities. The Postal Service Office of the Inspector General (OIG) investigates internal activity, such as intentional employee misconduct, and any such case would be referred to that group.

3. The USPS OIG recently completed an investigation into missing VRCs in Fort Bend County, Texas, at the request of Rep. Pete Olson (TX-22). The investigators were unable to ascertain either the whereabouts of the VRCs or how they went missing. What is the next step in an investigation of this sort? Will the USPS continue to investigate or will the USPS give up and acknowledge that they cannot guarantee the security of election materials?

The Postal Service is unable to comment on any aspect of the investigation conducted by the OIG, as we have received no information from the OIG regarding their investigation or the outcome. When the Postal Service became aware, in June of 2012, of the situation involving Fort Bend County mailings sent in March and April of 2012, the District Manager immediately began an investigation of the matter. Local postal management ascertained that the mail in question was received, verified and documented through the Postal Service's Business Mail Entry Unit (BMEU). They conducted a review to verify that there were no VRCs from Fort Bend County present within the applicable mail processing facility or delivery units. All VRCs received at the applicable delivery offices were delivered.

In July 2012, a representative from the Postal Service provided a synopsis of the investigatory efforts to a representative from the Fort Bend County elections office. Additionally, the District Manager met with local county election officials in August 2012 to further discuss this mailing. Also discussed at this meeting was an upcoming additional mailing of VRCs by Fort Bend County that would be sent in September 2012. It was mutually agreed that the Postal Service would closely monitor the September mailing and election officials appeared to be satisfied with the responses provided by the Postal Service. There were no issues reported with the September VRC mailing. To further assist in determining what might have occurred with this case, the Postal Service reviewed addresses provided by Fort Bend County elections officials and found no discernible pattern to indicate non-delivery on any particular route or ZIP Code.

The security of all mail, including election materials, is of paramount importance to the Postal Service. Working with the USPIS, the Postal Service provides the highest possible level of security for the mail, including election materials, from point of acceptance to final delivery.

a) What policies did the USPS have in place at the time of the Fort Bend County incident to ensure the integrity and security of election materials? Have there been any changes in those policies since then? If so, why?

The mailing in question for Fort Bend County occurred in March and April 2012. As noted previously, the Postal Service puts in place additional procedures in advance of each election cycle every two years. These heightened processes normally begin approximately four to six months prior to each Election Day date. At the time of this mailing, these additional procedures were not yet activated. It is important to note, however, that issues of mail security are always at the forefront of the Postal Service's operational processes, each and every day of the year.

Postal Service policies currently in place to prevent the theft or loss of mail include: ensuring the security of mail processing and delivery facilities to protect against the intrusion of unauthorized individuals; ensuring the security and handling of mail transported for delivery by mail carriers and contractors; and rigorous personnel security policies requiring appropriate background investigations on employees and contractors. There have been no significant changes in Postal Service procedures since the incident involving the Fort Bend VRCs; however, the Postal Service is constantly striving to improve its processes and is focused on keeping the mail safe and secure. The Postal Service has been named the Most Trusted Government Agency for seven years and the fourth Most Trusted Business in the nation by the Ponemon Institute.

4. In light of the inability of the OIG to get to the bottom of the missing VRCs in Fort Bend County, Texas, what policies does the USPS plan to institute in order to ensure that this never happens again?

   As previously stated, the Postal Service is unable to comment on the OIG investigation. We will continue to afford mail security to election materials by enhancing visibility within the mailing system. We currently utilize tools such as tagging, logging, and tracking of election mail. In addition, there are tools available that election officials can use to track individual mail pieces, such as the Full Service Intelligent Mail barcode (IMb). This system provides for scanning and tracking capability that offers optimal security and visibility. The Postal Service will continue to work closely with election officials and election organizations to further improve existing processes and ensure the security of election materials.

GOVERNMENT RELATIONS

UNITED STATES
POSTAL SERVICE

May 15, 2013

The Honorable Tammy Duckworth
Committee on Oversight and
Government Reform
House of Representatives
Washington, DC 20515-1308

Dear Congresswoman Duckworth:

Enclosed please find responses to the questions for the record you submitted following the Committee on Oversight and Government Reform's April 17, 2013 hearing entitled, "Options to Bring the Postal Service Back from Insolvency." The responses are submitted on behalf of Postmaster General Patrick R. Donahoe.

If you have any questions, please let me know.

Sincerely,

Sheila T. Meyers

Sheila T. Meyers
Manager, Government Liaison

Enclosure

475 L'ENFANT PLAZA SW
WASHINGTON DC 20260-3500

HOUSE OVERSIGHT AND GOVERNMENT REFORM COMMITTEE
"Options to Bring the Postal Service Back from Insolvency"
Wednesday, April 17, 2013

Post-Hearing Questions for the Record
Submitted to the Honorable Patrick R. Donahoe

From Representative Tammy Duckworth (D-IL):

1. Postmaster General Donahoe, during the hearing Chairman Barnett mentioned that in your previous discussions with businesses who deliver prescription drugs, presentations were given on ways to ensure timely delivery of medicine to customers without increasing the costs to businesses. Could you please elaborate on this point and share with us additional information that USPS' management or the Board of Governors may have about any expected cost shifting to postal customers. I am particularly concerned about this, because in an April 10, 2013, Subcommittee hearing CVS Caremark testified that it was possible that moving to 5 day delivery could affect their margins and lead to cost shifting to their customers.

   The Postal Service has no current plans to implement a fee or surcharge for Saturday package delivery. In addition, the Postal Service is making every effort to ensure the transition to five-day delivery with Saturday package delivery is as seamless for our customers as possible.

GOVERNMENT RELATIONS

UNITED STATES
POSTAL SERVICE

May 17, 2013

The Honorable Darrell E. Issa
Chairman
Committee on Oversight and
Government Reform
House of Representatives
Washington, DC 20515-6143

Dear Chairman Issa:

Enclosed please find responses to the questions for the record for the Committee on Oversight and Government Reform's April 17, 2013 hearing entitled, "Options to Bring the Postal Service Back from Insolvency." The responses are submitted on behalf of U.S. Postal Service Board of Governors Chairman Mickey Barnett.

If you have any questions, please let me know.

Sincerely,

Sheila T. Meyers
Manager, Government Liaison

Enclosure

475 L'ENFANT PLAZA SW
WASHINGTON DC 20260-3500

HOUSE OVERSIGHT AND GOVERNMENT REFORM COMMITTEE
"Options to Bring the Postal Service Back from Insolvency"

Wednesday, April 17, 2013

Post-Hearing Questions for the Record
Submitted to the Honorable Mickey Barnett

From Chairman Darrell Issa (R-CA):

1. Background: In December of 2011, USPS announced a 5 month self-imposed moratorium on the closure and consolidation of mail processing plants and post offices.

    a. Were you aware of such a moratorium proposal before it was announced?
    See response to question 1c below.

    b. Were you asked to approve such a moratorium? Was the Board in part, or in whole, asked to approve?
    See response to question 1c below.

    c. Were you supportive of such a moratorium? Were the other Governors?

    The Postmaster General agreed with certain members of Congress during a meeting at which the then Chairman of the Board was present. The Board was not consulted in advance. At the subsequent Board meeting, the Board was briefed on the matter, and individual members of the Board expressed their disappointment over the moratorium, including myself. Following the Board discussion, the Postal Service issued its official press release on the matter.

    The Postmaster General considered the moratorium a wise choice as he was sensitive to maintaining a productive and collaborative relationship with Congress. He was asked by numerous Senators to enact the moratorium to give them a chance to consider and enact comprehensive postal reform. Subsequently, the Senate did enact a postal reform bill in April 2012, but unfortunately no further action was taken by Congress.

    The moratorium was very limited both in time and in scope, in that it applied only to the actual closing of facilities, and did not preclude the Postal Service from taking all preliminary steps to review facilities short of actual closure. In fact, the moratorium resulted in only approximately two month's change in the schedule.

2. How many employees report directly to the Board?

The Office of the Governors currently has two employees who work for the Governors. Additionally, the Inspector General reports to and is under the general supervision of the Governors. The Board also utilizes external subject matter experts to augment its staff on an as-needed basis.

a. Did the Board have a larger staff in the past? Do you know why the staff shrank?

In the past, there was, at times, a Deputy Secretary to the Board in the Office of the Governors. My understanding is that this position was eliminated after a review of the roles and responsibilities of the staffing for the office and due to efficiencies gained within the office.

b. If the Board relies almost solely on individuals who also report to the Postmaster General for all of its information, exactly how independent can the Board be?

The Board does not rely almost solely on individuals who also report to the Postmaster General for its information. The permanent staff of the Governors are selected by and report only to the Governors, and are therefore independent of management. The full-time Board Office employees carry out the administrative duties of the office, represent us at senior meetings of management, ensure that the by-laws are adhered to, keep us informed between formal meetings, and manage contracts with external subject matter experts who are under the direction of and report their findings directly to the Board.

To augment the staff, the Board regularly utilizes independent, external subject matter experts to answer specific questions, work on projects, and to provide independent outside counsel on legal matters. The Board also meets with members of the academic community to explore policy and strategic issues from different viewpoints, and meets with customers and members of the industry to understand issues from their perspectives.

Board members themselves bring years of experience in a variety of different functions. This experience is considered when assigning committees, and often brings private-sector and public policy perspectives into deliberations.

The Board also relies on personal interaction with personnel when considering key issues. The Board and its committees visit Postal Service facilities to observe first-hand how the Postal Service operates, and to speak to employees below the senior-most levels of the organization to ensure that the perspectives they hear from senior management are consistent with those implementing strategies. Moreover, the Board considers competitors' and partners' operational strengths to gain insight into best practices in efficiency and the use of technology.

Finally, the Board has the findings of the OIG, the PRC, and the GAO at its disposal and uses those as sources of information as well.

See question 3 for some examples on how the Board utilizes external resources.

c. Should the Board have larger staff?

The Board thinks it is much better served by using subject matter experts on a case-by-case basis to answer specific questions or work on projects rather than have additional permanent staff that may not have the expertise in any one given area. The Board also has the ability to utilize the OIG when necessary.

To add perspective, corporate boards generally have no staff or a very small staff, as a large permanent staff is not generally seen as effective or efficient. Creating additional bureaucracy, which is what a large permanent Board staff would be, would be a step in the wrong direction.

3. How often has the Board disagreed with the current Postmaster General? Can you name any specific instances? What were the results of these disagreements?

In order to provide a complete answer to this question, it is necessary for me to explain the role of the Board of Governors and the process through which the Board reaches decisions.

The Governors are charged by law with the responsibility to represent the public, direct and control the expenditures, and to oversee the practices and policies of the Postal Service. The Board accomplishes its purposes by monitoring the operations and performance of the Postal Service, and by establishing basic objectives, broad policies, and long-range goals for the Postal Service. In addition, by law certain key decisions of the Postal Service are specifically reserved to the Board or to the Governors alone.

During my tenure, the Board and the Governors have taken our responsibilities very seriously and we have been actively involved in fulfilling them, focusing on our obligation to take all actions within our authority to ensure that the Postal Service will continue to be able to provide prompt, reliable, and efficient postal services to all citizens and communities of the United States.

The Board has actively engaged in Postal Service business during these critical times. In calendar year 2011, either a full Board or a committee

meeting was held on 40 separate days; in calendar year 2012, 40 days were dedicated to meetings; and during the first five months of 2013, Board members have dedicated 17 days to meetings. These meeting days do not include the significant amount of time that the Governors spend preparing for the meetings, traveling to the meetings, and engaging in follow-up activities generated by the meetings. The Board works tirelessly together to shape many of the transformative plans that have been developed in recent years as we have struggled to chart a course for the Postal Service toward a financially sustainable future. We have undertaken these efforts collaboratively and collectively with Postal management, but we have remained independent and mindful of our responsibility to the American public.

Generally, the decision making process of the Board is an interactive one that involves a free exchange of opinions, judgments and information; substantial give and take; and healthy debate which often result in changes in individual positions during the course of the discussion.

Within this context, there have been many instances within my tenure where management's initial proposals were modified, revised, or reconsidered as a result of the interactive process described herein. In addition, the Board frequently provides specific guidance and direction to management on policy and strategic issues on a proactive basis, often with advice and analysis of independent subject matter experts, where the Board believes that such proactive advice, guidance, or direction is in the best interests of the Postal Service and the American people. Examples of this activity for illustrative purposes are set forth below:

- In 2008 and 2009, when business conditions began to deteriorate, the Board required Postal Service management to put together a long-term plan to better understand the financial outcome of the Postal Service. Prior to this, management only identified quantifiable strategies in the short-term. This long-term plan then became the basis for identifying the degree of change necessary for the Postal Service in the future. It also formed the starting place where the Board called in several independent sources to review, update and supplement the plan.
- Over the course of several meetings, the Board met with BCG, a well-known market analysis firm, and an external source, to analyze and project volume trend scenarios. BCG interacted directly with customers to get perspective, conducted an analysis of market conditions and drivers, and provided an in-depth analysis of management's initial volume projections. The volume forecast scenarios used as the foundation of the plan were updated by management after their input.
- The Board asked Accenture to review the strategic business approach of foreign posts and to provide an analysis as to whether any such strategies would be effective in the United States. Their findings were presented to

the Board, and the outcome of the Board discussion was incorporated into the business plan by management.

- The Board retained McKinsey and Company to assist management in compiling the components of the Plan, and to look at additional new market and cost cutting opportunities. They also asked McKinsey to recommend a communications strategy for the Plan roll-out. McKinsey met several times with the Board prior to the issuance of the Plan, and the Board used the materials provided by McKinsey as well as management in its deliberations prior to the final approval of the Plan.
- After the initial issuance of the Plan, the Board continued to refine its analysis, and contracted with McKinsey to assist in the development of a viable alternative to the current business model given the changing market environment. Over a series of meetings, the Board used this external analysis to shape its vision of a viable business model under which the Postal Service could operate. Information garnered from this effort has been used for legislative communications efforts and strategies.
- Approximately one year prior to the commencement of labor negotiations, the Board collaborated with management to establish strategies and goals for labor negotiations. The Board held regular reviews of negotiations strategies, targets and progress until an agreement was reached or an arbitration decision was issued, depending on the union. The Board requested that management retain an outside subject matter expert to validate the plan and to advise in labor strategies. Evercore was the company retained for this, and met several times with the Board. The Board pushed management to be more aggressive and to think beyond the historical goals, and made a flexible, part-time workforce a priority based in part on its personal visits and discussions with senior management of FedEx and UPS. This flexibility remains a key strategy for reducing labor costs today.
- To increase Board oversight of succession planning and compensation policies, the Board created the Compensation and Management Resources Committee. The Board, through this committee:
    - Utilized external executive search experts to be consultants to the Board for succession planning, and to provide an independent evaluation of potential candidates for key positions. These independent evaluations ensure the Board receives an unbiased assessment of candidates for senior-most positions, and allow for external recruitment to augment the internal pool.
    - Utilized an independent compensation consulting firm to conduct a market assessment and identify best practices of private sector senior officer compensation. As a result, compensation levels were set for the "top 12" officers, and a new performance based incentive system was created that ties compensation to quantifiable goals.
    - Redefined the job description of the Deputy Postmaster General to better meet the needs of the Postal Service in the current environment, resulting in being able to attract the current Deputy

Postmaster General into a critical vacancy.

  - Directed management to look externally for some senior level positions, such as the Chief Marketing Officer, in which they had an insufficient internal pool of candidates with the needed private-sector competencies.

- The Board pushed for the initiation of a continuous improvement strategy which has resulted in substantial operational savings through process improvements. Management continues to use this as an overarching strategy for actions to close the financial gap.
- The Board encouraged management to utilize external expertise in communications while internal capabilities were being strengthened. The use of an external communications firm continues with good results.
- Through the Audit and Finance Committee, the Board:
  - Directed management to create an Enterprise Risk Management process for the organization. Management embraced the concept and has implemented a bi-weekly review of strategies to address high risk areas.
  - Collaborated with management to hire an external consultant with expertise in Sarbanes-Oxley compliance after the passage of PAEA to help the Postal Service develop and implement its compliance plan. The resulting robust compliance processes led to enough operational and other savings to offset the costs associated with implementation of the new SOX requirements, which were significant.
- The Board disagreed with the way management was pursuing its digital strategy, and strongly encouraged management to use external experts in developing and implementing its digital strategy. As a result, the Postal Service is successfully leveraging the expertise of a group of world-class experts in this area that is not presently found within the Postal Service or any other one organization.
- The Board challenged management to review its capital investment strategy for facilities, and as a result the Postal Service reduced costs and ultimately reached a decision to stop virtually all new construction. This resulted in substantial savings for the Postal Service.
- The Board disbanded the Capital Investment Committee, which allowed both the Board and management to redirect its efforts to more productive work, and to create a more streamlined process. More of the detail review is now conducted by the Operations Sub-Committee of the Audit and Finance Committee, and the Board receives periodic capital investment summaries and approves the capital budget as part of their approval of the Integrated Financial Plan.
- The Governors have actively engaged in pricing and product classification strategies. The Governors provided guidance to management on realigning products within the competitive and market dominant categories to better reflect market realities and to gain maximum flexibility in pricing decisions. They have also challenged management to make better and more use of contract pricing and

Negotiated Service Agreements. The Governors consider the external perspective of the Postal Regulatory Commission prior to making major decisions.

- **The Board visited both FedEx and UPS plants, and met with senior management of both these highly efficient competitors to see how their operations were run and to get ideas on how to make Postal Service operations more cost effective.**
- **On several occasions the Board obtained independent counsel on certain legal matters to ensure that all perspectives are considered and a non-Postal view is obtained, prior to making decisions.**