



HIGHLIGHTS

BACKGROUND:

The Postal Accountability and Enhancement Act of 2006 (Postal Act of 2006) amended 39 U.S.C. and revised the cap on total compensation payable to U.S. Postal Service employees. Employees generally could not be paid more than \$199,700 for calendar year (CY) 2011. Exceptions allowed some to be paid up to \$230,700 (the statute defines the Postal Service's authority to award bonuses or other awards) or \$276,840 (for critical positions). Compensation includes annual salary, merit lump sum payments, bonuses, and awards. We determined whether the Postal Service complied with the Postal Act of 2006, its own policies and guidelines, and IRS regulations for CY 2011 officer compensation.

WHAT THE OIG FOUND:

We have a fundamental disagreement with the Postal Service on the proper interpretation of the compensation cap provisions of this statute. According to the law, "The Postal Service may establish one or more programs to provide bonuses or other rewards to officers and employees of the Postal Service in senior executive or equivalent positions. Under any such program, the Postal Service may award a bonus or other reward in excess of the limitation set forth in the last sentence of 39 U.S.C § 1003 (a), if such program has been approved. . . .If the Postal Service wishes to have the authority to award

bonuses or other awards in excess of the limitation. . .the Postal Service shall make an appropriate request to the Board of Governors (Board), and the Board shall approve any such request if the Board certifies. . .that the performance appraisal system. . .makes meaningful distinctions based on relative performance."

The law also states, "Notwithstanding any other provision of law, the Board may allow up to 12 officers or employees of the Postal Service in critical senior executive or equivalent positions to receive total compensation in an amount not to exceed 120 percent of the total annual compensation payable to the vice president. . . .The Board shall provide written notification to the director of the Office of Personnel Management (OPM) and the Congress within 30 days after the payment is made setting forth the name of the officer or employee involved, the critical nature of his or her duties and responsibilities, and the basis for determining that such payment is warranted."

We believe the compliance issues that we note in this report are a result of management's misinterpretation of the relevant statutory authority in the Postal Act of 2006. We identified three officers whose compensation exceeded or otherwise failed to comply

with the compensation caps imposed by the Postal Act of 2006 because:

- A reassignment incentive put one officer over the Level I threshold, but that incentive was not tied to the officer's relative performance, nor was the officer in a designated critical position.
- Another officer received a straight salary that exceeded the pay cap, and that officer was not included in the required written list of critical positions provided to the OPM and Congress informing them that the officer served in a critical position.
- Finally, management did not include annuity payments in another officer's compensation cap computation, thus under-reporting the total amount paid. Not only was the officer not included in the list of critical positions, this officer's total compensation exceeded the highest level of allowable salary for critical positions.

As a result, during CY 2011, the Postal Service paid \$110,011 above the caps.

In response to our CY 2010 audit, management amended an officer's employment agreement to more clearly link the incentive award to performance. However, because the amount of the

award is set in advance by contract, we believe it is neither part of an 'appraisal system' nor the result of any evaluation of 'relative performance.' This change to the language does not address the concerns we raised last year.

WHAT THE OIG RECOMMENDED:

We recommended the postmaster general coordinate with the Board to report a complete list of critical positions and request an interpretation from the Government Accountability Office on whether annuity payments are part of an employee's total compensation and subject to compensation caps.

Subsequent to receiving management's written comments, they acknowledged the fundamental disagreement with the interpretation of the law. As such, they agreed to seek advice from the Department of Justice's (DOJ) Office of Legal Counsel to resolve all the issues identified in this report. We agree that an advisory opinion from the DOJ's Office of Legal Counsel will better resolve all of the issues and other matters than our original recommendations. Subsequent to issuance of the final report, management will work with us on the precise legal questions to be submitted.