

May 11, 2000

KEITH A. STRANGE
VICE PRESIDENT, PURCHASING AND MATERIAL

SUBJECT: Review of Selected Postal Service Highway
Transportation Contracts
(Report Number BI-MA-00-001)

The Office of Inspector General (OIG) initiated a review based on a hotline complaint alleging that Postal Service highway transportation contracts allowed drivers to exceed the U.S. Department of Transportation's maximum driving time requirements. This management advisory report presents the results of our review.

Results in Brief

The review showed that selected Postal Service highway transportation contracts included a provision that was inconsistent with the Department of Transportation regulations, because it allowed drivers to drive up to 12 hours under circumstances which were not allowed by regulations. Department of Transportation officials advised the Postal Service of this issue in 1998 and suggested that the contracts be revised. Postal Service officials stated that they did not revise their contracts because they also included a provision requiring drivers to comply with all Department of Transportation regulations. Postal Service officials believed that this provision protected the Postal Service. In our view, unless the contracts are revised, they may be misinterpreted to allow excessive driving time limits and, thus, may increase the risk of accidents. In addition, Postal Service may also be at risk of being held financially responsible for such accidents.

We suggested that Postal Service management revise highway transportation contracts to amend the provision that is inconsistent with the Department of Transportation's regulations. We also suggested that management consider issuing interim guidance while these contracts are being

revised. Management agreed that the contact language should be changed to reflect current regulations and stated they would implement appropriate language in new highway contract solicitations and renewals. Management's comments are included, in their entirety, in the appendix.

Background

The Postal Service spent over \$1.9 billion on highway transportation and had approximately 17,000 active highway contracts in fiscal year 1999.

During the course of our review we noted that a 1990 National Transportation Safety Board study found that 31 percent of fatal-to-the-driver heavy truck crashes showed fatigue as a "probable cause or factor." Researchers at the Center for Sleep Research at the University of South Australia have found that 24 hours without sleep causes nearly as much impairment as a .10 blood alcohol content, the equivalent of being legally intoxicated in all 50 states. In 1998, over 5000 people were killed on United States roadways in accidents involving large trucks. According to Postal Service management, there are approximately 20-25 fatal accidents each year that involve Postal Service contract drivers.

Objective, Scope, and Methodology

The objective of the review was to determine if Postal Service highway transportation contracts were in compliance with the Department of Transportation's maximum driving time regulations. To achieve the objective, we examined 33 judgmentally selected highway transportation contract files. We also interviewed Postal Service officials and an investigator with the Department of Transportation, Office of Motor Carrier Compliance Division.

This review was initiated as an investigation in March 1999 and was completed in May 2000 as a review, in accordance with the President's Council on Integrity and Efficiency, Quality Standards for Inspections. We discussed our conclusions and observations with appropriate management officials and included their comments, where appropriate.

**Postal Service
Highway Contracts**

We examined the files for 33 judgmentally selected highway transportation contracts and found that each contract stated that maximum driving time should not exceed 10 hours if the driver operates every day. The contract also allowed a maximum driving time of 12 hours if a driver had at least 8 hours rest between trips and at least every third day off.

The provision for the 12-hour day was contrary to the Department of Transportation regulations, which stated that no driver could drive more than 10 hours unless they had 8 consecutive hours off duty and they were driving in adverse conditions. Adverse conditions are defined by the Department of Transportation as snow, sleet, fog, icy highways or unusual road and traffic conditions which would not allow a driver to complete their planned travel for the day within a 10 hour period.

We interviewed a safety investigator with the Department of Transportation's Office of Motor Carrier Compliance Division, who confirmed that the provision for a 12-hour day in Postal Service highway contracts was not in compliance with Department of Transportation maximum driving time regulations. Department of Transportation officials stated that they had advised the Postal Service of this conflict in 1998; however, at the time of our review the Postal Service had not changed this provision.

A senior Postal Service official responsible for highway contracts stated that he did not necessarily agree that there was a problem with the contract clauses. He stated that a considerable number (an estimated 6000 to 7000 contracts out of over 17,000) were for short haul routes that would not be affected by changing this clause. In addition, he stated that although Postal Service highway contracts allow for a 12-hour day, there is a "protective clause" in the contracts, which generally stated that contractors should follow all Department of Labor and Department of Transportation laws and regulations.

However, in our review of the contracts, we noted that this "protective clause" was included in the safety section of the contracts and did not make any specific reference to Department of Transportation driving time requirements. In addition, the clause which allowed drivers to exceed the 10-

hour limit, was in a separate section of the contracts dealing with maximum driving times; and the clause did not refer to the “protective clause.” As a result, we believe that the contracts could be misunderstood, particularly if a driver does not know the maximum driving limits of the Department of Transportation regulations. Thus, the contracts could result in drivers exceeding maximum driving limits and increase the risk of accidents. In addition, the contract as worded could expose the Postal Service to financial risk from lawsuits associated with any accidents that occur.

Suggestions

We offer the following suggestions. The vice president, Purchasing and Material should:

1. Direct the manager of National Mail Transportation Purchasing to amend the highway transportation contracts to be consistent with Department of Transportation’s regulation. The contracts should include a provision that no driver could drive more than 10 hours unless they had 8 consecutive hours off duty and they were driving in adverse conditions.
2. Consult with General Counsel staff to determine if it would be prudent to provide an interim letter to contract carriers advising of the plans to revise contracts and reaffirming the requirement to follow Department of Transportation regulations.

**Management’s
Comments**

Management agreed with the suggestions and stated that they would prepare and implement the appropriate language in new highway contract solicitations and contract renewals. In addition, management stated that Postal Service General Counsel agreed that the 17,000 existing contracts did not need to be modified prior to their renewal dates.

**Evaluation of
Management’s
Comments**

Management's comments are responsive to the suggestions and the actions planned should correct the issue identified.

We appreciated the cooperation and courtesies provided by your staff during the review. If you have any questions, please contact me at (703) 248-2300.

Sylvia L. Owens
Assistant Inspector General
for Business Protection

cc: John R. Gunnels

APPENDIX. MANAGEMENT'S COMMENTS

NATIONAL MAIL TRANSPORTATION PURCHASING



April 20, 2000

SYLVIA L. OWENS

THRU: KEITH STRANGE

KS
4/20/00

SUBJECT: Transmittal of Draft Management Advisory Report – Review of Selected Postal Service
Highway Transportation Contracts (Report Number RP-MA-00-DRAFT)

This is written in response to the recommendations contained in the subject report dated March 30, 2000. The report identifies that transportation contracts include a provision that is inconsistent with Department of Transportation's maximum driving time requirements.

We agree that the contract language should be changed to reflect current Federal Highway Administration safety regulations (49 C.F.R. Part 395). We will prepare appropriate language and implement it in new highway contract solicitations and contract renewals as soon as we can update the computer system which generates our contracts. In the interim, we will ask our transportation contracting officers to amend the computer-generated language accordingly when they solicit new contracts or renew existing contracts.

We assume that the first recommendation in the "Suggestions" portion of your report dated March 30 was not intended to suggest that we modify all existing postal highway contracts immediately, nor do we think that this matter warrants modification of our approximately 17,000 existing highway contracts prior to renewal time. Postal Service counsel concurs that this is not warranted. The "Safety Requirements" clause in each contract requires the supplier to conduct its operations "in full compliance with...the United States Department of Transportation (DOT) Motor Carrier Safety Regulations, as set out in 49 C.F.R. Parts 390 – 397...." Thus, these contracts currently require "full compliance" with Part 395, "Hours of Service of Drivers."¹ Further, we are not aware of any accidents, claims, or safety issues that have arisen in relation to the DOT driving hours requirements.

Should you need additional information please contact me.

A handwritten signature in black ink that reads "J. Dwight Young".

J. Dwight Young, Manager
National Mail Transportation Purchasing

¹ Additionally, for vehicles with gross vehicle weight of 10,001 pound or greater, our contract language requires the supplier to maintain a satisfactory DOT safety rating, or risk termination for default. Violations of the driving hours regulations are among the safety violations which can impact the carrier's safety rating. See 49 C.F.R. 385, App. B. The vehicle is subject to roadside inspection and can be found to have committed a safety violation unless his driving log shows compliance with the driving hours regulations. We believe that our suppliers are generally very well aware of this.

**Major Contributors to [REDACTED]
This Report**