

September 30, 1999

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GENERAL COUNSEL

Subject: USPS Ethics Program – Conflicts of Interest  
(Report Number EX-LA-99-001)

During the course of an Office of Inspector General inquiry, we noted opportunities to enhance the administration of the United States Postal Service (USPS) Ethics Program. Specifically, we found the procedures for disclosing potential conflicts of interest could be improved in two areas.

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**Company and  
Contractor  
Disclosure**

First, we noted that the names of those companies and contractors that might be associated with matters coming before the Board each month were not disclosed to the Governors. Thus, a Governor might act on an issue in which the Governor had a financial interest or in which there could be an appearance of a conflict. The Governor would not know with any certainty whether such a financial interest was implicated requiring a waiver or whether there might be an appearance of an impartiality issue needing an authorization for the Governor to participate in the matter. Second, we noted that Governors are not required to fully disclose intermediary business relationships<sup>1</sup> to the General Counsel, who serves as the Designated Agency Ethics Official.

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**Concurrent  
Management  
Enhancements**

During our inquiry, the USPS Law Department instituted enhancements in the Ethics Program that fully addressed our first issue and partially addressed our second issue.

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<sup>1</sup> Intermediary business relationships involve situations where an individual is a principal in a firm. The clients of the firm may not necessarily be the clients of the individual. Moreover, the individual's clients pay the firm for his/her services as opposed to paying the individual.

Regarding our first issue, the Civil Practice Section of the USPS Law Department now sends to each Board member an alphabetical listing of all the business entities that have been identified in connection with each agenda item for the monthly Board meeting. With that listing are instructions for reviewing the list for conflicts and a reminder to consider intermediary business relationships. Additionally, the Civil Practice Section had begun to perform monthly “conflicts checks” prior to each Board meeting using a specially devised database containing the reported holdings of each Board member. The database is updated regularly with information received from the Governors, their brokers, and asset managers. The Civil Practice Section compiles a list of companies and contractors that might be associated with matters slated to come before the Board each month. The Section then compares the names on the list to the reported holdings of each Governor. If potential conflicts are noted, a determination is made of whether a recusal or waiver is appropriate using criteria established by the Office of Government Ethics. In the case of an appearance of a conflict, the USPS Law Department determines whether an authorization to participate in the matter should be issued.

Regarding the second issue, we have been informed that the Law Department sends to each Board member an alphabetical listing of all of the business entities that have been identified in connection with each agenda item for the monthly Board meetings. With that listing are instructions for reviewing for conflicts, a reminder to consider imputed interests and the telephone numbers of the Designated Agency Ethics Official and Alternate Designated Agency Ethics Official.

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**Suggestion**

We believe the changes in the Ethics Program instituted by the USPS Law Department enhance the administration of the USPS Ethics Program. However, we suggest the USPS Law Department offer an additional service to the Governors and senior postal management by requesting voluntary disclosure of intermediary business relationships. We clearly recognize that this is not an Office of Government Ethics program requirement. However, we believe full disclosure of intermediary business relationships

will provide an added protection for the Governors and senior postal management as it would allow the Civil Practice Section to consider these interests in their monthly review of potential conflicts of interest.

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**Management  
Comments**

The Senior Vice President and General Counsel stated that the law does not require intermediary business relationships be monitored. Management also stated that the Postal Service's existing conflict check procedures, which comport with ethics regulations and laws, already encourage and facilitate the provision of timely information by Governors and senior postal management. Further, the current procedures are consistent with statutory requirements. Finally, management stated that the Office of Government Ethics agreed that the Postal Service's present system of conflict checks is an effective tool for assisting in the prompt identification of potential conflicts of interest. Management's verbatim responses are contained in the Appendix.

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**Evaluation of  
Management  
Comments**

The General Counsel did not agree to implement our suggestion. We acknowledge that this suggestion goes beyond what is required by the Office of Government Ethics. However, our objective was to offer additional protection to the Governors and senior Postal officials beyond that afforded under the current system. While we believe these enhancements would aid in timely identification of potential conflicts of interest in the future, we will not pursue this issue through the resolution process.

We appreciate the cooperation and courtesies provided by your staff during the review. If you have any questions, please contact [REDACTED], Deputy General Counsel, or me at (703) 248-2300.

Norman Hancock  
Assistant Inspector General  
for Customer

cc: Alan B. Kiel  
John Gunnels

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September 24, 1999

NORMAN HANCOCK  
ASSISTANT INSPECTOR GENERAL  
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USPS OFFICE OF INSPECTOR GENERAL

SUBJECT: Draft Letter Advisory – USPS Ethics Program –  
Conflicts of Interest EX-LA-99-Draft

Thank you for allowing us the opportunity to review and comment upon the Inspector General's revised August 13, 1999 Draft Letter Advisory Report ("LAR").

The "Suggestion" section of the draft Report recommends that members of the Board of Governors and senior postal managers disclose to the Law Department their "intermediary business relationships." According to the draft Report, "intermediary business relationships"

... involve situations where an individual is a principal in a firm. The clients of the firm may not necessarily be the clients of the individual. Moreover, the individual's clients pay the firm for his/her services as opposed to paying the individual.

We are unfamiliar with the concept of an "intermediary business relationship," as it is not used or defined in federal ethics statutes or regulations. The law does not require that these relationships be monitored.

The ethics program in the Postal Service is premised on the principle that the Postal Service have a thorough and effective process to assist employees in avoiding conflicts of interest. Earlier this year, we discussed with the U.S. Office of Government Ethics (OGE) the proposal to require Governors and senior postal management to disclose "intermediary business relationships." The OGE advised that it could not authorize the Postal Service to require the disclosure of this information, because such disclosure would reach beyond the statutory requirements that are meant to be uniform throughout the Executive Branch. According to the OGE, none of the Executive Branch agencies impose this obligation upon their high-level personnel.

Further, the OGE agreed that the Postal Service's present system of conflict checks, which the Law Department instituted in early 1997, is an effective tool for assisting in the prompt identification of potential conflicts of interest. That system includes a database of the governors' and officers' holdings, which is routinely supplemented on a voluntary basis by many of the governors and/or their financial advisors. In addition, prior to each Board meeting, all Board members are provided a list of companies and contractors associated with the upcoming meeting; this allows the members to perform their own conflict checks based upon the most current financial information available to them.

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We thank you again for this opportunity to voice our comments. The Postal Service's existing conflict check procedures, which comport with the ethics regulations and laws, already encourage and facilitate the provision of timely information by governors and senior postal management. The current procedures are consistent with statutory requirements. The Postal Service will continue to follow the requirements meant to be uniform throughout the Executive Branch.



Mary S. Elcano  
Senior Vice President and  
General Counsel

cc: Board of Governors