



OFFICE OF INSPECTOR GENERAL

UNITED STATES POSTAL SERVICE

Designation of Law Enforcement Officer Positions

Management Advisory Report

Report Number
HR-MA-15-006

September 25, 2015





OFFICE OF INSPECTOR GENERAL

UNITED STATES POSTAL SERVICE

Highlights

The Postal Service did not follow applicable federal regulations to designate this LEO position in February 2013.

Background

Federal law enforcement officers (LEO) engage in rigorous physical duties necessary to conduct investigations and apprehend criminals. LEOs may also hold secondary supervisory or administrative positions. As a result, LEOs are eligible for special retirement coverage, such as retiring at an earlier age than other federal employees. However, LEOs must generally complete at least 20 years of service by age 57 to receive this benefit.

The Office of Personnel Management (OPM) oversees agency retirement coverage but has authorized agency heads to designate LEO positions. Agency heads are required to notify OPM of these designations and OPM has the authority to overrule the agency's decision.

The U.S. Postal Service designated the [REDACTED] in [REDACTED] 2013, a LEO position and changed the title to [REDACTED], in [REDACTED] 2015.

This advisory responds to a concern brought to our attention that this newly designated position does not qualify for federal LEO retirement benefits. Our objective was to determine whether the Postal Service followed applicable federal regulations for designating a LEO position for purposes of retirement coverage.

What The OIG Found

The Postal Service did not follow applicable federal regulations to designate this LEO position in [REDACTED] 2013. Specifically, the Postal Service did not properly notify OPM of the designation. Instead, the Postal Service notified OPM informally via email of the designation. In addition, the Postal Service did not have policies in place for designating positions as LEO. Such policies should ensure that OPM is properly notified of LEO designations. As a result, there is increased risk the Postal Service will not timely learn of an improper designation. In addition, the Postal Service could be subject to legal or administrative consequences for failing to properly notify OPM.

Subsequent to the exit conference, the Postal Service provided supporting documentation showing they notified OPM, and OPM retroactively approved the PMG's designation of the [REDACTED], as a LEO position. Consequently, we are not making a recommendation regarding this LEO designation.

What The OIG Recommended

We recommended management update the appropriate Postal Service manual or handbook to reflect the newly implemented policies and procedures for designating law enforcement officer positions.


Transmittal Letter



OFFICE OF INSPECTOR GENERAL
UNITED STATES POSTAL SERVICE

September 25, 2015

MEMORANDUM FOR: JEFFREY C. WILLIAMSON
CHIEF HUMAN RESOURCES OFFICER AND
EXECUTIVE VICE PRESIDENT

E-Signed by Janet Sorensen
VERIFY authenticity with eSign Desktop


FROM: Janet M. Sorensen
Deputy Assistant Inspector General
for Revenue and Resources

SUBJECT: Management Advisory – Designation of Law Enforcement
Officer Positions
(Report Number HR-MA-15-006)

This management advisory presents concerns about whether U.S. Postal Service management followed applicable federal regulations for designating law enforcement officer (LEO) positions for purposes of LEO retirement coverage (Project Number 15RG029HR000). The designations were made in [REDACTED] 2013 and [REDACTED] 2015.

We appreciate the cooperation and courtesies provided by your staff. If you have any questions or need additional information, please contact Monique P. Colter, director, Human Resources and Support, or me at 703-248-2100.

Attachment

cc: Corporate Audit and Response Management

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Findings

Agency heads are required to notify OPM of these designations and OPM has the authority to overrule the agency's decision.

Introduction

This management advisory presents the results of our self-initiated review of a law enforcement officer (LEO) position designated by the U.S. Postal Service, independent of the U.S. Postal Inspection Service and the U.S. Postal Service Office of Inspector General (OIG) (Project Number 15RG029HR000). Our objective was to determine whether the Postal Service followed applicable federal regulations for designating LEO positions for purposes of LEO retirement. See [Appendix A](#) for additional information about this advisory.

Federal LEOs engage in rigorous¹ physical duties necessary to conduct investigations and apprehend criminals. LEOs may also hold management or administrative positions, which are called secondary positions.² Law enforcement employees who are eligible for LEO retirement may retire at an earlier age than most federal employees. After completing at least 20 years of LEO service, employees are eligible for an increased annuity under either the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS).³

The Office of Personnel Management (OPM) retains the right to manage agency retirement coverage determinations, but has authorized agency heads to designate LEO positions. Agency heads⁴ are required to notify OPM of these designations and OPM has the authority to overrule the agency's decision.

The Postal Service designated the [REDACTED] in [REDACTED] 2013, as a LEO position and [REDACTED] in [REDACTED] 2015. [REDACTED]

Summary

The Postal Service did not follow applicable federal regulations to designate the position of [REDACTED] as a LEO position, in [REDACTED] 2013, for purposes of retirement coverage. The Postal Service changed the title of this position to [REDACTED] in [REDACTED] 2015.

Specifically, the Postal Service did not properly notify OPM of the initial designation, as required.⁶ Instead, the Postal Service sent an email to OPM asking it to concur with the decision to qualify the [REDACTED], position as a secondary LEO. According to OPM, the email it received from a Postal Service Human Resources specialist does not satisfy OPM regulatory requirements that an agency head notify OPM of a rigorous or secondary LEO position. In addition, the Postal Service did not have policies and procedures in place for designating positions as LEO or notifying OPM of the designations.

- 1 "A position the duties of which are so rigorous that employment opportunities should, as soon as reasonably possible, be limited (through establishment of a maximum entry age and physical qualifications) to young and physically vigorous individuals whose primary duties are— [t]o perform work directly connected with controlling and extinguishing fires or maintaining and using firefighter apparatus and equipment; or [i]nvestigating, apprehending, or detaining individuals suspected or convicted of offenses against the criminal laws of the United States...." See 5 C.F.R. §842.802.
- 2 A position that is clearly in the law enforcement or firefighting field; is in an organization having a law enforcement or firefighting mission; and is either supervisory or administrative. See 5 C.F.R. §§842.802, 831.902.
- 3 CSRS and FERS retirement coverage. See 5 U.S.C. §8336; 5 C.F.R. Part 831, Subpart I (CSRS); and 5 U.S.C. §8412; 5 C.F.R. Part 842, Subpart H (FERS).
- 4 The definition of agency head for this purpose is the Postmaster General. See 5 C.F.R. §831.902 and §842.802.
- 5 Job Description [REDACTED].
- 6 "Upon deciding that a position is a law enforcement officer or firefighter position, each agency head must notify OPM (Attention: Associate Director for Retirement and Insurance) stating the title of each position, the number of incumbents, whether the position is rigorous or secondary, and, if the position is rigorous, the established maximum entry age (or if no maximum entry age has yet been established, the date by which it will be established). The Director of OPM retains the authority to overrule an agency head's determination that a position is a rigorous or secondary position, except such a determination under 5 U.S.C. §8401(17)(B) (concerning certain employees in the Departments of the Interior and the Treasury) or under 5 U.S.C. §8401(17)(D) (concerning certain positions primarily involved in detention activities)." 5 C.F.R. §842.808(a).

When an agency head decides that a position is a LEO position, he or she is required to inform OPM of the title of each position, the number of incumbents, and whether the position is rigorous or secondary.

As a result, there is increased risk that the Postal Service will not timely learn of an improper designation. In addition, the Postal Service could also be subject to legal or administrative consequences for not properly notifying OPM.

Non-Compliance With Federal Regulations

The Postal Service did not properly notify OPM when designating the [REDACTED], position as LEO for purposes of retirement coverage. In March 2013, the Postal Service relied on its Retirement Program Manager to send an email notification to OPM asking it to concur with the [REDACTED] 2013 decision to designate the [REDACTED], as a secondary LEO position. Postal Service officials treated the reply of OPM's Human Resources specialist — "this position would appear to qualify as a secondary LEO position," — as OPM concurrence. However, a subsequent OPM review determined the email was unofficial and did not meet the regulatory requirements for notification. OPM's records do not indicate receiving an official notification for the position.

When an agency head decides that a position is a LEO position, he or she is required to inform OPM of the title of each position, the number of incumbents, and whether the position is rigorous or secondary. If the position is rigorous, the agency head must also notify OPM of the established maximum entry age or the date by which it will be established. The director of OPM may overrule an agency head's determination that a position is rigorous or secondary. When OPM officials receive notice they must decide whether to review the designation. The agency head, in this case the postmaster general (PMG), is required to make the background file and supporting documentation related to the LEO coverage decision available for review upon request by OPM.⁷

The Postal Service would have been more likely to properly notify OPM if it had policies and procedures in place for designating LEO positions. Existing policy⁸ does not address this issue.

According to OPM, the PMG can retroactively designate positions for LEO retirement coverage and provide notice to OPM. However, if an oversight review is conducted, OPM can reverse the agency's decisions. Should OPM determine that the PMG erroneously designated this position, the affected employee(s) would not be eligible to receive LEO service credit for their tenure in the position. The Postal Service would need to retroactively correct the coverage and retirement records of the affected employee(s) and inform the employee(s) of these corrective actions. Finally, the Postal Service could be subject to legal or administrative consequences for failure to properly notify OPM.

Subsequent to the exit conference, the Postal Service provided supporting documentation showing they notified OPM and OPM retroactively approved the PMG's designation of the [REDACTED], as a LEO position. Consequently, we are not making a recommendation regarding this LEO designation.

In addition, the Postal Service developed a standard operating procedure (SOP) to notify OPM when designating LEO positions. However, they did not identify which Postal Service manual or handbook the procedures will be documented. Therefore, we are recommending the Postal Service update the official manual or handbook to reflect the newly implemented policies and procedures.

⁷ 5 C.F.R. §831.911(b)-(c), §842.808(b)-(c).

⁸ *Employee and Labor Relations Manual* Issue 38, Section 380, Postal Career Executive Service, page 79. March 2015.

Recommendation

We recommend management update the appropriate Postal Service manual or handbook to reflect the newly implemented policies and procedures for designating law enforcement officer positions.

We recommend the chief Human Resources officer and executive vice president:

1. Update the appropriate Postal Service manual or handbook to reflect the newly implemented policies and procedures for designating law enforcement officer positions.

Management's Comments

Management agreed with our finding and the intent of our recommendation. Management stated that specific policies and procedures are necessary to ensure that employees comply with relevant regulatory requirements going forward. However, management does not believe that these policies and procedures are appropriate for inclusion in a Postal Service manual or handbook. Human Resources developed a SOP for designating law enforcement officer positions. The SOP has been referenced in step 8 of the Organizational Effectiveness Jobs Process (Jobs Process). Management plans to provide internal training on the revised Jobs Process on September 25, 2015.

See [Appendix B](#) for management's comments, in their entirety.

Evaluation of Management's Comments

The OIG considers management's comments responsive to the recommendation. We concur that management's corrective actions sufficiently addressed the recommendation and we consider this recommendation closed with the issuance of this report.

Appendices

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Appendix A: Additional Information

Background

Federal LEOs engage in rigorous physical duties necessary to conduct investigations and apprehend criminals. LEOs may also hold administrative or supervisory positions. The Postal Service designated the [REDACTED] as a federal LEO position in [REDACTED] 2013, and changed the title to [REDACTED], in [REDACTED] 2015.

The role of the [REDACTED], was to [REDACTED]
[REDACTED]⁹ The role of the [REDACTED], is to oversee [REDACTED]
[REDACTED] This position is intended to help the Postal Service meet its legal mandate to [REDACTED].

LEO positions are eligible for special retirement coverage; however, LEOs must generally complete a minimum of 20 years of service by age 57. These employees are eligible for an increased annuity under either the CSRS or FERS and can retire at an earlier age than most other federal employees.

Objective, Scope, and Methodology

Our objective was to determine whether the Postal Service followed applicable federal regulations for designating LEO positions for purposes of retirement coverage. To accomplish our objective, we:

- Reviewed job descriptions and supporting documentation establishing the positions.
- Interviewed appropriate headquarters personnel.
- Reviewed federal regulations related to designating LEO positions for retirement benefits purposes.
- Reviewed Postal Service policies and procedures.
- Interviewed OPM officials to determine whether notices of designation were sent for these positions.

We conducted this review from May through September 2015, in accordance with the Council of the Inspectors General on Integrity and Efficiency, *Quality Standards for Inspection and Evaluation*. We discussed our observations and conclusions with management on August 14, 2015, and included their comments where appropriate.

Prior Audit Coverage

The OIG did not identify any prior audits or reviews related to the objective of this advisory.

9 Employee Congratulatory Announcement Memorandum, dated [REDACTED] 15, 2013.

Appendix B: Management's Comments

JEFFREY C. WILLIAMSON
CHIEF HUMAN RESOURCES OFFICER
AND EXECUTIVE VICE PRESIDENT



September 21, 2015

Lori Lau Dillard
Director, Audit Operations
1735 North Lynn Street
Arlington, VA 22209-2020

SUBJECT: Management Advisory – Designation of Law Enforcement Officer Positions (Report Number HR-MA-15-DRAFT)

Thank you for the opportunity to respond to the recommendations contained in the Management Advisory – Designation of Law Enforcement Officer Positions (Report Number HR-MA-15-DRAFT) that were recently provided by the Office of the Inspector General. The following is the response to your recommendations to the Chief Human Resources Officer and Executive Vice President.

Background:

The position description for the [REDACTED] position, [REDACTED], was originally created by the United States Postal Service in [REDACTED] 2013. At the time that it was created, then Postmaster General and Chief Executive Officer Patrick R. Donahoe (PMG Donahoe) considered the [REDACTED] position to be a secondary law enforcement officer position within the meaning of 5 C.F.R. §842.802, et seq. Accordingly, PMG Donahoe instructed Postal Service Human Resources personnel to notify the U.S. Office of Personnel Management (OPM) of his determination.

On March 20, 2013, a Postal Service Human Resources representative sent a copy of the [REDACTED] position description to an OPM Human Resources Specialist for advice on whether this position met the criteria for a secondary law enforcement officer position within the meaning of 5 C.F.R. §842.802, et seq. The OPM representative responded to this inquiry and advised the Human Resources representative that the position "would appear to qualify as a secondary LEO position based on administrative duties." Thereafter, the Postal Service Human Resources Specialist placed a copy of the email exchange he had with the OPM representative into the file that had been established for this coverage determination, consistent with requirements contained in 5 C.F.R. §842.808(b).

Subsequently, the Postal Service was informed that the above described exchange was not sufficient to satisfy the notification requirements of 5 C.F.R. §842.808(a). In response, on July 13, 2015 current Postmaster General and Chief Executive Officer Megan J. Brennan (PMG Brennan), sent an official notification to Kenneth Zawodny, OPM Associate Director for Retirement Services, in compliance with 5 C.F.R. §842.808(a), of her determination that the [REDACTED] position is a secondary law enforcement officer position within the meaning of 5 C.F.R. §842.802, et seq. PMG Brennan further advised Mr. Zawodny that this determination and notification should be considered by OPM to be retroactive to [REDACTED] 23, 2013.

On July 31, 2015, an OPM representative advised the Postal Service that it has accepted PMG Brennan's notification and placed it into OPM's files for this determination. Further, the OPM representative has advised that nothing further is required from PMG Brennan regarding this

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notification and that OPM does not intend to overrule PMG's determination that the [REDACTED] position is a secondary law enforcement officer position within the meaning of 5 C.F.R. §842.802, et seq. A copy of PMG Brennan's official notification was placed into the file that had been established for this coverage determination, consistent with requirements contained in 5 C.F.R. §842.808(b). The coverage determination file for the [REDACTED] position is maintained by the Postal Service's Organizational Effectiveness group. As required by 5 C.F.R. §842.808(b), this file contains PMG Brennan's official notification to OPM and all background material used by the Postal Service in making the determination that the [REDACTED] position is a secondary law enforcement officer position within the meaning of 5 C.F.R. §842.802, et seq.

Recommendation:

Update the appropriate Postal Service manual or handbook to reflect the newly implemented policies and procedures for designating law enforcement officer positions.

Management Response:

Management agrees that specific policies and procedures are necessary to ensure that the relevant regulatory requirements are complied with going forward. While management does not believe that these policies and procedures are appropriate for inclusion in a Postal Service manual or handbook, Human Resources has developed a standard operating procedure (SOP) for designation of law enforcement officer positions, a copy of which is attached, for reference. This SOP references and incorporates the standards and requirements of the relevant regulations, and has been incorporated by reference into the Organizational Effectiveness Jobs Process (Jobs Process) at step 8. A copy of the Jobs Process is attached for reference. The purpose of the Jobs Process is to create and implement a new job within the Postal Service. During the course of the Jobs Process, the job is defined, classified and implemented. Internal training on the revised Jobs Process is scheduled for September 25, 2015.

Target Implementation date: September 25, 2015

Responsible Management Official: Vice President, Employee Resource Management



Jeffrey C. Williamson

Attachment

cc: Ms. Rettinhouse
Corporate Audit and Response Management



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