



The U.S. Postal Service's Use of Contractors to Deliver Mail: Background and Recent Developments

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Summary

Recently, the U.S. Postal Service (USPS) has been in negotiations with the National Association of Letter Carriers (NALC) and National Rural Letter Carriers Association (NRLCA). One issue that may or may not be settled is the Postal Service's use of non-USPS employees (i.e., contractors) to deliver mail. If the parties cannot come to a satisfactory arrangement, Congress may be approached to consider the matter.

Contractors have delivered mail to homes and businesses since 1900. Controversy over this practice arose in 2007 when the NALC alleged that the USPS had expanded the use of contractors into city areas at the expense of unionized membership. Congress held hearings on the matter, and legislation was introduced in both houses. The USPS and NALC came to a memorandum of understanding (MOU) in October 2008 to govern the practice, which appeared to quell the controversy.

However, the issue was reopened when USPS's collective bargaining agreements with the NRLCA and the NALC expired in 2010 and 2011, respectively. At present, it is unclear whether the parties have come to mutually agreeable arrangements concerning the use of contractors to deliver mail.

By law, the USPS is obliged to provide for an "efficient" system of mail delivery. Federal statute provides the USPS with considerable freedom to enter into contracts with private parties. Wage-earning contractors cost less to employ than wage- and benefits-earning USPS employees. However, federal law also requires the USPS to collectively bargain its employees' compensation. Thus, a conflict arises between these competing legal imperatives when the USPS employs a contractor to perform work that was or could be performed by a postal employee.

The USPS has increased its use of contractors in recent years, but USPS employees continue to serve 98% of all U.S. homes and businesses.

This report will be updated as developments warrant.

Contents

Background.....	1
The 2007 Mail Delivery Contracting Controversy.....	1
Congressional Action.....	2
Recent Developments	4
The USPS's Authority to Contract vs. Employee Compensation	4
The Extent of the USPS's Use of Contractors to Deliver Mail.....	5
Concluding Observations.....	8

Tables

Table 1. Postal Carrier Routes: Who Delivers?	6
Table 2. Postal Carrier Routes: Who Delivers? (%)	6
Table 3. Delivery Points: Who Delivers?.....	7
Table 4. Delivery Points: Who Delivers? (%).....	7

Contacts

Author Contact Information.....	9
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Background

Private individuals and firms, often called “contractors” and “subcontractors,” have transported mail between postal facilities since at least 1792 (1 Stat. 233), and according to the U.S. Postal Service (USPS), contractors have delivered mail to homes and businesses since 1900.¹ Today, contractors transport mail between postal facilities via land, air, water, and rail.²

One type of land (i.e., “surface”) mail transportation contract is the “highway contract route” (HCR).³ HCR contracts come in three subtypes.

- “Transportation” contracts have private “suppliers”⁴ transport mail between postal facilities.
- “Combination” contracts require suppliers to make a small number of mail deliveries in the course of transporting mail between the USPS’s facilities.
- “Contract delivery service” (CDS) contracts compensate suppliers for collecting and delivering mail in rural areas.⁵

This latter subtype of contract became the focus of controversy in 2007.⁶

The 2007 Mail Delivery Contracting Controversy

The National Association of Letter Carriers (NALC), the union for mail delivery persons, and the USPS signed a collective bargaining agreement in autumn 2006.⁷ The agreement covered a wide range of compensation and workplace matters. It included two memoranda of understanding (MOUs) concerning contracting letter carrier work.⁸ The MOUs established a six-month moratorium on any new contracting of mail carrier work in post offices employing city carriers.⁹ They also pledged the NALC and USPS to create a joint USPS-NALC committee to review

¹ U.S. Postal Service, “Contracting by the U.S. Postal Service—Not New!,” press release, April 2007.

² U.S. Postal Service, *Mail Transportation Contracting Guide* (Washington: USPS, 2004).

³ HCR contractors are sometimes called “star contractors.” In 1845, Congress first mandated that the Postmaster General openly bid mail transportation contracts and award them to the lowest bidders who tendered “sufficient guarantees for faithful performance, without other reference to the mode of such transportation than may be necessary to provide for the due celerity, certainty, and security of such transportation” (5 Stat. 738). To save time and effort, postal clerks often substituted asterisks for the words “celerity, certainty, and security” when they recorded these postal contracts in ledgers; hence, the terms “star contracts” and “star contractors.” National Postal Museum, “What Is a Star Route?” at http://www.postalmuseum.si.edu/starroute/sr_02.html.

⁴ Here, a “supplier” refers to a person or private firm that has a contract with USPS.

⁵ USPS, *Highway Contract Routes—Box Delivery Service, Handbook P-5* (Washington: USPS, 2004).

⁶ The NALC had expressed concerns regarding the use of contractors to deliver mail in 2006. National Association of Letter Carriers, “Young Warns That Contracting Out Mail Delivery Could Weaken Nation’s Defense Against Terrorism,” press release, August 14, 2006, at <http://www.nalc.org/news/release/pr081406.html>.

⁷ National Association of Letter Carriers, “2006-2011 National Agreement between the National Association of Letter Carriers and the U.S. Postal Service,” September 2011.

⁸ *Ibid.*, pp. 191-193.

⁹ *Ibid.*, p. 192.

existing policies and practices concerning the contracting out of mail delivery. The Committee shall seek to develop a meaningful evolutionary approach to the issue of subcontracting, taking into account the legitimate interests of the parties and relevant public policy considerations.¹⁰

The National Rural Letter Carriers Association (NRLCA), which represents rural delivery persons, also reached a collective bargaining agreement with the USPS in 2006.¹¹ Its Article 32 carries the following language on the use of contractors to deliver mail:

The Employer will give advance notification to the Union at the national level when subcontracting which will have a significant impact on bargaining unit work is being considered and will meet to consider the Union's views on minimizing such impact. No final decision on whether or not such work will be contracted out will be made until the matter is discussed with the Union [...]. No expansion of the Employer's current national policy on the use of contract service in lieu of rural carriers will be made except through the provisions of this Article, which are intended to be controlling. The parties recognize that individual problems in this area may be made the subject of a grievance.¹²

In 2007, representatives of both NALC and NRLCA alleged that the USPS was expanding its use of CDS carriers. William Young, then-president of the NALC, called upon Congress to "stop the cancer of contracting out before it spreads."¹³ Members of the NALC picketed the USPS's national headquarters and post offices in Florida and New Jersey.¹⁴

The USPS denied the unions' accusation, and argued that contract mail delivery was "not new."¹⁵ The USPS also stated that its contracts with the postal unions recognize the USPS's authority to use contractors.¹⁶ Nevertheless, the USPS further noted that "cost pressures, competition, and a changing marketplace demand cost-effective options from the Postal Service."¹⁷

Subsequently, a 2008 Government Accountability Office (GAO) study found that the average annual cost of delivery by a city carrier was nearly twice that of a CDS carrier.¹⁸

Congressional Action

Some Members of the 110th Congress expressed concern about the USPS's practice of hiring contractors to collect and deliver mail.

¹⁰ Ibid., p. 191.

¹¹ National Rural Letter Carriers Association, "Agreement between the United States Postal Service and the National Rural Letter Carriers' Association 2006-2010," December 2006.

¹² Ibid., pp. 128-129.

¹³ National Association of Letter Carriers, "Young Urges Congress to Block USPS Policy of 'Contracting Out,'" *NALC Bulletin*, April 20, 2007, p.1.

¹⁴ National Association of Letters Carriers, press releases from 2007, at <http://www.nalc.org/news/release/index.html>.

¹⁵ USPS, "Contracting by the U.S. Postal Service—Not New!," press release, April 2007, p. 1.

¹⁶ For example, see National Association of Letter Carriers, "2006-2011 National Agreement between the National Association of Letter Carriers and the U.S. Postal Service," pp. 191-193.

¹⁷ U.S. Postal Service, "Contracting by the U.S. Postal Service—Not New!" pp. 1-2.

¹⁸ U.S. Government Accountability Office, *U.S. Postal Service: Data Needed to Assess the Effectiveness of Outsourcing*, GAO-08-787, July 24, 2008, p. 10.

On March 28, 2007, Representative Albio Sires introduced H.Res. 282, which expressed “the sense of the House of Representatives that the United States Postal Service should discontinue the practice of contracting out mail delivery services.” H.Res. 282 was referred to the House Committee on Oversight and Government Reform (HCOGR) and was cosponsored by 256 Members. Not quite two months later, Senator Tom Harkin introduced S. 1457 on May 23, 2007. The bill would have forbidden the USPS from entering “into any contract ... with any motor carrier or other person for the delivery of mail on any route with 1 or more families per mile.” The bill would have permitted all existing CDS contracts to remain in effect and to be renewed. S. 1457 was referred to the Senate Committee on Homeland Security and Governmental Affairs and had 38 cosponsors.¹⁹

The HCOGR’s Subcommittee on Federal Workforce, Postal Service, and the District of Columbia considered the issue at April and July hearings.²⁰ Both the NALC and the NRLCA said that contractors should not be trusted to deliver the mail.²¹ Three Members present at the July hearing spoke of contractors delivering mail in suburban and city locations, including the Bronx of New York.²² The NALC stated that private employers—unlike the USPS—are not required to give preference to veterans in hiring.²³ The USPS testified that it was not replacing career carriers with contractors, and that it assigned only new delivery routes to contractors.²⁴ John Potter, then-Postmaster General, declared that the USPS had “made a commitment for the life of this agreement [with the NALC] not to contract out any city delivery in big cities” and to work with both unions on the use of contractors in suburban and rural areas.²⁵ The use of contractors to deliver mail also was discussed at a Senate hearing.²⁶

After lengthy negotiations, the NALC and the USPS signed an MOU in October 2008.²⁷ This agreement extended through the life of the collective bargaining agreement the moratorium

¹⁹ Ultimately, none of these bills were reported by their committees.

²⁰ U.S. Congress, House Committee on Oversight and Government Reform, Subcommittee on Federal Workforce, Postal Service, and the District of Columbia, *The U.S. Postal Service: 101*, hearing, 110th Cong., 1st sess., April 17, 2007 (Washington, DC: GPO, 2008); and U.S. Congress, House Committee on Oversight and Government Reform, Subcommittee on Federal Workforce, Postal Service, and the District of Columbia, *Inquiring Minds Want to Know: What Is the Postal Service Contracting Out?* Hearing, 110th Cong., 1st sess., July 19, 2007, (Washington: GPO, 2009).

²¹ See Statement of Donnie Pitts, President, National Rural Letter Carriers Association, U.S. Congress, House Committee on Oversight and Government Reform, Subcommittee on Federal Workforce, Postal Service, and the District of Columbia, *The U.S. Postal Service 101*, p. 160. CRS has not located data to substantiate this claim. On the USPS’s screening and oversight of its employees and contractors, see U.S. Government Accountability Office, *U.S. Postal Service: Data Needed to Assess the Effectiveness of Outsourcing*, GAO-08-787 (Washington: GAO, July 2008), pp. 24-30.

²² U.S. Congress, House Committee on Oversight and Government Reform, Subcommittee on Federal Workforce, Postal Service, and the District of Columbia, *Inquiring Minds Want to Know: What Is the Postal Service Contracting Out?* pp. 1-2, 8, and 10.

²³ Statement of William H. Young, President, National Association of Letter Carriers, in U.S. Congress, House Committee on Oversight and Government Reform, Subcommittee on Federal Workforce, Postal Service, and the District of Columbia, *Inquiring Minds Want to Know: What Is the Postal Service Contracting Out?* p. 161.

²⁴ Statement of Alan Kessler, Vice Chairman, Board of Governors, U.S. Postal Service, in *ibid.*, p. 49.

²⁵ Statement of John G. Potter, Postmaster General, U.S. Postal Service, in *ibid.*, p. 45.

²⁶ U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, Sub-Committee on Federal Financial Management, Government Information, Federal Services, and International Security, *Views from the Postal Workforce On Implementing Postal Reform*, hearing, 110th Cong., 1st sess., July 25, 2007, S.Hrg. 110-320 (Washington, DC: GPO, 2008).

²⁷ National Association of Letter Carriers and U.S. Postal Service, “Memorandum of Understanding re: Assignment of City Delivery,” M01694, October 22, 2008.

against new CDS contracts in post offices employing city carriers. Additionally, the MOU required any new deliveries to be assigned according to geographic boundaries agreed upon by the NALC, NRLCA, and USPS.²⁸ That same year, the NRLCA and the USPS worked out their differences over the use of private mail delivery contractors via the grievance process set forth in the NRLCA-USPS collective bargaining agreement.²⁹

Recent Developments

In November 2010, the NRLCA-USPS collective bargaining agreement expired. A year later, the NALC-USPS contract expired. Whether the mail contracting MOUs remain in force is unclear.³⁰

The USPS and the two unions had negotiations and entered mediation. Unable to settle their differences, the parties went to binding arbitration.³¹

The USPS and the NRLCA completed binding arbitration in July 2012.³² The previous collective bargaining agreement's language regarding the hiring of private contractors to deliver mail was not altered, leaving it unclear whether the USPS and NRLCA have come to a working agreement on this particular issue.

The USPS and the NALC entered binding arbitration in June 2012.³³ Arbitration of the USPS-NALC agreement likely will be completed in the coming months.³⁴

The USPS's Authority to Contract vs. Employee Compensation

The Postal Reorganization Act of 1970 (PRA; P.L. 91-375; 84 Stat. 725) replaced the U.S. Post Office Department with the USPS, an independent establishment of the executive branch (39 U.S.C. 201). The PRA requires the USPS to “maintain an efficient system of collection, sorting, and delivery of the mail nationwide” (39 U.S.C. 403(b)(1)). To this end, the PRA provides the USPS with considerable discretion over its operations. 39 U.S.C. 5005 authorizes the USPS to “obtain mail transportation service ... by contract from any person or carrier for surface and water

²⁸ *Ibid.*, p. 2.

²⁹ National Rural Letter Carriers Association, “Agreement between the United States Postal Service and the National Rural Letter Carriers’ Association 2006–2010,” Article 15. An example of a grievance over the use of CDS is grievance COOR-4C-C03150754, class action, Maineville, OH 45039-9998, July 11, 2008.

³⁰ The NALC claims the USPS does not believe the MOUs remain in force. Jim Sauber, Chief of Staff, National Association of Letter Carriers, e-mail to CRS, May 16, 2012.

³¹ 39 U.S.C. 1207 sets this three-step collective bargaining process between the USPS and its employee unions.

³² Board of Arbitration, “In the Matter of the Interest Arbitration between United States Postal Service and National Rural letter Carriers Union, Award,” Chairperson’s file No: 2011-3252, July 3, 2012, at <https://www.nrlca.org/Admin/UploadedImages/ContentDocument/201200703%20USPS-NRLCA%20Final%20Award%20.pdf>.

³³ National Association of Letter Carriers, “Shyam Das Named Arbitration Chair for Next NALC-USPS Pact,” at <http://nalc.org/news/bargain/index.html>.

³⁴ 39 U.S.C. 1207 requires an arbitration board, once impaneled, to render its decision within 45 days. The impaneling of an arbitration board, however, can take considerable time.

transportation under such terms and conditions as it deems appropriate.” Additionally, Congress provided the USPS with the authorities to (1) “enter into and perform contracts” (39 U.S.C. 401); (2) “provide for the collection, handling, transportation, delivery, forwarding, returning, and holding of mail” (39 U.S.C. 404(a)(1)); and (3) “establish mail routes and authorize mail transportation service thereon” (39 U.S.C. 5203(a)).³⁵

However, the PRA also carries provisions relating to USPS employee compensation. For one, the PRA sets a compensation and benefits floor:

It shall be the policy of the Postal Service to maintain compensation and benefits for all officers and employees on a standard of comparability to the compensation and benefits paid for comparable levels of work in the private sector of the economy (39 U.S.C. 1003(a)).

Additionally, letter carriers are civil servants and, under the PRA, are entitled to wages established through contracts collectively bargained by the USPS and postal unions (39 U.S.C. 1001(b) and 39 U.S.C. 1201 et seq.). The NALC has contended that the USPS’s use of CDS carriers instead of USPS mail carriers “violates the spirit of the nation’s basic postal law.”³⁶ Using contractors, the union has said, circumvents the collective bargaining process and opens the door for the USPS to replace all career mail carriers with contractors.

Hence, the PRA’s provisions regarding the USPS’s authority to contract and operate an “efficient” system of mail may be at tension with the statute’s provision on USPS employee compensation.

The Extent of the USPS’s Use of Contractors to Deliver Mail

Between 1998 and 2012, the number of carrier routes³⁷ served by CDS carriers increased from 5,424 to 9,991, or 84.2% (**Table 1**). Similarly, over the past 15 years the number of delivery points served by CDS carriers has increased from 1,828,257 to 2,680,140, or 46.6% (**Table 3**).

However, throughout this period, the USPS career city and rural carriers delivered mail on the vast majority of postal carrier routes—not less than 95.6% (**Table 2**). City and rural carriers also have served at least 98% of the nation’s delivery points (**Table 4**).

Thus, although the USPS has increased its use of CDS carriers to deliver mail, these contractors serve on 4.4% of all routes and deliver mail at 2% of all delivery points.³⁸

Additionally, the data show a shift between the portions of the total routes and deliveries handled by city and rural letter carriers. The percentage of routes served by rural carriers has grown from 26.5% to 32.4%, while the percentage of routes served by city carriers has declined from 71.2%

³⁵ On USPS’s power to contract with private carriers for the transportation of mail, see 39 U.S.C. 5001 et seq. and 39 U.S.C. 5201 et seq.

³⁶ NALC, “Contracting Out, Collective Bargaining and the NALC Contract,” press release, April 18, 2007.

³⁷ A “carrier route” refers to a set of addresses to which a letter carrier delivers mail.

³⁸ The figures comport with GAO’s analysis. See U.S. Government Accountability Office, *U.S. Postal Service: Data Needed to Assess the Effectiveness of Outsourcing*, pp. 22-23. A “delivery point” is the address or location of a dwelling or place of business to which mail is delivered.

to 63.2%. Additionally, the percentage of delivery points served by rural carriers has increased from 25.4% to 30.7%; whereas the percentage of delivery points served by city carriers has decreased from 73.0% to 67.3%.

Table 1. Postal Carrier Routes: Who Delivers?

Fiscal Year	City Carriers	Rural Carriers	CDS Carriers	Total Routes
1998	167,262	62,338	5,424	235,024
1999	166,455	64,706	5,500	236,661
2000	167,470	67,372	5,648	240,490
2001	167,762	69,066	5,760	242,588
2002	165,816	69,361	5,857	241,034
2003	164,652	69,697	5,953	240,302
2004	164,412	70,792	6,026	241,230
2005	164,419	72,658	6,127	243,204
2006	163,412	74,937	6,346	244,695
2007	163,530	76,008	6,531	246,069
2008	163,389	76,597	6,676	246,662
2009	150,808	76,938	10,538	238,284
2010	149,920	74,822	10,385	235,127
2011	143,521	74,277	10,096	227,894
2012 ^a	143,692	73,596	9,991	227,279

Source: Data provided by the USPS.

a. FY2012 data are from the end of the second quarter of FY2012.

Table 2. Postal Carrier Routes: Who Delivers? (%)

Fiscal Year	City Carriers	Rural Carriers	CDS Carriers	Total
1998	71.2%	26.5%	2.3%	100%
1999	70.3%	27.3%	2.3%	100%
2000	69.6%	28.0%	2.3%	100%
2001	69.2%	28.5%	2.4%	100%
2002	68.8%	28.8%	2.4%	100%
2003	68.5%	29.0%	2.5%	100%
2004	68.2%	29.3%	2.5%	100%
2005	67.6%	29.9%	2.5%	100%
2006	66.8%	30.6%	2.6%	100%
2007	66.5%	30.9%	2.7%	100%
2008	66.2%	31.1%	2.7%	100%
2009	63.3%	32.3%	4.4%	100%
2010	63.8%	31.8%	4.4%	100%
2011	63.0%	32.6%	4.4%	100%
2012 ^a	63.2%	32.4%	4.4%	100%

Source: Data provided by the USPS.

a. FY2012 data are from the end of the second quarter of FY2012.

Table 3. Delivery Points: Who Delivers?

Fiscal Year	City Carriers	Rural Carriers	CDS Carriers	Total Delivery Points
1998	82,253,861	28,584,565	1,828,257	112,666,683
1999	82,751,573	29,710,113	1,903,926	114,365,612
2000	83,329,025	30,928,654	1,987,629	116,245,308
2001	83,761,600	32,075,719	2,057,084	117,894,403
2002	84,211,501	33,273,630	2,128,507	119,613,638
2003	84,698,811	34,516,943	2,211,395	121,427,149
2004	85,152,346	34,990,114	2,220,856	122,363,316
2005	85,804,626	36,189,631	2,304,748	124,299,005
2006	86,292,173	37,365,860	2,410,317	126,068,350
2007	86,882,476	38,382,966	2,588,321	127,853,763
2008	87,285,388	39,092,100	2,542,627	128,920,115
2009	87,578,790	39,445,518	2,621,690	129,645,998
2010	87,958,109	39,605,344	2,642,875	130,206,328
2011	88,252,912	40,026,528	2,666,417	130,945,857
2012 ^a	88,399,246	40,277,649	2,680,140	131,357,035

Source: Data provided by the USPS.

a. FY2012 data are from the end of the second quarter of FY2012.

Table 4. Delivery Points: Who Delivers? (%)

Fiscal Year	City Carriers	Rural Carriers	CDS Carriers	Total
1998	73.0%	25.4%	1.6%	100%
1999	72.4%	26.0%	1.7%	100%
2000	71.7%	26.6%	1.7%	100%
2001	71.0%	27.2%	1.7%	100%
2002	70.4%	27.8%	1.8%	100%
2003	69.8%	28.4%	1.8%	100%
2004	69.6%	28.6%	1.8%	100%
2005	69.0%	29.1%	1.9%	100%
2006	68.4%	29.6%	1.9%	100%
2007	68.0%	30.0%	2.0%	100%
2008	67.7%	30.3%	2.0%	100%
2009	67.6%	30.4%	2.0%	100%
2010	67.6%	30.4%	2.0%	100%
2011	67.4%	30.6%	2.0%	100%
2012 ^a	67.3%	30.7%	2.0%	100%

Source: Data provided by USPS.

a. FY2012 data are from the end of the second quarter of FY2012.

Concluding Observations

Current postal law requires the USPS to operate an “efficient” system of mail and provides the USPS with various authorities to achieve this objective. However, the law also sets a pay and compensation floor for USPS employees and requires the USPS to collectively bargain with its employees.

These aspects of postal law come into conflict in the matter of the USPS using private persons or firms to deliver mail. The data above indicate that the USPS has increased its use of contractors over the past 15 years. Yet, the data also indicate that contractors serve only a very small percentage of carrier routes and deliver to very few homes and businesses.

Whether the use of private persons and firms to deliver mail will arise as an issue of interest to Congress is unclear. The USPS, NALC, and NRLCA may settle the matter through arbitration and ensuing memoranda of understanding.

In the event that the use of contractors cannot be settled through the parties themselves, there are at least two broad perspectives that might be taken on the situation.

First, it might be argued that Congress should take no action. Historically, Congress has not enacted specific policies concerning the extent of the USPS's use of contractors to deliver mail. It has left the matter to be decided by the Postal Service and its letter carrier unions through collective bargaining and the grievance process. Congress may continue this practice, reasoning that the USPS has legitimate grounds to pursue cost-savings via the use of contractors. Indeed, it might be further contended that the use of contractors to deliver mail is in keeping with long-time USPS practices. Contractors have been used to collect, transport, sort, and deliver mail; and machines built by private firms do much of the mail sorting work once performed by USPS employees. Letter carriage would not appear to be an inherently governmental function under current procurement policy, so the USPS should be free to outsource this work as it deems proper.³⁹

Second and alternately, Congress may choose to intervene, viewing the issue as involving an unintended conflict arising out of two national policies—USPS operational efficiency and the rights of unionized, federal employees. From this perspective, it could be argued that the USPS is supposed to be a self-supporting agency; but that does not necessitate that the USPS should be permitted to outsource however much postal work it chooses. It might be further argued that there is a positive societal benefit in the federal government hiring individuals (often minorities and veterans) and compensating them well.⁴⁰ Thus, Congress might either ban the practice of using contractors to deliver mail (or perform other mail-movement activities); or it could limit the amount of mail delivery work performed by contractors—perhaps by capping the percentage of routes served by non-USPS employees. Were Congress either to ban or limit the use of contractors, it might wish to consider helping the USPS recoup any lost savings by providing it with additional authorities to increase its revenues or decrease its operating costs.

³⁹ On inherently governmental activities, see CRS Report R42039, *Performance of Inherently Governmental and Critical Functions: The Obama Administration's Final Policy Letter*, by (name redacted), (name redacted), and (name redacted).

⁴⁰ According to the USPS, 21% of USPS career employees are veterans and 41% are minorities. Polly J. Gibbs Government Relations, U.S. Postal Service, “Requested Figures,” e-mail, April 25, 2012.

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