

Although the USPS made \$21 billion in contributions to the PSRHBF for its future retiree health benefits from 2007 through 2010, as required by law, the USPS has failed to make its required annual contributions since that time. The USPS has used nonpayment of its statutorily required contributions to the PSRHBF as its primary means to maintain sufficient cash balances needed to continue day-to-day postal operations. As a result of the missed contributions, the USPS maintains a payable and OPM, as administrator of the PSRHBF, has a corresponding receivable of \$43 billion for unfunded USPS retiree health benefits.

Congress required the USPS, rather than the general taxpayer, to fund the retiree health benefits of its employees as part of a mandate for postal self-sustainability under which the USPS functions as an off-budget entity. The USPS is exempt from any general limitations on expenditures imposed on the United States Government. It is permanently allowed to spend its revenues without fiscal year limitation and it maintains limited borrowing authority.<sup>181</sup>

### *Federal Workers' Compensation Program*

The USPS participates in the federal workers' compensation program administered by the Department of Labor (DOL).<sup>182</sup> When an injured employee receives a favorable ruling for disability claims, the USPS lists the discounted value of all future payments as a liability on its books. Most payments are made in installments, and as a result, the liability remains on the USPS books until the payments stop. As of the end of FY 2018, the total liability for disability claims amounted to \$16 billion.

## C. Findings and Recommendations

### Operations

***USPS's dual-labor model – combining private sector collective bargaining law with government employee compensation law – creates unsustainable labor costs. USPS employee rights should be more closely aligned with other federal employee rights by eliminating collective bargaining over compensation.***

The Task Force recommends that the Federal Service Labor-Management Relations Act be amended to apply to the USPS and its employees, and remove USPS compensation from collective bargaining. Doing so would enable the USPS to address the costs and complications with its current labor system, and allow for better workforce planning and cost control within its rapidly evolving business model. In the meantime, the USPS should take immediate action where current statutory authority exists, including, but not limited to,

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<sup>181</sup> 39 U.S.C. §§ 2003(a), 2005, and 2011(a)(2).

<sup>182</sup> 39 U.S.C. § 1005(c); and 5 U.S.C. § 8101 et seq.

aligning collective bargaining agreements with these principles. USPS employees should not be afforded protections and rights not enjoyed by other federal employees.

***USPS employee wages should be reformed in a manner consistent with proposed reforms pertaining to the broader federal workforce outlined in the President's Management Agenda.***

Although the USPS has reduced the total number of its employees since 2000, the USPS's labor costs continue to represent a significantly higher proportion of total operating costs when compared to its private sector competitors. USPS employees enjoy a pay and benefits premium over their private sector counterparts, although the size of this premium is likely falling. Consistent with the President's Management Agenda to modernize the government workforce and better align the compensation of federal employees with the labor market, the Task Force recommends that the USPS more closely align compensation for both its career and non-career workers with peers in the broader labor market.

***The USPS should explore new business opportunities that allow it to extract value from its existing assets and business lines.***

In addition to franchising the mailbox, the USPS should explore supplying services for Federal, State, and local government entities that have substantial scale, would generate revenue, and would not present a balance sheet risk to the USPS. For example, the USPS could expand government services by processing certain licenses, such as those for hunting and fishing. The USPS could also capture additional value from its existing retail offices by converting post offices into contract post offices or by co-locating with or renting space to complementary retail establishments.

Given the USPS's narrow expertise and capital limitations, expanding into sectors where the USPS does not have a comparative advantage or where balance sheet risk might arise, such as postal banking, should not be pursued.

### Governance and Regulation

***The USPS suffers from a lack of institutional governance, both in authority and in practice, and there is an immediate need for the U.S. Senate to confirm Governors.***

The Governors have the authority to select the Postmaster General and Inspector General, as well as to approve and oversee the practices and policies of the USPS. However, their ability to direct USPS activities is limited by law and subject to oversight by other authorities such as Congress, the PRC, arbitrators, and GAO.<sup>183</sup>

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<sup>183</sup> United States Postal Service, Office of Inspector General, *Governance of the U.S. Postal Service*, RARC-WP-17-002, (November 10, 2016), available at: <https://www.uspsoig.gov/sites/default/files/document-library-files/2016/RARC-WP-17-002.pdf>.

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Further, there are only two Governors confirmed, severely limiting the Board of Governor's ability to effectively direct and control USPS expenditures and review the practices and policies of the USPS. There is an immediate need for the U.S. Senate to confirm additional Governors. The Board of Governors should move to create a new policy mandate that resets the USPS's organizational direction and develops financial targets that move the USPS toward the achievement of a sustainable business model. Governance should be strengthened with expanded Board controls and increased accountability. Moreover, if the USPS is unable to achieve a sustainable business model and satisfy its financial commitments to other federal agencies, the PRC should be given stronger regulatory authority to take necessary revenue and expense measures.

***The Postal Regulatory Commission authorities are limited, leaving gaps in the supervision of significant USPS monopoly and competitive activities.***

The PRC exercises regulatory oversight of the USPS's price changes, cost allocations, and certain operations. It does not have regulatory authority over the full range of USPS operations. While the PRC can recommend changes to service standards, it cannot direct USPS to make these changes; however, the PRC can take action to ensure that the USPS complies with existing service standards following the receipt of a valid complaint. The PRC generally cannot force the USPS to make major changes in its operations or to make capital investments to meet a service standard.<sup>184</sup> As a result, many aspects of the USPS's operations lack independent regulatory oversight.

The Task Force recommends strengthening the regulatory oversight role of the PRC, providing them with expanded controls, imposing increased accountability on the USPS.

### Benefits

***USPS represents approximately 46 percent of the federal government's workers compensation cost.<sup>185</sup> The Federal Employees Compensation Act should be reformed as proposed in the President's FY 2019 Budget.***

Postal workers are more likely to be injured on-the-job due to the physical and outdoor nature of their work, as contrasted with the sedentary office work of most other federal employees. The Task Force recommends pursuing reforms to the Federal Employees

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<sup>184</sup> PRC has robust enforcement authority. It can order fines in cases of deliberate noncompliance; it has subpoena authority; and it can bring suit in federal district court to enforce and enjoin and restrain the USPS from violating its orders. 39 U.S.C. §§ 3662 and 3664.

<sup>185</sup> United States Department of Labor, Office of Workers' Compensation Programs, *Annual Report to the Congress, Fiscal Years 2013, 2014 and 2015*, (2017), available at <https://www.dol.gov/owcp/AnnualReportOWCPFY201320142015.pdf>.

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Compensation Act, that were included in the President's FY 2019 Budget with an estimated net savings of \$117 million over ten years.<sup>186</sup>

***While the USPS pension liabilities are better funded than those of the rest of the federal government, they would benefit from further reform.***

USPS has funded 87 percent of its CSRS liabilities and 88 percent of its FERS liabilities, compared to 14 percent and 83 percent, respectively, for the federal government.<sup>187,188</sup> Notwithstanding USPS's positive funded percentages, reforms are needed for the Federal Employee Retirement System, in which USPS employees participate, to increase employee contributions and to convert, where possible, to a defined contribution system. These would require legislative changes.

***The USPS, not the taxpayer, is responsible for funding the USPS's retiree health costs and the Task Force believes that it should remain this way.***

As noted above, Congress required the USPS, rather than the general taxpayer, to fund the retiree health benefits of its employees as part of a mandate for postal self-sustainability under which the USPS functions as an off-budget entity. The Task Force does not believe that this general policy should change or that the liability for USPS retiree health benefits should be shifted to the general taxpayer, either directly or through future federal appropriations.

However, as a further principle of reform, the Task Force believes that the obligation, including the \$43 billion in pre-funding payments that the USPS failed to pay into the PSRHB and the unfunded actuarial liability, must be restructured with the payments re-amortized with a new actuarial calculation based on the population of employees at or near retirement age.

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<sup>186</sup> Office of Management and Budget, *Budget of the U.S. Government: 2019*, available at: <https://www.whitehouse.gov/wp-content/uploads/2018/02/msar-fy2019.pdf>.

<sup>187</sup> United States Postal Service, *Form 10-K for the Fiscal Year Ended September 30, 2017*, available at: <http://about.usps.com/who-we-are/financials/10k-reports/fy2017.pdf>.

<sup>188</sup> United States Office of Personnel Management, *Civil Service Retirement and Disability Fund Annual Report, Fiscal Year Ended September 30, 2017*, available at: <https://www.opm.gov/about-us/budget-performance/other-reports/fy-2017-csrd-f-annual-report.pdf>.