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# DOES THE U.S. TREASURY OWE $75 BILLION TO THE POSTAL SERVICE?

## *Executive Summary*

The Postal Service Office of Inspector General (OIG) released a study in January 2010 claiming the Postal Service is entitled to $75 billion from the U.S. Treasury. The Postal OIG alleges that the U.S. Office of Personnel Management (OPM), acting as the federal government's agent, has overcharged the Postal Service $75 billion in pension costs since the 1970s. With postal pensions already well funded, the Postal OIG proposes using most of the money to support an entirely different fringe benefit: underfunded postal retiree health care. The proposed transfer would increase the burden on the U.S. Treasury and taxpayers.

At issue is how the Postal Service and U.S. Treasury should have divided the Civil Service Retirement System (CSRS) pension costs of early postal employees who had worked before July 1971 at the old Post Office Department. The Postal OIG claims its approach is required by fairness and the law. A study commissioned by the Postal Regulatory Commission (PRC) endorses the Postal OIG's approach as equitable. OPM responds that it correctly followed a 1974 law that specifically addressed the issue and was regarded at the time as fair and responsible. A study by OPM's OIG strongly supports OPM.

The Postal OIG does not claim the retirement benefits of any postal workers are threatened – they are safe – and notes the transfer would be retroactive, involving a recalculation extending back nearly 40 years.

Senator Thomas Carper (D-DE), Senator Susan Collins (R-ME), and Rep. Stephen Lynch (D-MA) introduced bills in 2010 based partially on the Postal OIG's recommendations. Senator Collins has reintroduced a modified version of her bill and more bills are expected soon.

This paper reviews the history of the allocation question, including relevant legislation, and presents the conflicting positions.

The paper then examines the subjective concept of fairness and finds strengths and weaknesses on both sides.

The costs of the existing allocation methodology have been passed forward to mail users in postage rates. The allocation methodology is not the cause of the Service's current, worrisome financial problems.

The proposed transfer's retroactivity would be unusual and raises fairness and budget concerns.

Although this issue may seem obscure, the amount of money at stake makes it worth examining carefully.

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# DOES THE U.S. TREASURY OWE $75 BILLION TO THE POSTAL SERVICE?

In January 2010, the Postal Service's Office of Inspector General (OIG) issued a report asserting, "[T]he current system of funding the Postal Service's Civil Service Retirement System pension responsibility is inequitable and has resulted in the Postal Service overpaying $75 billion..."[1] In the report, the Postal Service's OIG noted the Service's "challenging future"[2] and suggested that if the Service could recover the alleged $75 billion of pension overpayments, that would be more than enough to fund the generous and very expensive health care benefits that the Service promises to retirees. (Retiree pensions and retiree health benefits are separate retirement benefits but retiree pensions are well funded while retiree health benefits have a huge unfunded liability.)

Although the details regarding the overpayment claim are complicated, the amount of money at stake is enormous. As the Washington saying goes, "A billion here, a billion there, and pretty soon you're talking real money."[3] The aim of this paper is to help people who are not postal specialists better understand the issue.

**The postal community takes notice**

The report's effect in the postal community was electric. Most postal stakeholders quickly embraced the OIG's conclusion and now take it as a given that the Postal Service is entitled to $75 billion from the U.S. Treasury.

The Postal Service's leaders do not believe the enterprise can prosper without numerous changes, but $75 billion would greatly help; it would buy several years of stability and let the Service move more gradually on other fronts. Obtaining the transfer is one of the Service's requests to Congress in its 10-year business plan (the Action Plan).[4] Mailers are understandably enthusiastic, as well. Although mailers think that many other changes in postal operations are needed,[5] they reason that $75 billion would put the Service on a stronger financial footing, lessening the pressure to cut service and raise rates.[6] Postal unions take the position that the Service's financial problems, which they fear may "erode the gains made by postal employees over 40 years of collective bargaining," would largely disappear if not for the pension overcharge and a requirement in the Postal Accountability and Enhancement Act of 2006 (PAEA) that the Service rapidly pay down its unfunded retiree health care liability.[7] The unions contend the Service does not need major reforms, but does need back the overpayment.

The OIG report quickly sparked interest on Capitol Hill. After hearing congressional testimony from David Williams, the Postal Inspector General, Senator Richard Durbin (D-IL) likened the OIG's claim, if accepted by Congress, to finding a winning lottery ticket.[8] In response to the OIG study, Rep. Stephen Lynch (D-MA), then chairman of the House Subcommittee on the Federal Workforce, Postal Service, and the District of Columbia, introduced legislation (H.R. 5746, "United States Postal Service's CSRS Obligation Modification Act of 2010"), that would credit approximately $75 billion to the Postal Service. His bill attracted 144 cosponsors, mostly Democrats. Senator Thomas Carper (D-DE), chairman of the Senate Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security, submitted a broader bill (S. 3831, "Postal Operations Sustainment and Transformation Act of 2010") that would enact many of the reforms sought by the Postal Service in its 10-year business plan and, as the bill's centerpiece, credit the Service with $50-55 billion. Senator Susan Collins (R-ME), the ranking member of the Senate Committee on Homeland Security and Governmental Affairs, also introduced a bill (S. 4000, "U.S. Postal Service Improvements Act of 2010") that includes a $50-55 billion transfer to the Postal Service, along with several proposed reforms (generally different than those in the Carper bill). All the bills would hugely overfund the Postal Service's obligations to the Civil Service Retirement System (CSRS) as a result of the transfer from the U.S. Treasury, and they would then allow the Service to apply the money to its separate, underfunded program for retiree health care.

On the other hand, Representative Darrell Issa (R-CA), chairman of the House Committee on Oversight and Government Reform, has forcefully expressed opposition, "[A] sheep's-clothes argument already is being put forward ... for a $75 billion taxpayer bailout of USPS."[9] The National Commission on Fiscal Responsibility and Reform (the Bowles-Simpson Commission), comprised mostly of senior Democrats and Republicans, is concerned that the Postal Service's financial woes could lead to a increase in an already frighteningly large federal debt. In a report endorsed by 11 of 18 members, the Commission included a finding that postal management needs more authority over costs "[t]o put the Postal Service on a path toward long-term solvency" and reduce the possible need for federal funding.[10] In addition, the bipartisan Commission described Congress's decision to defer a portion of the Service's retiree health benefit contribution in 2009 as "a $4 billion bailout".[11] Although the deferral is better thought of as a rescheduling than a bailout, the Commission's perception suggests that a $50 to $75 billion transfer from the Treasury to the Postal Service would be widely viewed as a massive bailout – bigger than that of General Motors – unless the transfer's advocates can convincingly demonstrate that it is not a bailout. A *Washington Post* editorial, heavily criticized in the postal community, endorsed the Commission's recommendation and added that, as a matter of realpolitik, fundamental cost reform at the Postal Service is unlikely without the "leverage" of the retiree health care funding requirement.[12] Those who agree with the editorial might fear that the transfer sought by the Postal OIG would remove the lever.

In early 2011, the proposed $50-$75 billion transfer is at the top of the postal community's legislative agenda. Last year's bills died at the end of the 111th Congress, but Senator Collins has reintroduced a modified version of her bill (now S. 353, the "U.S. Postal Service Improvements Act of 2011"), Senator Carper plans to submit legislation shortly, and Rep. Stephen Lynch and Rep. Gerald Connolly are also expected to place bills in the hopper. In January 2011, postal unions, joined by associations of postal supervisors and postmasters, proposed a different approach. They sent a letter to the White House asserting that the Obama Administration can and should, on its own authority, order the Office of Personnel Management (OPM) to credit the Postal Service's pension account with $50-$75 billion.[13] The White House did not act on that request. Furthermore, when the Administration released its proposed federal budget in February, it recommended significant relief for the Postal Service, but the CSRS transfer was conspicuously missing from the list.

**A look back to the 1970s**

The pension charges that the Postal OIG is criticizing stem from actions Congress took in the 1970s. On July 1, 1971, under the terms of the Postal Reorganization Act of 1970 (P.L. 91-375), the old Post Office Department, which had been plagued by massive, chronic deficits and deteriorating service, became the U.S. Postal Service, which operates more efficiently and according to more business-like rules but is still a federal government entity. Employees who had been at the old Postal Office Department and stayed with the enterprise after the 1971 conversion continued to be federal workers, but their federal employer became the U.S. Postal Service.

The Post Office Department provided its workers with a federal retirement pension plan, CSRS, and the plan remained the same after the conversion. CSRS is a defined benefit pension plan. Benefits are based on years of service and the average salary in the highest three years. (Congress later established a different retirement system for postal and other federal workers hired after 1983, the Federal Employees Retirement System (FERS).[14] However, earlier hires, including those being discussed here, remained in CSRS.)

For Postal Service employees who had been at the Postal Office Department prior to the 1971 conversion, Congress decided that the U.S. Treasury would be responsible for the portion of their CSRS pensions attributable to service at the Post Office Department, and the Postal Service would pick up the tab for years at USPS. However, Congress soon recognized a question regarding those workers that it had not addressed in the 1970 legislation. Wage increases granted by the Postal Service after its establishment would raise highest-3-year average salaries, and the higher salaries would, in turn, boost CSRS pensions. For postal workers who started at the Post Office Department, who should be responsible for higher pension costs due to later Postal Service wage increases: the Postal Service, the U.S. Treasury, or both?

Congress considered the three options and, in July 1974, approved Public Law 93-349 specifically to answer the question. Congress decided, "the United States Postal Service shall be liable..."

The House Report accompanying the bill explained Congress's reasoning:

> "The situation with respect to the Postal Service is quite unique and results from passage of the Postal Reorganization Act. The Congress now has no control—no oversight whatsoever—with respect to the pay machinery in the Postal Service. Since each future pay raise, negotiated or otherwise granted to employees in the Postal Service, will result in a specific unfunded liability and a new financial drain on the Retirement Fund, the cost of this liability should properly and equitably be borne by the Postal Service."[15]

The Senate Report concurred, stating, "This [bill] represents, in the Committee's view, a reasonable and equitable solution to the problem, which will insure against accumulation of an unfinanced liability in the Fund."[16] Further, the Senate Report asserted that the law would not hurt the Service's bottom line: "The bill will permit the Postal Service to include the cost of financing unfunded retirement liability in its rate base for purposes of future postal rate adjustments."[17] What the Senate Report was getting at is that postal rates were then based on the Service's costs (known as cost-of-service rate regulation), and higher costs could be passed through to customers via rate adjustments, protecting the Service's bottom line. (Cost-of-service rate regulation continued until PAEA took effect.[18]) The House and Senate reports make it clear that Congress did not want the federal government to be responsible for higher pensions derived from pay negotiations between the Postal Service and postal workers over which Congress had no control. Congress also felt that any such pension costs could and should be covered by increased postage rates, making additional government support unnecessary.

### CSRS pension relief in 2003 and 2006

The next significant events regarding the issue at hand began in 2002. At the request of the General Accounting Office (later renamed the Government Accountability Office but keeping the acronym GAO), OPM undertook a study comparing the Postal Service's CSRS contributions to its liabilities. OPM is the agency that administers the pensions of federal government workers. OPM determines how much each federal retiree is qualified to receive and bills federal agencies for the costs of their workers' retirement pensions. Such a study had never been done before, and the findings surprised virtually everyone. The Service had almost fully funded its CSRS obligations, and it would eventually massively overfund CSRS, unless the contribution formula required by law were changed.[19]

The main reason for the unexpected good news was that the contribution formula used "static" economic and demographic assumptions that had been set in the 1970s and never updated. Especially important, because of the power of compound interest, was the static assumption that the Service's contributions to CSRS would earn 5% interest; actual interest rates had proven much higher. GAO, OPM, the Administration, and the Postal Service all recommended that Congress modify the law to head off the overfunding. In April 2003, Congress enacted the Postal Civil Service Retirement System Funding Reform Act of 2003 (P.L. 108-18), which reduced the Service's estimated future CSRS contributions by $78 billion. The act requires the use of "dynamic" economic assumptions, which is similar to what the newer FERS system does, and makes several other changes in line with how the Service contributes to FERS. Congress made sure that a large gap would not arise in the future between the estimated values of contributions and liabilities by directing OPM to "determine" or "redetermine" those amounts each year and, if they were unequal, to raise or lower future contributions to close the gap.

The savings would have been higher than $78 billion if not for a controversial provision supported by the Administration and OPM that increased the Service's share of CSRS responsibility for certain postal workers with prior military service. The Service, many stakeholders, and the bipartisan Presidential Commission on the U.S. Postal Service[20] complained vigorously about the military-service provision, and Congress repealed the provision in 2006, as part of PAEA. Congress's action saved the Postal Service another $27 billion in estimated CSRS contributions, bringing its total saving to $105 billion.

**In 2003-2004, the Postal Service and the Postal OIG first challenge the allocation methodology for dual Post Office Department/Postal Service employees**

Three months after Congress passed the 2003 law, the Postal Service asked OPM to change the CSRS allocation methodology for dual Post Office Department/Postal Service employees. The Postal Service insisted the 2003 act gave OPM broad discretionary power in determining how much the Postal Service owed CSRS. As to why OPM should change the methodology, the Service wrote in its 2004 *Annual Report* that the allocation rule "assigns an unreasonably large share of the burden to us" for the CSRS pensions of dual Post Office Department/Postal Service employees and, therefore, is unfair.[21] A memorandum the OIG issued in 2004, which discussed many issues related to the 2003 legislation, supported the Service's request and explained the legal reasoning this way:

> "Public Law 108-18 [the 2003 act] requires OPM to annually compute the Postal Service's share of CSRS pension costs to ensure the Postal Service fully covers all future benefits payable to its employees. *However, the legislation did not detail how OPM should calculate the Postal Service's share*... There are various interpretations of what should be included in this calculation. [Emphasis added.]"[22]

OPM refused, objecting that Congress's instruction to perform annual recalculations based on changing economic assumptions did not give OPM the broad discretionary power postulated by the Postal Service. OPM additionally argued that Congress had used cost estimates based on OPM's existing allocation methodology when considering the 2003 legislation, implying Congress did not intend to change the methodology. The 2004 OIG memorandum noted that the Service's proposed methodology would have more than doubled the cost to the U.S. Treasury of the 2003 legislation.[23]

The 2003 act provided a dispute resolution mechanism were OPM and the Postal Service to disagree. The Service could ask OPM to reconsider its calculations and, if the Service were unsatisfied with OPM's response, appeal to the respected, independent Board of Actuaries of the Civil Service Retirement System. The Board of Actuaries would then review OPM's computations and make any adjustments it found appropriate. The U.S. Code states, "A determination by the Board of Actuaries ... shall be final."[24] In January 2004, the Service asked the Board of Actuaries "to review the method and computations used by OPM."[25] The Actuaries' response, dated August 2004, categorically rejected the Service's appeal. The Board wrote that it:

> "reconsidered in detail the [OPM] methodology... We find this approach to be the most appropriate way to determine the obligations of the Postal Service and further confirm our prior finding that this method clearly follows the intent of Congress in [1974's] Public Law 93-349."[26]

At the time, this issue was considered less of a priority than the controversy regarding the military-service provision. Little was heard of it for several years after the Board of Actuaries issued its finding and Congress repealed the military-service provision.

**The Postal Inspector General's 2010 Report**

The issue reemerged and moved to center stage after the Postal OIG released a report on the subject in January 2010.[27] The report, which is far more detailed than the 2004 memorandum but reaches similar conclusions, contains both the OIG's thoughts and a study by a consultant, the Hay Group. The Hay Group is an international consulting firm with actuarial experience.

The OIG and the Hay Group repeatedly describe the current allocation formula for dual Post Office Department/Postal Service workers as unfair and inequitable. The OIG reasons:

> "[T]he critical factors for determining the size of the [CSRS] annuity are years of service and the high-3 salary. The fact that lower salaries were received early in an employee's career is irrelevant to the final pension calculation… This method of calculating the annuity is highly suggestive that years of service is the appropriate basis for allocating CSRS pension responsibility... An allocation methodology [for determining the responsibilities of the Postal Service and the U.S. Treasury] that assumes employees will receive no pay increases — not even to offset inflation — is not reasonable."[28]

A simplified example can clarify the difference between what the Postal OIG thinks would be fair and the existing allocation procedure. Suppose an individual began working for the Post Office Department in mid-1956 and retired from the Postal Service in mid-1986. In the Postal OIG's view, the U.S. Treasury and the Postal Service should each have paid half the CSRS pension because the worker spent 15 years at the Post Office Department and 15 years at the Postal Service. In actuality, the Treasury would have been charged less than the Postal Service because the Postal Service had to pay the added CSRS pension costs due to the wage increases it granted after its reorganization as an independent government enterprise. (An additional difference arises because early years of service are multiplied by a smaller percentage in computing actual CSRS pensions than later years of service.[29] Early years of service would have been at the Post Office Department and later years, with a higher matching rate, would have been at the Postal Service.)

The OIG blames OPM for the allocation methodology that has been in place since the 1970s:

> "OPM established assumptions about how the Postal Service and the federal government would divide the CSRS obligations for postal employees who worked before and after July 1, 1971... Under OPM's methodology, the Postal Service is responsible for *all* pay increases since 1971. [Emphasis in original.]"[30]

The Hay Group similarly faults OPM for refusing to charge the U.S. Treasury a share of the higher CSRS pension costs due to later Postal Service pay raises: "The current method of allocating these [CSRS] obligations, as developed by the Office of Personnel Management (OPM), is inequitable to the Postal Service."[31] The Hay Group acknowledges that OPM developed its methodology in response to Congress's instructions: "This law [P.L. 93-349 of 1974] required that, in addition to the Normal Cost payments, the Postal Service would be required to fund the increases in pension liabilities resulting from pay increases."[32] However, the Hay Group claims that the 2003 law effectively repealed the 1974 law. It argues:

> "With... [the 2003 law's] passage, the Postal Service CSRS pension obligation was completely redefined. Under the new law, the Postal Service was required to fund CSRS pension benefits based on a 'dynamic actuarial model'. A 'dynamic actuarial model' anticipates the effect of inflation, which includes both increases in salary and cost of living adjustments on pensions in payment."[33]

The OIG and the Hay Group estimate that if their years-of-service allocation methodology is substituted for the existing allocation methodology and applied retroactively from the early 1970s to the present, the Postal Service would be owed $75 billion through 2009.[34] The amount is so large because the recomputation would cover nearly 40 years and refund the money with interest.[35]

The Postal Service's CSRS pension obligations are currently well funded, and an additional $75 billion would massively overfund them. In contrast, a different fringe benefit promised to postal retirees, retiree health care, had an estimated unfunded liability of $48.6 billion at the end of fiscal year 2010.[36] The Postal OIG recommends that if $75 billion is credited to the Postal Service based on a retroactive CSRS recomputation, most of the money "be used to fully discharge [the Service's] accrued retiree health care liabilities. This would put the Postal Service on a sound financial footing."[37]

**The PRC/Segal study**

At the Postal Service's request, the Postal Regulatory Commission (PRC) also examined this issue, hiring the Segal Company, an employee benefits and human resources consulting firm, to provide technical expertise. The PRC released a study from the Segal Company, together with its own comments, at the end of June 2010.[38] The Segal Company explained that it was "charged with providing a 'fresh look' without an objective of consistency with prior laws or practice..."[39] Accordingly, it would not "deal with the history accumulated over [the past] forty years..."[40] The Segal study can be thought of as addressing this question: If, counterfactually, today's accounting principles and practices had been the accepted standard in the early 1970s, what allocation methodology for the CSRS pension costs of dual Post Office Department/Postal Service employees would have seemed fairest then.

The Segal Company concluded that both the OPM and Postal OIG allocation methodologies are "within the range of acceptable allocations".[41] However, Segal does not believe "the OPM methodology is 'fair and equitable'… [unless] the 1974 legislation that underlies the OPM methodology" still applies.[42] Leaving aside the 1974 law, Segal supports the OIG's methodology, with one significant modification. (CSRS's matching rate is lower for early years of employment, which occurred at the Post Office Department, than for later years. Segal accounts for the different matching rates in determining Treasury and Postal Service responsibilities while the OIG ignores the differences.[43]) Based on its modified version of the OIG allocation methodology, the PRC/Segal study estimates the Postal Service overpaid its CSRS liability for postal employees who had previously worked at the old Post Office Department by $50-$55 billion.[44]

**OPM's reply**

OPM's position might be summarized as follows. It believes its role, as a government agency, is to administer the law, not make law. It thinks its allocation methodology for the CSRS pension liabilities of dual Post Office Department/Postal Service workers carries out the directive Congress gave it in 1974. It does not think Congress implicitly overrode the old law in 2003, basing its judgement on the 2003 act's language and legislative history. It believes the 2004 decision of the CSRS Board of Actuaries confirmed its judgement.

OPM told Congress in April 2010:

> "Congress first spoke to this issue in 1974, when it established the policy whereby increases in the retirement value of pre-1971 Postal employment due to increases in Postal salaries (essentially the sole basis for the increases in value) should be paid for by the Postal Service. This is the policy that OPM has followed ever since in making its calculations."[45]

At the same hearing, OPM defended the existing allocation methodology as reasonable and noted that the Postal Service held a similar view for many years. "The Postal Service supported enactment of this policy in 1974 and made no objection to it for almost 30 years until 2003, when it sought a new approach that would reduce its obligations."[46]

OPM said it would not object to the Postal Service's proposed allocation methodology if that is what Congress were to choose; OPM's objection is that the Service's proposed methodology "is not possible based upon current legislation."[47] OPM stated it "did not find any reference in the legislative history of that [2003] bill to indicate that Congress took any issue with the methodology by which OPM calculated Postal CSRS obligations."[48] OPM referred to the finding by the CSRS Board of Actuaries that agreed with its actions. OPM also cited a GAO study undertaken at Congress's request while the 2003 legislation was being developed. As part of the study, GAO examined OPM's CSRS methodology, including that for dual Post Office Department/Postal Service employees, and while GAO suggested modifying some calculations, it did not fault the methodology.[49]

In September 2010, in a letter to the PRC, OPM wrote that it could find no evidence in the legislative history of either the 2003 or 2006 laws that Congress intended to change the CSRS allocation rule for dual Post Office Department/Postal Service employees. OPM believed the issue's absence from the 2006 legislation was a significant indicator of Congressional intent because the dispute was well known by then. OPM also observed that the committee reports associated with the 2003 and 2006 bills included "cost figures ... based upon calculations using the current [OPM allocation] methodology. If the current methodology could have been changed by either law, the cost would have been reflected in the Congressional reports."[50] (In contrast, to change a CSRS allocation rule involving far less money, Congress included detailed language in the 2003 and 2006 bills regarding Treasury and Postal Service responsibility for the CSRS pensions of certain postal workers with military service. The bills' cost estimates reflected those specified changes.)

**The OPM OIG enters the fray**

In February 2011, the OPM OIG released a report that reviews several Postal OIG studies.[51] In the Postal OIG studies, the common theme is that the Postal Service has been forced to contribute too much towards its pension and retiree health benefit obligations because of overly strict statutory requirements and errors by OPM. The Postal OIG recommends the Service attempt to recover the money and thinks some of the modifications could be made by OPM on its own authority (notably the $75 billion) and some would require Congressional action. Table 1 lists the Postal OIG's claims, and also shows the CSRS savings the Service received in 2003 and 2006.

In preparing its analysis, the OPM OIG reviewed the Postal OIG studies, various other studies, relevant laws and legislative histories, OPM practices, and the functioning of the federal pension and retiree health care programs.

The OPM OIG did not evaluate the Postal OIG's complaint about OPM's health care inflation assumption because OPM has modified its calculations in line with the recommendations in a PRC study.[52] (The Postal OIG, however, contends the modifications do not go far enough.) The OPM

| **Table 1 Pension Relief Congress Has Already Granted The Postal Service And Additional Pension And Retiree-Health-Benefit Relief Sought By The OIG** | | |
|---|---|---|
| **Prior relief** | | **Estimated Saving** |
| Postal Civil Service Retirement System Funding Reform Act of 2003 (P.L. 108-18) | Response to GAO and OPM finding that Postal Service was on track greatly to overfund CSRS | $78 billion, net |
| Postal Accountability and Enhancement Act of 2006 (PAEA, P.L. 109-435) | Reversal of a controversial provision in 2003 law regarding the Service's CSRS responsibility for workers who had earlier served in the military | $27 billion, net |
| **Total estimated net CSRS savings already granted by Congress** | | **$105 billion, net** |
| **Additional overfunding claims by Postal OIG** | | **Sought from U.S. Treasury** |
| Alleged CSRS overcharge for dual Post Office Department/Postal Service employees | | $75 billion |
| Draw down CSRS/FERS funding to 80% and retiree health care funding to 30% (Current funding exceeds these levels.) | | $55.1 billion |
| Recover FERS funding in excess of 100% (OPM estimates FERS is now more than 100% funded. The Administration endorses this proposal.) | | $5.5 billion |
| Use a lower health care inflation assumption in calculating retiree health care funding needs (OPM adjusted its computation in response to earlier OIG criticism, but the Postal OIG wants the assumption further lowered.) | | $6.8 billion |
| **Total amount the Postal OIG claims the U.S. Treasury still owes the Service** | | **$142.4 billion** |
| For a summary of the Postal OIG's claims, see U.S. Postal Service Office of Inspector General, "Summary Of Substantial Overfunding In Postal Service Pension And Retiree Health Care Funds," Report Number FT-MA-10-002, September 30, 2010, esp. pp. 1-4 and 9-12, accessed at http://www.uspsoig.gov/foia_files/FT-MA-10-002.pdf. The numbers are those in the Postal OIG report. | | |

OIG found that it could "generally agree" with the proposal regarding FERS funding in excess of 100%.[53]

However, the OPM OIG stated that it must "strongly object" to the Postal OIG's other proposals.[54] Regarding the Postal OIG's contention that OPM has misapplied the law, the OPM OIG reached the opposite conclusion: "The OPM has complied with the law as written on all accounts. To say otherwise is both inaccurate and obscures the true causes of USPS's current crisis."[55] With respect to the Postal OIG's insistence that OPM has the authority and responsibility under current law immediately to transfer $75 billion of CSRS obligations from the Postal Service to the U.S. Treasury, the OPM OIG vehemently disagreed: "It would be *highly* inappropriate for the OPM to unilaterally make such a decision without clear statutory direction from Congress. [Emphasis in original.]"[56] Based on its review of the evidence, the OPM OIG does not believe OPM and the law are treating the Service unfairly. Moreover, in the OPM OIG's opinion, carrying out the Postal OIG's proposals would be costly for taxpayers and dangerous for federal retirees because the proposals would:

> "serve only to provide USPS with operating capital, which would potentially shift costs from USPS ratepayers to taxpayers. The proposals would create a dangerous precedent whereby the trust funds' assets are used for purposes other than the payment of benefits. If this became common practice, the financial soundness and integrity of the trust funds would be severely compromised."[57]

In essence, the OPM OIG regards several of the Postal OIG's proposals, including the $75 billion transfer, as raids on federal retirement funds and the U.S. Treasury that would give the Service short-term financial relief but burden taxpayers; "have little, if any, positive impact on the USPS's ultimate long-term profitability;" and "have a lasting negative impact upon the [federal] retirement programs and trust funds."[58] It is extraordinary to witness such violent disagreement between two federal OIGs.

**Five uncontested facts**

This is complicated material. It may be helpful to note five facts that are not in dispute.

■ *This issue only pertains to contributions the Postal Service made to fund its old CSRS pension system.* The dispute here concerns the Postal Service's CSRS contributions. CSRS is the old pension system for federal workers and has been closed to new hires for approximately a quarter century. Postal Service contributions to the newer pension system for federal workers (FERS) are not at issue here. Also, while the OIG would like to use the proposed refund to pay off the Postal Service's liability for retiree health care, the OIG does not contend the alleged overpayment arose there.

■ *The issue is further limited to a subset of CSRS pensions.* The dispute here only concerns the Postal Service's CSRS contributions for employees who moved from the Post Office Department to the Postal Service in 1971. It does not concern CSRS pension costs for postal employees who had not earlier worked at the Post Office Department.

■ *The existing CSRS allocation formula does not jeopardize the CSRS pensions of postal retirees.* This is the first concern of many people on learning of the dispute. The answer is that the pensions of postal workers and retirees who are in the CSRS system are safe. One reason is that the Postal Service's pension obligations are well funded. A second reason is that because CSRS is an old, closed pension system, most CSRS benefits to postal retirees (and in some cases their survivors) have already been paid. The Postal OIG does not claim CSRS is inadequately funded or in danger of not paying promised benefits; it claims the Postal Service has contributed $75 billion too much over the years and is entitled to that amount from the U.S. Treasury.

■ *The Postal OIG's $75 billion claim is retroactive, extending back nearly 40 years.* This is stated explicitly in the OIG and PRC/Segal studies but is easy to overlook. The OIG notes that it seeks $75 billion from the U.S. Treasury for overpayments it says occurred over the period 1971-2009. That envisions reopening and adjusting all charges to the Postal Service, starting in the early 1970s, for dual Post Office Department/Postal Service employees. The PRC/Segal study similarly comments, "[T]his calculation is purely retrospective."[59]

■ *The Postal OIG would also change the allocation method prospectively, lightening the Postal Service's responsibility for future CSRS payments. The OIG's $75 billion number does not include those additional future savings to the Postal Service (and costs to the U.S. Treasury).* As noted, the $75 billion transfer would be exclusively retroactive, for past CSRS contributions by the Postal Service. Some CSRS contributions will be due in future years, and the Postal OIG recommends modifying the allocation methodology for them also. The Segal Company estimates that if the allocation rules were changed for future contributions, the OIG's allocation methodology would reduce the Postal Service's CSRS liability by $10 billion, and the PRC/Segal allocation methodology would lower it by $6-$8 billion.[60] (The retroactive and prospective numbers are vastly different because most of the pension benefits for the workers at issue were paid long ago.)

**Looking to the law**

American government is based on the rule of law. Therefore, the most compelling evidence that the Postal Service has been overcharged and merits a refund would be if it could be demonstrated that OPM's allocation methodology is inconsistent with the law and has forced the Service to pay more than it truly owes under the law. This paper does not provide a legal analysis. However, to let readers better understand the arguments, the paper has reviewed the history of the allocation procedure, including past legislation, and has summarized the sharply divergent views of, on one side, the Postal Service and Postal OIG and, on the other side, OPM, the Civil Service System Board of Actuaries, and the OPM OIG.

**Fairness**

Disputes about fairness are notoriously difficult to resolve because fairness is a subjective, in-the-eye-of-the-beholder concept. Reasonable people often disagree about what they believe is fair, and perceptions of fairness often change over time.

Today, the Postal OIG thinks the existing allocation rule for the CSRS pensions of dual Post Office Department/Postal Service employees is unfair, with a major problem being that it does not adjust the Treasury's liability for inflation. The OIG also believes Congress and government agencies see the Postal Service as a cash cow and frequently shortchange it. The PRC/Segal study concurs that the existing allocation rule is inequitable, basing its judgement on the Segal Company's understanding of current actuarial principles and practices.

However, in the early 1970s, the law that led to the existing allocation rule was regarded as a fair and sensible way to tie a loose end, and it was supported by both parties in Congress, the Comptroller General, the Civil Service Commission, the Office of Management and Budget – and the Postal Service.[61] The Postal Service's General Counsel, Louis Cox, wrote in a letter to the Senate, "The attached bill represents an approach that we believe would be equitable both to postal ratepayers and the public."[62] Similarly, the Postal Service advised the House:

> "This legislation has been proposed on the ground that the Postal Service should operate on a financially self-sufficient basis, meeting its operating costs out of its revenues and not out of hidden subsidies. After careful consideration—and in full awareness of the financial burdens enactment of the bill will impose—the Postal Service has concluded that it is proper, as a matter of principle, for these costs to be imposed on postal ratepayers rather than the taxpayers."[63]

On each side, the arguments underlying the divergent positions have both strengths and weaknesses. For example, because Congress does not set workers' salaries at the Postal Service (it had at the old Post Office Department), there was a widespread belief in Washington in the 1970s that it was equitable to hold the Postal Service, not taxpayers, responsible for higher costs, including higher pension costs, due to wage increases granted by the Service. In addition, Congress had given the Postal Service more management discretion than is normal for government agencies, and the goal was for the Service to become financially self-sufficient. Congress then assumed that higher postal costs could and should be passed on to users, as is normal with the cost of any commercial good or service.

Making the Service fully responsible for its wage increases may also have been seen as guarding against moral hazard. (Moral hazard refers to a situation in which a party behaves carelessly because it is partially or fully protected from the adverse consequences of its actions.) The fear may have been that the Postal Service would be too willing to raise wages if it only had to pay part of the extra cost. On the other hand, that thinking neglects a different type of moral hazard regarding labor costs. Congress has placed statutory restrictions on the Postal Service that reduce its ability to control labor costs, such as the requirement that collective bargaining disputes go to binding arbitration when the Service and a postal union cannot reach an agreement. The moral hazard Congress failed to address is that it may too readily limit the Service's ability to manage labor costs because Congress receives credit from worker groups for imposing various restrictions on the Postal Service but largely escapes blame if the result is heavier labor costs. In other words, the government removed a moral hazard that would have let the Postal Service burden the Treasury but kept a moral hazard that went in the other direction.

The Postal OIG advances a plausible case that the Treasury should share responsibility for higher pension costs due to wage increases that merely keep pace with inflation. On the other hand, while private parties often include inflation adjustments in contractual agreements, they frequently do not; the lack of inflation indexing is not regarded as necessarily rendering an agreement unfair. The subject of indexing also arises in the tax system. Some observers (including the author of this paper) think most tax parameters should be inflation indexed to measure income more accurately, for both efficiency and equity. However, while some tax parameters are indexed, such as tax brackets, the personal exemption, and the standard deduction, others are not indexed, such as the income thresholds at which Social Security benefits become taxable, depreciation allowances, and the calculation of capital gains (with the result that individuals and businesses are often taxed on phantom profits and gains).

The PRC/Segal study may be correct that the existing allocation rule scores poorly in terms of today's actuarial principles and practices. However, as the study was careful to note, its conclusions are not based on the Postal Service's history or what may have seemed reasonable then, which may lessen the study's relevance in assessing the fairness of past events.

The Postal OIG complains there are numerous financial entanglements between the Postal Service and the rest of the federal government and that the lack of arms-length treatment generally disadvantages the Service. The OIG regards the existing allocation methodology as part of this inequitable pattern. The OIG is definitely right that Congress and government agencies often treat the Postal Service differently in terms of finances (and other ways) than they would a normal business. However, some entanglements are unavoidable when an organization is a government-owned enterprise carrying out a government-assigned mission.[64] Ironically, when the now-disputed allocation rule was adopted in the 1970s, it was seen as a way of removing one undesirable entanglement between the Service and the U.S. Treasury. The OIG is also right that the Postal Service's financial ties with other parts of the government sometimes hurt the Service. However, special financial arrangements sometimes benefit the Service. There is not a general pattern. For instance, the agency can borrow up to $15 billion from the U.S. Treasury at just over the Treasury's own cost of funds, a privilege many cash-strapped private-sector companies would envy. When the allocation rule was originally adopted, Congress had just given the new Postal Service the assets and goodwill of the old Post Office Department and, to help it succeed, were pumping billions of dollars into the organization. Congress continued to do so until the early 1980s, with taxpayer-funded appropriations summing to approximately $27 billion over the period.[65] At the time, the Postal Service was regarded as anything but a cash cow.

A key fairness issue, of course, is whether the Service has been overcharged compared to what is authorized by law, but that was discussed above and will not be repeated here.

**Would the Postal Service's finances be stronger today if the allocation rules to which the OIG now objects had never been adopted?**

This is an especially relevant question given the Service's large recent financial losses. The answer might seem to be "yes". Since the 1970s, the

Service's costs have been somewhat higher than otherwise because it has been fully responsible for increased CSRS pension costs due to the wage increases it has granted. Don't the higher costs necessarily hurt its bottom line? According to one stakeholder, "The Administration is exploiting an outmoded method to calculate the Postal liability, which has financially crippled the institution."[66]

In fact, the answer is "no". As indicated by the earlier quote from the Senate Report accompanying the 1974 law, the explanation has to do with the rate-regulation process. From mid-1971 until PAEA's rate regulation took effect, postal rates were based on the Service's expected costs, with the goal of having the Service break-even over time. Costs due to the CSRS allocation methodology were passed along to mail users in postal rates (which were still some of the lowest in the world), with the result that the CSRS allocation rule affected rates, not net income. The OIG's Report indirectly acknowledges this while emphasizing what it regards as the unjust cost allocation: "[D]uring the period when postal rates were set to cover costs, citizens and businesses were charged far in excess of what was needed to fund CSRS benefits."[67]

As a hypothetical illustration, suppose a policy lifts a firm's costs from, say, $1,000 to $1,010, and the firm is subject to cost-of-service rate regulation. If everything else stayed constant, the firm's net income would drop by $10. However, given the regulatory system, net income would not fall because the firm could adjust its rates to increase revenue by $10 in response to the added cost.[68] Consistent with this illustration, the Service came remarkably close to its break-even target during most of its history. At the beginning of 2000, it had a cumulative deficit since reorganization of $3.5 billion (less than 0.4% of cumulative revenues or costs), and, at the start of 2006, it registered a cumulative surplus since reorganization of $2.3 billion.[69] Since then, PAEA has changed the regulatory system, but CSRS costs, including those due to the existing allocation methodology, were embedded in the rate base when the new system began, affording the Service's bottom line almost as much protection from CSRS expenses as before. The Postal Service's current financial troubles are due, instead, to the triple whammy of the severe recession, accelerated electronic diversion since the recession's start, and an ambitious and inflexible schedule for funding the retiree health benefits promised to postal employees.

**The retroactivity issue**

The $75 billion sought by the Postal OIG would provide retroactive relief, using a new allocation methodology to recompute nearly four decades of Postal Service CSRS obligations for dual Post Office Department/Postal Service employees.

Retroactive changes are not unprecedented, but they are unusual. The government normally changes laws prospectively, not retroactively. This is especially true with criminal laws,[70] but it is also typical with civil statutes. In the rare cases in which laws are retroactive, it is usually to provide relief, and the retroactivity is generally quite limited. The military-service provision in the 2003 postal law was an exception, but Congress repealed that provision in 2006.

Consider some examples from the tax code. As part of the 2001 tax act, Congress decided it was unfair not to allow married couples twice as large a standard deduction as singles. However, Congress did not make the relief effective immediately and most certainly did not give couples any refunds for prior years in which the joint standard deduction was less than twice that for singles. As another example, the Economic Recovery Tax Act of 1981 indexed individual income tax brackets to inflation, following years of inflationary bracket creep in which inflation pushed individuals into higher and higher income tax brackets. However, Congress directed that the indexing not begin until 1985, and gave taxpayers no relief for the inflationary bracket creep they had suffered in prior years. A third example illustrates the typically limited time frame of retroactivity when Congress does approve it. One provision in the December 2010 tax act temporarily "patched" the alternative minimum tax (AMT) and made the patch retroactive to the start of 2010, restoring a measure of relief that had been in place since 2001 but had temporarily lapsed in 2010. If Congress ever decides to repeal the AMT on fairness grounds, the possibility it would refund all past AMT collections is virtually zero.

The rarity of retroactive relief may create a perceptual problem for the Postal OIG's proposal. People might ask why the Postal Service should receive a type of relief not ordinarily granted to individuals and businesses, and view such relief as special treatment. This objection would be easiest to overcome if rigorous legal analysis persuasively demonstrated that the existing allocation methodology is contrary to law.

A different problem with retroactivity in this particular case is that it is not possible to send refunds to those who ultimately paid the bills. As was noted, rate regulation allowed the Postal Service to pass on to mail users its higher costs due to the CSRS allocation methodology. If the methodology is retroactively reversed, it is those customers who should receive refund checks; the Service should not obtain the money because it was already compensated through the postal rates it charged. Unfortunately, it is impossible now to identify those past mail users and determine how much each is owed. One might rationalize that the Postal Service would probably pass along some of the refund to future mailers in the form of lower rates, but future mailers will often be different from past mailers, especially with the shift over time from first-class mail to standard (advertising) mail.

Another problem with retroactivity is cost: retroactive relief is extremely expensive (far more so than prospective relief). That concern leads into this paper's next section.

**Impact on federal government finances**

The Administration estimates the federal government's deficit will climb to 76% of revenues in 2011 (it was 60% in 2010), and remain monumentally high in future years.[71] The enormous deficits are weakening the U.S. dollar's status as the de facto world reserve currency, increasing our dependence on foreign investors (including sometimes unfriendly foreign governments) for debt financing, and pushing up future debt service costs. The Administration estimates gross federal debt will equal 103% of Gross Domestic Product (GDP) in 2011.[72] (The Administration estimates publicly held debt, which excludes debt held in federal government accounts, will be 72% of GDP in 2011.)

History contains abundant evidence that high debt increases the odds of a financial crisis, such as the one now occurring in Greece, especially if much of the debt is held abroad. Recent studies using data from many countries over long time periods have also found that nations often grow more slowly, sometimes by a lot, after gross central government debt exceeds 90% of GDP.[73] Weak economic growth is a concern because it means a dimmer future: reduced improvements to look forward to in productivity, real wages, opportunities for advancement, and living standards. The numbers for the United States are already close to or in the danger zone, and are especially alarming because enormous new spending pressures are just ahead: entitlement spending is expected to rise sharply as most of the baby-boom generation enters the retirement years.

Given the frighteningly large federal deficit and the mushrooming federal debt, a \$50-\$75 billion credit to the Postal Service and debit to the U.S. Treasury will be a difficult sell, politically and economically. Although some advocates of a \$50-\$70 billion transfer assert it would be "an internal transfer of surplus pension funds" that would allow the Postal Service to fund promised retiree health benefits "at no cost to taxpayers,"[74] the reality is that the transfer would shift more obligations to Treasury, which would increase the already heavy burden on taxpayers, who ultimately pay Treasury's bills. (The Congressional Budget Office (CBO) prepares the official cost estimates for bills before Congress. Judging by how it has scored some earlier postal bills, CBO would undoubtedly report that the transfer would increase the federal budget deficit.[75]) For those attempting to reduce the federal deficit, the transfer would be a \$50-\$70 billion setback.

Notwithstanding these budget concerns, the Postal Service should be credited with the money if OPM mistakenly charged the Service more than the law allows. Providing the credit would then be very roughly analogous to the government sending a refund to a taxpayer who overpaid his or her taxes, issuing a check to a contractor for the agreed upon amount in a government contract, or paying restitution after losing a court case. However, if OPM's allocation methodology is consistent with the law, Congress should weigh the merits of the proposed transfer against efforts to rein in the federal budget deficit. If Congress decides to approve a transfer but not for such a large amount, it should be aware that the budget cost would drop by an order of magnitude if the allocation formula were changed prospectively, not retroactively.[76]

**Conclusion**

As the Postal OIG's claims continue to be debated, they should not become a distraction from an urgent short-term problem for the Postal Service and vital long-term need. The short-term emergency is the aggressive, 10-year schedule that Congress enacted in 2006 for funding the Service's retiree health care promises, which requires the Service to make a $5.5 billion payment to the government no later than September 30. The Service does not have enough money to meet that obligation and will default unless the law is changed. A default would harm the Postal Service's reputation, and there is a nontrivial risk it would reduce investors' confidence in the United States, which would hurt American businesses and the U.S. government when they borrow in security markets. Because of these dangers and because there is nothing magical about the 10-year schedule (it relied on an overly optimistic estimation of what the Service could afford to pay), Congress should lengthen the schedule, ideally well before September 30 to minimize uncertainty.

The long-term challenge is that because of weak mail demand and a shift away from lucrative first-class mail, the Postal Service needs to adjust its operations and greatly reduce costs if it is to continue providing reliable, economical mail service throughout the nation while remaining financially viable. Throughout the last decade, the Service has acted skillfully and forcefully to trim costs while maintaining service quality. For example, it reduced total employees (career and noncareer) by 230,000 (25%) from 2000 to 2010, with 114,000 of the reduction just since 2007.[77] However, Congress has enacted statutory restrictions and exerted political pressure that have significantly slowed the rightsizing efforts. For the Service to be self-supporting, Congress must scale back expensive restrictions that are either unrelated to the agency's mail-delivery mission or not cost effective in terms of that mission. If Congress refuses to let the Service better manage its costs, the Service will not be able to pay its own way in the future, and receiving the transfer sought by the Postal OIG would only delay the day of reckoning by a few years.

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*This is another of a continuing series of IRET papers examining the U.S. Postal Service. IRET began its work in this area in the mid 1990s. Norman Ture, the organization's founder, believed that growth and prosperity are advanced by restricting government to a limited set of core functions. From this perspective he was concerned about the activities of government owned and sponsored businesses. The Postal Service stands out among government businesses because of its size – it currently employs about 25% of the federal government's civilian workforce. For many years – but fortunately much less so in recent years – it was also notable for aggressively trying to expand beyond its core mission into nonpostal commercial markets.*

## *Endnotes*

1. U.S. Postal Service Office of Inspector General, "The Postal Service's Share Of CSRS Pension Responsibility," RARC-WP-10-001, January 20, 2010, Introduction by David C. Williams, Inspector General, accessed at http://www.uspsoig.gov/foia_files/RARC-WP-10-001.pdf.

2. *Ibid*.

3. This saying is often attributed to Senator Everett Dirksen. Although it would be consistent with his beliefs and many of his comments, the Dirksen Congressional Center has been unable to confirm that he coined it. (The Dirksen Congressional Center, "A Billion Here, A Billion There..." accessed at http://www.dirksencenter.org/print_emd_billionhere.htm.)

4. U.S. Postal Service, "Ensuring A Viable Postal Service For America; An Action Plan For The Future," March 2010, pp. 1, 11, accessed at http://www.usps.com/strategicplanning/_pdf/ActionPlanfortheFuture_March2010.pdf.

5. See, for instance, Affordable Mail Alliance, "Reply Comments Of The Affordable Mail Alliance," submitted to Postal Regulatory Commission, Docket No. R2010-4, September 2, 2010, pp. 7-11, accessed at http://prc.gov/Docs/70/70073/10-09-02%20AMA%20reply%20comments.pdf.

6. See, for example, PostCom, "A Postal Rate-Payer's Perspective; Retiree Health & Pension Benefit (RHPB) Reform," undated, accessed at http://www.postcom.org/public/2010/RHPB.pdf.

7. William Burrus, President, American Postal Workers Union, "USPS Liabilities Are A Colossal Sham: OIG Says USPS Could Recover $142.4 Billion," Burrus Update #17-2010, October 8, 2010, accessed at http://apwu.org/news/burrus/2010/update17-2010-101008.htm.

8. Richard Durbin, chairman, Senate Appropriations Committee, Financial Services and General Government Subcommittee, remarks during Postal Service hearing, March 18, 2010, webcast of hearing at approximately minute 104:45, accessed at http://appropriations.senate.gov/webcasts.cfm?method=webcasts.view&id=0ab901bd-d6f5-40c0-8f6e-49bb6fca1f69.

9. Darrell Issa, "Time For Another Government Bailout," *The Washington Times*, September 20, 2010, accessed at http://www.washingtontimes.com/news/2010/sep/20/time-for-another-government-bailout.

10. The National Commission On Fiscal Responsibility And Reform, "The Moment Of Truth," December 2010, p. 47, accessed at http://www.fiscalcommission.gov/sites/fiscalcommission.gov/files/documents/TheMomentofTruth12_1_2010.pdf. The Commission's recommendation is similar to the parts of the Carper bill that do not deal with CSRS.

11. *Ibid*.

12. *The Washington Post* "The Postal Service's Failure To Deliver Needed Reforms," Editorial, December 6, 2010, accessed at http://www.washingtonpost.com/wp-dyn/content/article/2010/12/06/AR2010120606342.html.

13. American Postal Workers Union, National Association of Letter Carriers, National Rural Letter Carriers Association, National Postal Mail Handlers Union, National League of Postmasters of the United States, and National Association of Postal Supervisors, Letter to President Barack Obama, January 12, 2011, accesed at http://www.apwu.org/news/webart/2011/11-006-uspsfinances-obamaletter-110113.pdf. Five organizations representing commercial mailers later sent a similar letter to the White House. See http://www.postcom.org/public/2011/Letter%20to%20POTUS.pdf.

14. For a history of the two systems, see Johnny C. Finch, Assistant Comptroller General, U.S. General Accounting Office, "Testimony," Before the Subcommittee on Post Office and Civil Service, Committee on Governmental Affairs, United States Senate, GAO/T-GGD-95-172, May 22,1995, accessed at http://archive.gao.gov/t2pbat1/154296.pdf.

15. House of Representatives, 93rd Congress, 1st Session, "Postal Service Payments To Retirement Fund," Report No. 93-120, to accompany H.R. 29, April 11, 1973, p. 4.

16. U.S. Senate, 93rd Congress, 2nd Session, "Payments Of Unfunded Liability By The U.S. Postal Civil Service Retirement Fund," Report No. 93-947, to accompany H.R. 29, June 19, 1974, p. 4.

17. *Ibid*.

18. PAEA substituted a new system of rate regulation known as rate-cap rate regulation. The new system gives the Service more flexibility to set the prices of its competitive products but limits rate increases on products where it dominates the market to no more than the inflation rate. A rate case was first decided under the new system in 2008.

19. See U.S. General Accounting Office, "Review Of The Office Of Personnel Management's Analysis Of The United States Postal Service's Funding Of Civil Service Retirement System Costs," GAO-03-448R, January 31, 2003, accessed at http://www.gao.gov/new.items/d03448r.pdf. Also see Patrick Purcell and Nye Stevens, "Funding Postal Service Obligations To The Civil Service Retirement System," Congressional Research Service, Order Code RL31684, Updated March 28, 2003, accessed at http://www.promanager.org/fileManager/393Funding%20Postal%20Service%20Obligations%20to%20the%20Civil%20Service%20Retirement%20System,%20RL31684.pdf.

20. For the Presidential Commission's assessment, see President's Commission on the U.S. Postal Service, "Embracing The Future; Making The Tough Choices To Preserve Universal Mail Service," July 31, 2003, pp. 125-126, accessed at http://www.treasury.gov/press-center/press-releases/Documents/pcusps_report.pdf.

21. U.S. Postal Service, *Annual Report, 2004*, p. 26, accessed at http://www.usps.com/history/anrpt04/anrpt04.pdf.

22. U.S. Postal Service Office of Inspector General, "Postal Service's Funding of the Civil Service Retirement System," FT-OT-04-002, April 9, 2004, p. 8, accessed at http://www.uspsoig.gov/foia_files/FT-OT-04-002.pdf.

23. *Ibid*., fn. 3, p. 3.

24. U.S. Code, Title 5, sec. 8423(c).

25. Postal Service, *Annual Report, 2004*, *op. cit*., p. 26.

26. The Actuaries' letter is appended to the 2010 OIG report. See Postal OIG, "The Postal Service's Share Of CSRS Pension Responsibility," *op. cit*., end of Appendix B. (In a letter also reprinted in Appendix B, OPM argued that only computations within the methodology are subject to review, not the methodology itself. Nevertheless, OPM forwarded the appeal, and the CSRS Board of Actuaries did reconsider the methodology, which it affirmed.)

27. Postal OIG, "The Postal Service's Share Of CSRS Pension Responsibility," *op. cit*. Since then, the Postal Service's Inspector General, David C. Williams, has discussed this issue several times in congressional testimony. See, in particular, David Williams, Inspector General, U.S. Postal Service, "Oral Statement On 'Continuing to Deliver: An Examination of the Postal Service's Current Financial Crisis and its Future Viability'," before the Subcommittee on the Federal Workforce, Postal Service, and the District of Columbia, House Committee on Oversight and Government Reform, April 15, 2010, accessed at http://www.uspsoig.gov/testimony/testimony_041510.pdf; and David Williams, Inspector General, U.S. Postal Service, "Oral Statement On 'The Future of the U.S. Postal Service'," before the Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security, Senate Committee on Homeland Security and Governmental Affairs, April 22, 2010, accessed at http://www.uspsoig.gov/testimony/testimony_042210.pdf.

28. Postal OIG, "The Postal Service's Share Of CSRS Pension Responsibility," *op. cit*., p. 2.

29. The high-3 average salary is multiplied by 1.5% for each of the first five years of service, by 1.75% for each of the next five years, and by 2% for each later year. The sum of these amounts is the retiree's CSRS pension benefit. (See *Ibid*., Hay Group Appendix, p. 7.)

30. *Ibid*., p. 1.

31. *Ibid*., Hay Group Appendix, p. 1.

32. *Ibid*., Hay Group Appendix, p. 3.

33. *Ibid*., Hay Group Appendix, p. 5.

34. The Hay Group estimates the difference was $59 billion for 1971-2006, and the OIG estimates the difference would rise to $75 billion if extended through 2009. (See *Ibid*., p. 3 and Hay Group Appendix, p. 26.)

35. For a year-by-year breakdown of interest rates embedded within the computation, see *Ibid*., Hay Group Appendix, pp. 24-25.

36. U.S. Postal Service, Annual Report, 2010, p. 49, accessed at http://www.usps.com/financials/_pdf/annual_report_2010.pdf.

37. Postal OIG, "The Postal Service's Share Of CSRS Pension Responsibility," *op. cit*., p. 4.

38. See the Segal Company, "Civil Service Retirement System Cost And Benefit Allocation Principles," Report to the Postal Regulatory Commission, June 29, 2010, accessed at http://prc.gov/prc-docs/home/whatsnew/Report%20on%20CSRS%20Cost%20and%20Benefit%20Allocation%20Principles_1122.pdf; and Postal Regulatory Commission, Transmittal Letter to Postal Service Regarding Segal Study, June 30, 2010, accessed at http://prc.gov/prc-docs/home/whatsnew/CSRS%20transmittal%20ltr%20to%20Potter_1123.pdf.

39. PRC/Segal Study, "Civil Service Retirement System Cost And Benefit Allocation Principles," *op. cit*., p. 9.

40. *Ibid*., p. 2.

41. *Ibid*.

42. *Ibid*.

43. In the illustrative example of a postal worker who retired in 1986 after 15 years at the Post Office Department and 15 years at the Postal Service, the OIG methodology would make the Treasury and Postal Service equally responsible for CSRS pension costs. The PRC/Segal methodology would hold the Treasury responsible for less than half of costs because CSRS matching rates were lower in the early years of employment. For an illustrative numerical example, see *Ibid*., p. 13.

44. See *Ibid*., p. 13.

45. John O'Brien, Director Of Planning And Policy Analysis, U.S. Office Of Personnel Management, "Statement," Before The House Committee On Oversight And Government Reform, April 15, 2010, accessed at http://oversight.house.gov/images/stories/Hearings/pdfs/20100415Obrienrevised.pdf.

46. *Ibid*.

47. *Ibid*.

48. *Ibid*.

49. U.S. General Accounting Office, "Review Of The Office Of Personnel Management's Analysis Of The United States Postal Service's Funding Of Civil Service Retirement System Costs," *op. cit*.

50. U.S. Office Of Personnel Management, OPM Response to PRC/Segal Report, submitted to the Postal Regulatory Commission, September 24, 2010, p. 2, accessed at http://www.prc.gov/prc-docs/home/whatsnew/OPM%20Response%20to%20PRC%20Report_1402.pdf.

51. Office of the Inspector General, U.S. Office of Personnel Management, "A Study Of The Risks And Consequences Of The USPS OIG's Proposals To Change USPS's Funding Of Retiree Benefits: Shifting Costs From USPS Ratepayers To Taxpayers," February 28, 2011, accessed at http://www.opm.gov/budget/oig/OPM_OIG_Study_of_USPS_OIG_Proposals%20Feb%2028%202011.pdf.

52. *Ibid*., p. 2.

53. *Ibid*., p. ii.

54. *Ibid*., p. ii.

55. *Ibid*., p. 45.

56. *Ibid*., p. 33.

57. *Ibid*., p. ii.

58. *Ibid*., pp. iv.

59. PRC/Segal Study, *op. cit*., p. 10.

60. *Ibid*., p. 13. Because the Postal OIG thinks its allocation methodology should be applied in the future, as well as the past, the transfer it is seeking would eventually amount to about $85 billion. The eventual transfer using the PRC/Segal methodology would be about $60 billion. Senator Carper’s legislative proposal, S. 3831, spells out clearly and succinctly how retroactive and prospective relief would be combined. Section 2(b) of S. 3831 reads: "INTENT OF CONGRESS.—It is the intent of Congress that the amendments made by this section apply with respect to the allocation of ***past, present, and future*** benefit liabilities between the United States Postal Service and the Treasury of the United States." [Emphasis added.]

61. The Comptroller General, the Civil Service Commission, OMB, and the Postal Service expressed their approval in letters to Congress that are reprinted in the House and Senate Reports accompanying H.R. 29 (the bill that became the 1974 legislation).

62. Senate Report, No. 93-947, *op. cit*., p. 6.

63. House Report, No. 93-120, *op. cit*., p. 9.

64. Financial ties are a subset of the Postal Service’s broad array of government-based burdens and benefits. Because special treatment, both positive and negative, is economically distortionary, a sound policy prescription is that Congress and government agencies should not grant the Service special favors or saddle it with unusual disadvantages unless the special treatment is closely tied to and supports the Service’s government-assigned mail-delivery mission. For a fuller discussion, see Michael Schuyler, "Government-Imposed Advantages And Burdens On The Postal Service's Competitive Products: Two Wrongs Do Not Make A Right," *IRET Policy Bulletin*, No. 91, July 30, 2007, available at http://iret.org/pub/BLTN-91.PDF.

65. See Timothy S. Bitsberger, Assistant Secretary for Financial Markets, U.S. Treasury, "Testimony," Before the Senate Committee on Homeland Security and Governmental Affairs, April 14, 2005, accessed at http://hsgac.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=75781be8-47fc-4459-b1e0-af0de3dda4e2.

66. National Association of Postmasters of the United States, *eNAPUS Legislative & Political Bulletin*, February 18, 2011, accessed at http://www.napus.org/wp-content/uploads/2011/02/E8-3.pdf.

67. Postal OIG, "The Postal Service’s Share Of CSRS Pension Responsibility," *op. cit*., p. 3.

68. This explanation would not hold if the regulator had initially failed to restrain prices and failed to prevent the firm from fully exercising its market power. However, that theoretical possibility does not apply in the case of rate regulation by the PRC.

69. U.S. Postal Service, *Annual Report, 2002*, p. 54, accessed at http://www.prc.gov/docs/37/37195/2002-annual-report.pdf; and U.S. Postal Service, *Annual Report, 2006*, p. 60, accessed at http://www.usps.com/financials/_pdf/anrpt2006_final.pdf.

70. Because of the fear that the government might sometimes be tempted to threaten individuals and diminish liberty by retroactively criminalizing various actions, the Article 1, section 9 of the U.S. Constitution explicitly forbids Congress from passing ex post facto laws, and Article 1, section 10 forbids states from doing so.

71. Computed by author from Office of Management and Budget, *Budget Of The United States, Historical Tables, Fiscal Year 2012*, p. 23, accessed at http://www.whitehouse.gov/sites/default/files/omb/budget/fy2012/assets/hist.pdf.

72. OMB, *U.S. Budget FY12, Historical Tables, op. cit*., p. 140.

73. Carmen M. Reinhart and Kenneth S. Rogoff, "Growth In A Time Of Debt," National Bureau of Economic Research, NBER Working Paper Series, Working Paper 15639, January 2010, accessed at http://www.scribd.com/doc/25734670/Reinhart-Rogoff-Growth-in-a-Time-of-Debt; and Carmen M. Reinhart and Kenneth S. Rogoff, *This Time Is Different: Eight Centuries of Financial Folly* (Princeton, NJ: Princeton University Press, 2009).

74. National Association of Letter Carriers (NALC), "The NALC Responds To A USPS Press Release Regarding Its Contract Negotiations With Two Unions," Updated November 24, 2010, accessed at http://nalc.org/news/latest/usps_contracts_2010.html.

75. See, for example, Congressional Budget Office, "S. 1507, Postal Service Retiree Health Benefits Funding Reform Act Of 2009," Cost Estimate, September 14, 2009, accessed at http://cbo.gov/doc.cfm?index=10571&zzz=39575; and Congressional Budget Office, "H.R. 22, United States Postal Service Financial Relief Act Of 2009," July 20, 2009, accessed at http://cbo.gov/doc.cfm?index=10465&zzz=39274.

76. See PRC/Segal Study, *op. cit*., p. 13.

77. U.S. Postal Service, *Annual Report, 2010, op. cit*. p. 83; and U.S. Postal Service, *Annual Report, 2002, op. cit*., p. 51.