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U.S. POSTAL SERVICE

Purchasing Changes Seem Promising, but Ombudsman Revisions and Continued Oversight Are Needed





Highlights of [GAO-06-190](#), a report to the Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate

U.S. POSTAL SERVICE

Purchasing Changes Seem Promising, but Ombudsman Revisions and Continued Oversight Are Needed

Why GAO Did This Study

Purchasing makes up a significant portion of annual expenses for the U.S. Postal Service (USPS). USPS has recently made significant changes to its purchasing regulations which, according to USPS, will result in a more businesslike purchasing process. Some stakeholders, including smaller suppliers who stated they rely on USPS for the majority of their business, have raised concerns about these changes. GAO was asked to (1) describe these changes, stakeholder views, and USPS's rationale for the changes and (2) assess how these changes reflect the principles of postal reform and practices of leading organizations and identify areas, if any, for continued oversight.

What GAO Recommends

To address inconsistencies in USPS's ombudsman, GAO is recommending that the Postmaster General revisit the intended purpose for its ombudsman, consult with experts to determine other options, and make the necessary changes in its regulations and guidance to conform with leading principles and practices. GAO provided a draft of this report to USPS for its review and comment. USPS generally agreed with our findings and recommendations and stated that it will reassess its ombudsman's role and reporting relationship.

www.gao.gov/cgi-bin/getrpt?GAO-06-190.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Katherine Siggerud at (202) 512-2834 or siggerudk@gao.gov.

What GAO Found

USPS has recently taken actions to streamline its purchasing regulations. The three main changes are (1) revoking and superseding its former purchasing regulations, handbooks, circulars, manuals, and guidelines and replacing them with streamlined regulations and interim internal guidance; (2) establishing new provisions for entering into business relationships with suppliers, including the process for declining to accept or consider proposals; and (3) creating a new process for resolving disputes, disagreements, or arguments between USPS and suppliers/potential suppliers, including the establishment of an ombudsman. Some postal stakeholders stated these were positive changes, while others raised concerns about the need or justification for such major changes; potential limitations on suppliers' ability to appeal USPS decisions; and how USPS officials would be held accountable for the fairness of purchasing decisions and its results (i.e., ability to achieve cost savings) given this additional flexibility and discretion. USPS stated these changes would result in a more flexible, efficient, businesslike purchasing system.

GAO assessed USPS's new postal purchasing regulations and draft internal guidance against key principles of postal reform—flexibility, efficiency, accountability, and social responsibility—and the purchasing practices of leading organizations. GAO found that USPS's changes are generally consistent with these principles and practices of leading organizations, except for USPS's new ombudsman position (see table below).

How USPS's Changes Reflect Key Principles and Leading Practices

Reflect	Do Not Reflect
<ul style="list-style-type: none"> <i>Flexibility</i>: Provides more flexibility when updating its policies and procedures to respond to changes in market condition. <i>Efficiency</i>: Emphasizes efficiency, including leveraging its buying power. <i>Social responsibility</i>: Promotes the use of a diverse supplier base and ethical behavior. <i>Accountability</i>: Plans to establish goals and methods for measurement. 	<ul style="list-style-type: none"> <i>Ombudsman</i>: Its role, structure, and decision-making authority are not consistent with leading ombudsman practices of independence and impartiality. Inconsistencies include the reporting relationship (reports to head of USPS purchasing organization) and decision-making authority (issues binding decisions rather than recommendations).

Source: GAO.

In addition to the ombudsman inconsistencies, concerns remain about how USPS's purchasing changes will be implemented. These concerns relate to the delayed issuance of USPS's final guidance, the potential impact on suppliers and USPS's ability to track and monitor its performance, and USPS's ability to achieve efficiencies under these new flexibilities while ensuring the fair and consistent treatment of suppliers. These inconsistencies and concerns will require continued oversight.

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Abbreviations

ABA	American Bar Association
ADR	Alternative Dispute Resolution
ADRA	Administrative Dispute Resolution Act
FAA	Federal Aviation Administration
FAR	Federal Acquisition Regulation
NASA	National Aeronautics and Space Administration
OMB	Office of Management and Budget
USPS	United States Postal Service

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United States Government Accountability Office
Washington, D.C. 20548

December 15, 2005

The Honorable Susan M. Collins
Chairman, Committee on Homeland
Security and Governmental Affairs
United States Senate

Dear Chairman Collins:

The U.S. Postal Service (USPS) has one of the largest procurement, also referred to as purchasing, functions in the federal government. In fiscal year 2004, it purchased nearly \$11.5 billion in goods and services. USPS has a nationwide network of over 21,000 suppliers that include large, small, minority-, and women-owned businesses that provide goods and services such as mail sorting and scanning equipment, airmail transportation, and mail delivery. Some of the smaller suppliers have stated that they rely on USPS exclusively for their business.

In recent years we have reported and testified on the significant financial and operational challenges facing USPS and, in 2001, we placed its transformation and long-term outlook on our high-risk list.¹ The President and Congress have also recognized these challenges. In 2002, the President established a commission to examine the future of USPS, and the commission's 2003 report included a recommendation that USPS revise its purchasing regulations to maximize flexibility and to reflect commercial best practices.² Recent legislation has been proposed to modernize and reform the postal laws of the United States. Included in postal reform legislation introduced during 2005 are provisions expressing the sense of Congress that the USPS's purchasing policies should ensure the fair and consistent treatment of suppliers and contractors while implementing commercial best practices to achieve greater efficiency and cost savings, and directing that Congress be provided a report on the number and value

¹The high-risk list identifies federal programs or operations that are highly vulnerable to waste, fraud, abuse and mismanagement or that require urgent attention to ensure that the government functions in the most economical, efficient, and effective manner possible. GAO, *U.S. Postal Service: Transformation Challenges Present Significant Risks*, [GAO-01-598T](#) (Washington, D.C.: Apr. 4, 2001) and GAO, *U.S. Postal Service: Financial Outlook and Transformation Challenges*, [GAO-01-733T](#) (Washington, D.C.: May 15, 2001).

²The President's Commission on the United States Postal Service, *Embracing the Future: Making the Tough Choices to Preserve Universal Mail Service* (Washington, D.C.: July 31, 2003).

of contracts and subcontracts that USPS has with small, minority-, and women-owned businesses.

A key component of postal reform is increasing USPS's flexibility to operate in a more efficient, businesslike manner, while providing appropriate accountability and oversight to ensure fair and transparent operations. In 1970, Congress passed legislation that gave USPS a unique status as an independent establishment of the federal government, authorized USPS to operate more like a business, and exempted it from specific categories of laws that are generally applicable to other federal agencies including "Federal law[s] dealing with public or Federal contracts, property, [or] works, . . ." (39 U.S.C. §410(a)). As a result, USPS has not been subject to most federal laws and regulations applicable to most federal purchasing, including the Competition in Contracting Act and the Federal Acquisition Regulation (FAR).³ Congress, however, has applied certain purchasing-related requirements to USPS that apply to other federal government contracts but are not applicable to private entities. For example, USPS is required to follow both the Service Contract Act, which requires that service employees be paid no less than prevailing wages in the locality, as well as the Davis-Bacon Act, which requires payment to employees of contractors on the site of federal government construction projects to be paid no less than prevailing wages in the locality. This uniqueness has sometimes generated tension in the expectations of postal stakeholders as to whether USPS should be required to follow more traditional federal agency procurement practices or those of private companies. In a number of respects, the differences in the procurement practices of leading public and private organizations are diminishing as both strive to create more efficient procurement systems by taking advantage of best business practices to lower costs and maximize service and value, while also holding management accountable for its performance

³The Federal Acquisition Regulations system establishes the uniform set of policies and procedures for acquisition by all executive branch agencies. This system consists of the FAR, which is the primary document, and agency acquisition regulations that implement or supplement the FAR. The Competition in Contracting Act of 1984, Pub. L. No. 98-369, sect. 2701, establishes, among other things, the federal policy of "full and open competition" for most federal contracts. The USPS has adopted, instead of a policy of "full and open competition," a policy of "adequate competition," which the *Procurement Manual* defined as "the solicitation of a sufficient number of qualified suppliers to ensure that the required quality and quantity of goods and services is obtained when needed and that the price is fair and reasonable." This allowed postal contracting officials to limit competition to selected or prequalified bidders.

and ensuring that contracting decisions are made in a socially responsible, ethical manner.

For almost two decades, USPS has focused on changing its purchasing processes to become more businesslike, most recently by incorporating what are called “supply chain management” principles and practices to obtain the best value for property, goods, and services to meet USPS’s needs at a fair and reasonable price. Supply chain management is a process used to integrate the flow of goods and services from suppliers to the end customer and has helped successful private-sector companies leverage their buying power and identify more efficient ways to procure goods and services.

In March of 2004, USPS issued a proposed rule and requested public comment on changes to its purchasing regulations. USPS’s goal was to streamline its purchasing regulations to make them more efficient and businesslike. USPS’s final rule, which became effective in May 2005, revised some provisions contained in the proposed rule but retained the focus of the proposed rule. The final rule revoked hundreds of pages of legally-binding regulations contained in its *Purchasing Manual* and replaced them with nine pages of legally-binding regulations codified at 39 C.F.R. Part 600 and accompanying nonbinding internal guidance. USPS plans to replace the interim guidance with its new Supplying Principles and Practices early in calendar year 2006. Concerns have been raised about these revisions by some postal stakeholder groups and suppliers, particularly about whether such a significant overhaul of the previous regulations was needed and the potential effects on efficiency, accountability, and fairness. As such, you asked us to (1) describe the changes USPS made to its purchasing regulations, stakeholders’ views of the changes, and USPS’s rationale for the changes and (2) assess how its purchasing changes (both its new regulations and draft guidance) reflect the principles of postal reform and the purchasing practices of leading organizations and identify areas, if any, for continued oversight.

To describe the major changes to USPS’s purchasing regulations, stakeholders’ views of the changes, and USPS’s rationale for the changes, we reviewed various documents, including the proposed and final regulations published in the Federal Register; USPS’s *Purchasing Manual* and other procurement handbooks, instructions, and circulars; laws and legislative history of postal reform; and stakeholder comments on the proposed changes to USPS’s purchasing regulations. We also interviewed USPS officials to gather information on their rationale behind the changes

and other selected stakeholders and suppliers, some of whom submitted formal comments on USPS's proposed rule. To assess how these changes reflect the principles of postal and procurement reform, we identified key principles of efficiency, flexibility, accountability, and social responsibility based on various information we analyzed, including our past GAO reports on postal and procurement reform; the report of the President's Commission on the United States Postal Service (Commission) report; proposed postal reform legislation; and interviews and documents from organizations with expertise in purchasing reform and the ombudsman process. We compared USPS's changes in the Final Rule, along with its draft Supplying Principles and Practices guidance, with the practices of leading public and private organizations. We determined that USPS's data on contract spending were sufficiently reliable for the purposes of our review. We requested comments on a draft of this report from USPS, and its comments, which are reproduced in appendix IV, are discussed later in the report. Our work was conducted from April 2005 to December 2005 in accordance with generally accepted government auditing standards.

Results in Brief

USPS made changes to its purchasing regulations to create a more efficient businesslike approach to its purchasing, which have raised concerns from some stakeholders about these actions. The three main areas of change in USPS's new purchasing regulations are (1) revoking and superseding its former purchasing regulations, procurement handbooks, circulars, and instructions, and replacing them with streamlined regulations and interim internal guidance; (2) establishing new provisions for entering into business relationships with suppliers, including the process for declining to accept or consider proposals; and (3) creating a new process for resolving disagreements, disputes, or protests between USPS and suppliers/potential suppliers, including the establishment of an ombudsman. While many postal stakeholders recognize the need to promote an efficient procurement process, some suppliers, including smaller suppliers who stated they rely on USPS for the majority of their business, have raised concerns about these changes. In particular, concerns included the justification for such a significant change (e.g., revoking most of USPS's purchasing regulations and replacing them with nonbinding guidance, which could reduce suppliers' basis for appeal of USPS decisions) and whether such a regulatory change was needed to achieve further cost reductions. Stakeholders also raised concerns about how USPS contracting practices would change under the new regulations since USPS had not completed its final guidance detailing the principles and practices to be followed at the time the new regulations were implemented. Stakeholders

stated that the subjectivity and lack of detail associated with USPS's new regulations would make it difficult to hold USPS purchasing officials accountable for their decisions. Further, while some stakeholders acknowledged that the ombudsman may be a more efficient way of resolving disagreements, some raised concerns about how independence and impartiality would be maintained in this process. According to USPS officials, the regulatory changes would create a more flexible, businesslike approach to purchasing; implement the acquisition portions of its Transformation Plan and the Commission's report; and help it to lower costs and improve customer service. USPS officials told us that under its prior purchasing rules, contracting officers were restricted in their decision-making abilities due to cumbersome and inflexible rules.

USPS's revised regulations and draft guidance are generally consistent with principles and practices of leading organizations, except for USPS's new ombudsman provision, which is inconsistent with key principles of independence and impartiality, and raises issues about the credibility of USPS's disagreement resolution process. USPS's actions to address this inconsistency, as well as other areas of concern, warrant continued oversight. We assessed USPS's new postal purchasing regulations and draft guidance against key principles of postal reform—flexibility, efficiency, social responsibility, and accountability—and the purchasing practices of leading organizations. USPS's changes to its regulations provide flexibility that should enhance the discretion of contracting officers when making decisions. The revised regulations may also provide opportunities for USPS to achieve cost reductions when adhering to leading practices, such as leveraging the organization's buying power to find more efficient ways of purchasing goods and services. USPS's draft guidance also includes key principles related to social responsibility such as avoiding conflicts of interest, promoting positive supplier relationships, encouraging support for small, minority-, and women-owned businesses, and ensuring transparency in financial dealings. USPS's draft guidance states that USPS will establish goals and metrics to hold its professionals accountable that will be specific, measurable, and results-oriented and will be used to assess and reward performance. USPS's Vice President of Supply Management also stated that goals and measures have been established related to expected cost savings and cost avoidances for each major purchasing category. We are concerned, however, about USPS's regulatory change related to its new ombudsman, because its role, decision-making authority, and structure are not consistent with key principles or practices of independence and impartiality embodied by leading ombudsman organizations. Specifically, the inconsistencies include the role of USPS's ombudsman as a final

decision maker, which is different from other public and private sector ombudsmen who generally make recommendations, and the reporting relationship of USPS's ombudsman—USPS's ombudsman is internal to the Supply Management organization and reports to the head of USPS's Supply Management organization. This type of relationship is not consistent with the principles of independence and impartiality and raises the potential for conflicts of interest. In addition to these inconsistencies, other concerns remain regarding the implementation of these purchasing changes. These concerns relate to uncertainty associated with the delayed issuance of USPS's final guidance, the potential impact of these changes on the number of suppliers and USPS's ability to track and monitor performance in this area, and USPS's ability to effectively balance key principles of postal reform of increasing flexibility and efficiency in its purchasing practices while ensuring fair and consistent treatment of suppliers. These inconsistencies and concerns will require continued oversight as USPS implements its new purchasing regulations.

As such, we recommend that USPS needs to revisit and revise the ombudsman provisions in the regulations to better reflect key principles and practices of leading organizations. We provided a draft of this report to USPS for its review and comment. USPS generally agreed with our findings and recommendations and stated that it will reassess its ombudsman's role and reporting relationship.

Background

Prior to 1970, USPS's purchasing policies adhered to federal practices prevailing at the time. The Postal Reorganization Act of 1970 established USPS as an independent entity of the executive branch and provided it with flexibilities to operate in a businesslike manner and be self-supporting from postal revenues. The 1970 act attempted to eliminate legislative, budgetary, and financial policies that were inconsistent with efficient modern management and business practices. The act exempted USPS from many federal laws and regulations. In particular, USPS was generally exempted from key procurement laws and regulations, such as the FAR. Although exempt from many federal laws and regulations, USPS contracts are still subject to certain federal laws including the Contract Disputes Act, and USPS's Supply Management program activities, like other postal program activities, are subject to program plans pursuant to the Government

Performance and Results Act.⁴ See appendix II for examples of these laws as identified by USPS.

Since the passage of the Postal Reorganization Act, USPS officials stated that USPS's purchasing policies have gone through many changes and iterations in an effort to follow procurement developments in the private sector, streamline the acquisition process, and reduce purchasing costs. Table 1 shows a time line of these changes.

Table 1: USPS Procurement and Purchasing Developments

Date	Event
Pre-1970	Post Office Department - Purchasing policy was controlled by the Federal Procurement Regulation, the precursor of the FAR.
1970	Postal Reorganization Act - Established USPS, provided it with flexibility in its purchasing practices, and exempted it from key federal procurement laws.
1971	<i>Postal Contracting Manual</i> - Incorporated by reference into the Code of Federal Regulations.
1987	<i>Procurement Manual</i> - Developed to simplify policy with the goal of combining advantageous aspects of public and private sector procurement. USPS decentralized purchasing authority to provide contracting officers more flexibility in making procurement decisions.
1988	Procurement and Supply Department's <i>Plan for Improvement</i> - Evolved from five studies addressing practices and performance of procurement and supply operations. This plan focused on enhanced customer service, shorter customer response time, and lower total cost.
1990	Phase I of <i>Plan for Improvement</i> - Concentrated on projects to upgrade the professionalism of the procurement and supply workforce and enhance the efficiency and effectiveness of policies, systems, processes, and structure.
1992	Phase II of <i>Plan for Improvement</i> - Focused on projects to enhance customer satisfaction by emphasizing fast response, quality service, and adding value to the buying process.
1995	Consolidation of all purchasing responsibilities in purchasing, facilities, and transportation areas - Placed purchasing and supplying responsibilities in the Purchasing and Materials organization and gave the Vice President of the Purchasing and Materials organization responsibility for all purchasing policies. Established qualification standards for contracting officers and made contracting officer and purchasing specialist full-time positions.
1995	<i>Procurement Manual</i> revised and reissued as <i>Procurement Manual Transmittal Letter 8</i> - Established uniform contracting officer qualifications, training requirements, and professional development standards. This letter focused on empowering contracting officers with greater decision-making authority and responsibility.
1996	Purchasing and Materials Organization strategic plan - Developed strategy to integrate supply chain management aimed at focusing on improving policies, procedures, and information systems to meet business and competitive needs.
Jan. 1997	<i>Purchasing Manual, Issue 1</i> (successor to <i>Procurement Manual</i>) – Effective and transition begins. The manual empowered purchasing professionals with discretion to team with internal business partners so that each purchase meets the business and competitive objectives of USPS.

⁴Provisions with regard to administrative resolution of disputes added to the Contract Disputes Act by the Administrative Dispute Resolution Act (ADRA) are applicable to USPS.

(Continued From Previous Page)

Date	Event
1998-2001	Purchasing and Materials Organization - Identified 23 core competencies needed to ensure USPS had skilled supply chain management professionals.
Jan. 2000	<i>Purchasing Manual, Issue 1</i> – Transition period ends.
2001	<i>e-Business Strategy for USPS Supply Chain Management, 2002-2010</i> - Assessed current business and developed options to align supply chain management e-business strategy with corporate and functional strategies.
Jan. 2002	<i>Purchasing Manual</i> update, Issue 2 - Added a section on the supply chain management philosophy and its importance to USPS purchasing.
July 2002	Purchasing and Materials organization becomes Supply Management – USPS restructured its purchasing organization to better align the organization with supply chain management best practices.
Dec. 2003	<i>Purchasing Manual</i> update, Issue 3 – Became effective. The manual contained numerous new and significant changes in purchasing policy.
March 2004	Proposed rule to amend USPS purchasing regulations - Proposed revision to implement the acquisition portions of its Transformation Plan (April 2002) and President's Commission report (July 2003) - USPS received 20 comments from various suppliers.
April 2005	Final Rule revising purchasing regulations - Revoked all former purchasing policies and rules and replaced them with streamlined regulations and nonbinding internal guidance.
May 2005	Final Rule – Became effective.

Source: USPS.

In the last decade, USPS has been implementing supply chain management initiatives that, according to USPS officials, are consistent with leading practices of the private sector. In 1997, USPS significantly revised its purchasing policies to emphasize cross-functional purchase teams that were given more discretion to form effective partnerships with suppliers. The goal was to use process management, data analysis, and other business practices to help implement supply chain management throughout USPS purchasing and material management. USPS also restructured its Purchasing and Materials organization to better align it with supply chain management best practices. This organization established five commodity-based teams (facilities, mail equipment, services, supplies, and transportation) with the goal of assembling and centralizing commodity-specific expertise and leveraging USPS's buying volume to decrease costs. In addition, USPS began emphasizing professional development to facilitate the transition to supply chain management best practices. This included changing training to focus more on the private sector and certifying its employees in either purchasing or materials management disciplines.

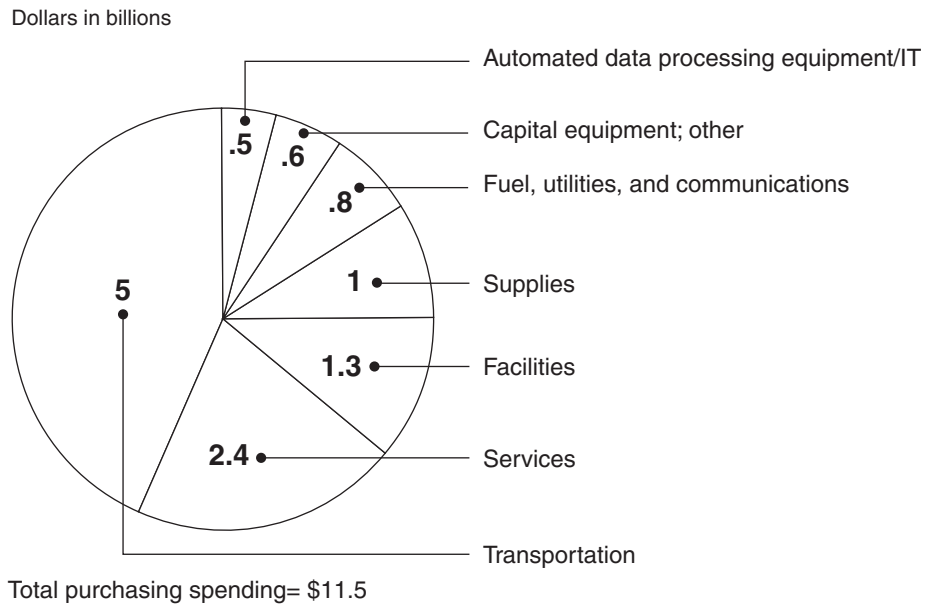
In its 2002 Transformation Plan, USPS described its strategy for supply chain management and modernizing purchasing procedures as focusing resources on lowering overall cost and furthering competitive and business objectives. The Transformation Plan described how USPS planned to

implement leading strategies in this area including: process and demand management, data analysis, and business practices that focus on strategic sourcing. USPS officials said that they then met with various leading procurement organizations, both in the public and private sector, to support the implementation of its supply chain management strategy. In 2003, USPS asked IBM to analyze the effectiveness of its supply chain management policies and practices by comparing them with commercial best practices and to make suggestions as to the improvements needed.⁵ IBM's December 2003 report suggested that a significant revision of USPS's policies and practices was needed and that USPS should identify the philosophies, values, and core procedures it deemed important enough to make mandatory and elevate those to the policy level and determine what practices are important but do not meet the "policy" criteria. USPS responded by reforming its purchasing policies and making this distinction—its regulatory changes would streamline its purchasing regulations and its guidance related to its purchasing principles and practices would be nonbinding. USPS also made improvements in the areas of benchmarking, training, manuals and instructions, and organizational structure as a result of these external reviews. USPS has reported over \$1.4 billion in cost reductions and cost avoidance from its purchasing activities in fiscal years 2000 through fiscal year 2004.

Postal purchasing activities continue to consume a substantial portion of postal spending. In fiscal year 2004, USPS spent approximately \$11.5 billion on its purchasing, which included transportation, supplies, services, facilities, and mail equipment. These expenses accounted for nearly 20 percent of USPS's total operating expenses. Figure 1 shows that in fiscal year 2004, USPS spent approximately \$5 billion on transportation, \$2.4 billion for services, \$1.3 billion on facilities, \$1 billion on supplies, and almost \$600 million on capital equipment.

⁵IBM officials told us that as part of their assessment, they spoke to officials from what they considered world-class supplying organizations about what has worked well related to their policies and practices to identify leading purchasing principles and practices. IBM's analysis included information from the following organizations: the Institute for Supply Management, the Center for Strategic Supply Research, Factiva, McKinsey, Purchasing Magazine, Procurement Strategy Council, Honeywell, Nestlé, and Hewlett-Packard. They also looked at what has worked well with other federal agencies that are not covered by the FAR, such as the U.S. Mint.

Figure 1: USPS Purchasing Spending for Fiscal Year 2004



Source: USPS.

Note: "Other" includes rent, training, and other miscellaneous expenses.

USPS Actions to Improve its Purchasing Process, Rationale for Changes, and Stakeholder Views of These Changes

USPS has recently taken actions to streamline its purchasing regulations including (1) revoking and superseding its former purchasing regulations, handbooks, circulars, and instructions and replacing them with streamlined regulations and interim internal guidance; (2) establishing new provisions for entering into business relationships with suppliers; and (3) creating a new process for resolving disputes and disagreements between USPS and suppliers/potential suppliers arising in connection with its purchasing process (with the exception of claims that arise under the Contract Disputes Act or with respect to disputes about debarment, suspension, or ineligibility from government contracting), including the establishment of an ombudsman. While many postal stakeholders recognize the need to promote an efficient procurement process, some stakeholders have raised concerns about how the regulations would be interpreted and implemented by USPS officials and whether these changes would have a negative impact on fairness, consistency, and equal treatment of suppliers. According to USPS officials, these changes would streamline

its purchasing process and create a more flexible, efficient, businesslike approach to purchasing.

In March of 2004, USPS published a proposed rule in the *Federal Register* that described its plan to amend its purchasing regulations and invited comments from interested parties. USPS received 20 responses, some from various sized suppliers, as well as membership associations or organizations that represent numerous suppliers. In May 2005, USPS implemented its revised purchasing regulations (the Final Rule), which completely revoked and superseded all of its former purchasing regulations. USPS also issued its Interim Internal Purchasing Guidelines, which was to be used by USPS contracting officials when making purchasing decisions until USPS completes its final guidance, called the Supplying Principles and Practices. At that time, USPS Supply Management officials told us that the Supplying Principles and Practices would be issued in November or December of 2005. USPS in September 2005 then revised its estimate and stated that the final guidance would be issued in January 2006. Currently, the final guidance is being projected by USPS to be issued early in calendar year 2006.

Table 2 lists the relevant sections of the Final Rule that were included in the Code of Federal Regulations (C.F.R.), and a more detailed explanation of each section is provided in appendix III.

Table 2: Provisions of USPS's Revised Purchasing Regulations

Citations in the C.F.R.

601.100 – Purchasing policy	601.107 – Initial disagreement resolution
601.101 – Effective date	601.108 – Ombudsman disagreement resolution
601.102 – Revocation of prior purchasing regulations	601.109 – Contract claims and disputes
601.103 – Applicability and coverage	601.110 – Payment of claims
601.104 – Postal purchasing authority	601.111 – Interest on claim amounts
601.105 – Business relationships	601.112 – Review of adverse decisions
601.106 – Declining to accept or consider proposals	601.113 – Debarment, suspension and ineligibility

Source: 39 C.F.R. Part 601.

We reviewed the changes in each section and determined that some changes were likely to have greater impact than the others. For example, section 601.111 – *Interest on Claim Amounts* simply restates a provision that existed in the now defunct *Purchasing Manual*. These changes are

very similar to what USPS included in the preamble to the Final Rule as the three main categories of comments from stakeholders. We determined that there were the following three main areas of change, which we will discuss in greater detail:⁶

- revoking and superseding all former USPS purchasing regulations, handbooks, circulars, and instructions and replacing them with streamlined regulations and internal nonbinding guidance (section 601.102);
- establishing new provisions that specify how USPS enters into business relationships with suppliers, including USPS's process for declining to accept or consider proposals (sections 601.105 and 106); and
- creating a new process for resolving disputes, disagreements, or protests between USPS and suppliers/potential suppliers, including the establishment of an ombudsman (sections 601.107 and 108).

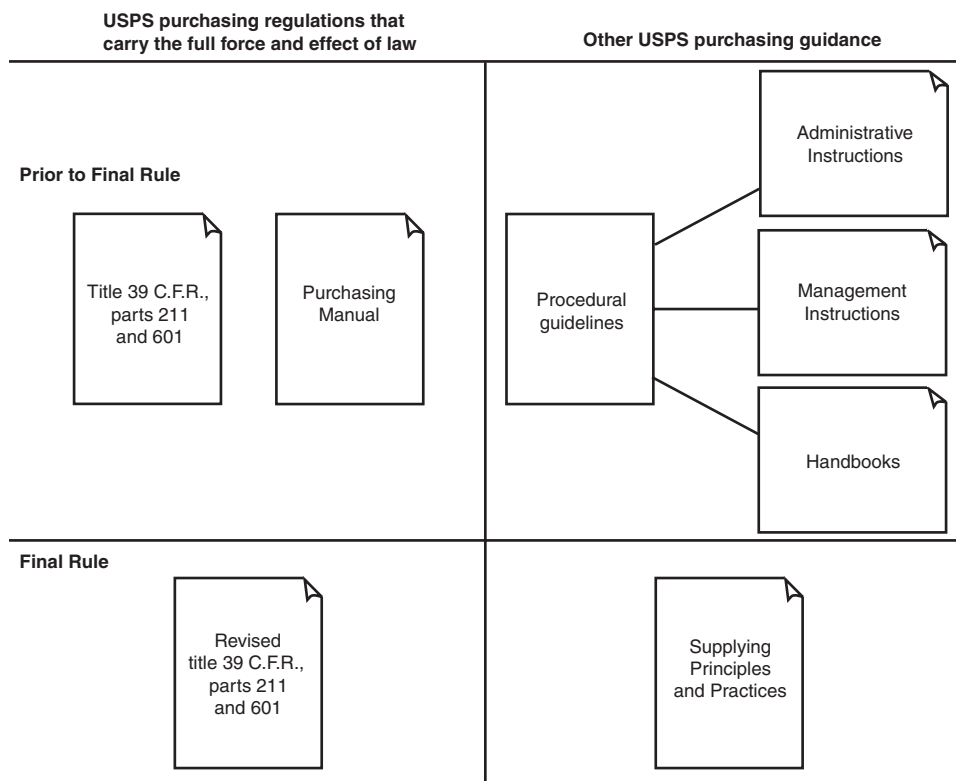
USPS Has Revoked, Superseded, and Replaced All of Its Former Purchasing Regulations

Prior to the Final Rule, USPS's purchasing decisions were guided by its *Purchasing Manual*; which was incorporated by reference in the C.F.R., and its other procedural guidelines, which included Management Instructions and handbooks. The *Purchasing Manual* contained hundreds of pages of detailed provisions describing the processes for: purchasing planning, supplier diversity, contract pricing, contract administration and supplier relations, among other provisions. Since the *Purchasing Manual* was incorporated by reference in the C.F.R., its provisions were legally binding and carried the full force and effect of law. Suppliers were able to contest a USPS contract award to USPS's General Counsel and/or a federal court having jurisdiction over such challenges based on the policies and procedures contained in USPS's *Purchasing Manual*. Figure 2 shows that under the Final Rule, the regulations were revised, and the *Purchasing Manual* was revoked (except as to existing contracts), and was replaced with internal guidance which does not have the force and effect of law. As a

⁶Selections were based upon the suppliers' and other organization's comments made in response to USPS's proposed rule; USPS's responses to the concerns raised in the comments; and our own analysis. In addition, the three areas selected represent the areas where stakeholders voiced the most concerns, and also reflect the three areas covered by USPS in its response and in its preamble to the Final Rule published in the *Federal Register*.

result, the basis for suppliers to challenge USPS award decisions is more limited when compared with the previous regulations.

Figure 2: USPS's Changes to Its Purchasing Regulations and Guidance



Source: USPS.

Note: According to USPS, the Supplying Principles and Practices will be released early in calendar year 2006. Until that time, the Interim Internal Purchasing Guidelines will be used.

The stakeholder comments described below do not apply to the final guidance because USPS has not yet issued it. USPS states that this guidance will contain information on the supply chain management principles and practices that will drive its procurement activities, the use of competition and sourcing strategies, the evaluation of proposals, feedback on the rationale used to award contracts, and guidance on the avoidance of conflicts of interest.

Comments on USPS's proposed regulations came primarily from some of USPS's largest suppliers, as well as organizations representing both large and small suppliers. Some of the commenting stakeholders, such as Boise Office Solutions, Lockheed Martin, and Northrop Grumman, stated that they support and encourage USPS's desire to operate more effectively and implement best business practices of the commercial sector. One of these suppliers said that streamlining USPS's acquisition regulations could be appropriate and fundamental to realizing the full benefits of postal reform and could result in greater efficiencies. According to another of these suppliers, the streamlining would accomplish this by facilitating more flexible contract relationships and permitting faster acquisition times, which would benefit both the suppliers and USPS.

Other stakeholders who commented, such as Mail Contractors of America, Inc., and the Association for Postal Commerce, expressed concerns about whether USPS's rationale for making such major changes has merit, since USPS had ample flexibility under its existing legal authority and its *Purchasing Manual* to incorporate best practices. Further, some stakeholders were concerned that the lack of defined purchasing policies and procedures might create an environment of uncertainty for suppliers, as well as potentially lead to inconsistent and contradictory practices and contracting decisions. These stakeholders noted that the previous regulatory structure provided consistent and transparent procurement policies and procedures. For example, suppliers stated that prior to the Final Rule, they knew USPS's policies regarding soliciting proposals, contract administration, supplier diversity, and how competition and/or sole sourcing would be used in procurement actions. In USPS's proposed rule, it had not yet completed or released information on how it would conduct these functions under its new regulations. As such, some of the suppliers stated that this uncertainty would make it difficult for them to know how USPS is making purchasing decisions and how USPS officials could be held accountable for their decisions. These suppliers stated that this uncertainty may threaten supplier confidence, particularly related to a fair and consistent procurement process.

USPS purchasing officials stated that these purchasing rule changes would promote an efficient, businesslike purchasing system that would allow its contracting officers and USPS the flexibility to make business decisions in a more expedited manner. USPS officials told us that under its prior purchasing rules, contracting officers were restricted in their decision-making abilities due to cumbersome and inflexible rules. According to USPS officials, it will be able to update its nonbinding guidance more

expeditiously compared to its previous regulations. To respond to stakeholder concerns related to subjectivity and accountability, USPS said that oversight of USPS would not be diminished, as those charged now with such functions will continue to do so. They also stated that the new principles and guidance will be publicly available on USPS's Web site and thus transparent. USPS has also added an ombudsman that would among other things, review contract award disagreements to determine whether USPS received best value. Also, regarding supplier diversity, USPS stated in its draft guidance that it will strive, as a strategic business initiative, to establish and maintain a strong competitive supplier base that reflects the diversity of the supplier community and provides suppliers with equal access to purchasing opportunities.

USPS Has Added New Provisions Regarding Its Business Relationships with Suppliers and Its Right to Decline to Accept or Consider Proposals from Potential Suppliers

Another major change under USPS's Final Rule is a new provision that allows USPS to refuse to accept or consider proposals from a person or organization who fails to meet reasonable business expectations. This regulation includes a new provision where the time limit on the duration of a USPS decision to not accept or consider proposals may be limited to a specified length of time or may extend indefinitely. The supplier also has the right to contest the matter with the ombudsman or seek other disagreement resolution procedures. This change establishes reasons for USPS to decline to accept or consider proposals if a person or organization does not meet "reasonable business expectations." These reasons are as follows:

- marginal or dilatory contract performance;
- failure to deliver on promises made in the course of dealings with USPS;
- providing false and misleading information as to financial condition, ability to perform, or other material matters, including any aspect of contract performance; and
- engaging in other questionable or unprofessional conduct or business practices.

Some suppliers supported USPS changes in this area, particularly because they said the changes better reflect the practices of private-sector organizations. For example, one of these suppliers stated that the private sector has the ability to do business with a supplier or choose not to, and private-sector organizations are not required to debrief or provide

explanations to rejected suppliers as is generally required for federal executive branch agencies under the FAR.

A number of concerns, however, were voiced by other suppliers about the changes in this area. These stakeholders were concerned with how fairness, consistency, and equal treatment of suppliers would be ensured under these more flexible regulations. First, some who had comments on the proposed rule were concerned that USPS's criteria for entering into business relationships would involve factors other than contract performance.⁷ For example, one supplier suggested that USPS could refuse a proposal from a supplier who had submitted a bid protest or disputed a contracting decision in the past. Second, another supplier stated that there would be a limited right to contest USPS decisions related to business relationships. Specifically, the supplier noted that USPS already has a formalized debarment and suspension process for excluding entities, in certain circumstances, from contracting with USPS that incorporates formal due process protections.⁸ Stakeholders also noted that there are not similar due process protections accompanying USPS's ability to refuse a proposal from a supplier. For example, there is no definite length of time mentioned in the rule in which USPS can opt not to do business with an entity; it may be limited to a specified length of time or may extend indefinitely. As such, stakeholders raised concerns in their comments on the proposed rule about the uncertainty associated with this new provision.

USPS purchasing officials stated that these changes would promote a system of establishing business relationships similar to that of private-sector organizations. USPS stated in the preamble to the Final Rule that it is not in the best interest of USPS's customers, the supplier community, or

⁷Before it published its Final Rule, USPS dropped three additional reasons for not entering into a business relationship that it had included in its proposed rule. Those reasons were: (1) spurious, frivolous, or bad-faith litigation and/or claims; (2) failure to respond promptly and completely to USPS inquiries and requests for information, without inadvertence or good reason; and (3) negotiating or dealing in bad faith with USPS, including engaging in uncooperative practices.

⁸Debarment, suspension, and ineligibility are exclusions from contracting or subcontracting for cause, whereby agencies do not solicit offers from, award contracts to, or consent to subcontracts with these contractors. Examples of cause include conviction of certain criminal offenses, violation of contracts, or offenses indicating lack of business integrity or honesty. For additional information about the government suspension and debarment process under the FAR, see GAO, *Federal Procurement: Additional Data Reporting Could Improve the Suspension and Debarment Process*, [GAO-05-479](#) (Washington, D.C.: July 29, 2005).

general public for USPS to acquire property, goods, or services from companies that do not perform adequately. According to USPS purchasing officials, this procedure would allow discussions about a supplier's past performance to be addressed before a potential supplier would spend time and money preparing a proposal. This procedure thus allows USPS the ability to inform suppliers in an efficient manner that their past poor performance would result in their proposal not being considered or selected. According to USPS, this new ability to decline to accept proposals may prove less bureaucratic and more effective in encouraging suppliers to improve their performance. Also, USPS purchasing officials stated that the new regulations provide appropriate safeguards that would give aggrieved suppliers written notice of the reason(s) why their bids would no longer be considered, and an opportunity to provide countervailing evidence, justification, or other reasons that the problem has been corrected. USPS purchasing officials stated that they expect there to be few occurrences where USPS would decline to accept proposals, and the decision would be made only after careful analysis of the basis for the action. Moreover, USPS said that only the Vice President of Supply Management would have the authority to make these decisions and would be held accountable for these decisions. These officials also stated that the difference between this procedure and debarment is that debarment arises from serious and severe conduct, either unethical or criminal, while declining to accept proposals arises from the erosion of the business relationship as a result of poor performance. Furthermore, the head of USPS's purchasing organization stated that debarment for poor performance is used rarely and that there was only one such USPS case that he was aware of.

USPS Has Revised Its Regulations Regarding Purchasing Disagreements and Added an Ombudsman to Resolve Disagreements

Under its Final Rule, USPS provides that all disagreements, disputes, protests and claims against USPS arising in connection with its purchasing process (with the exception of claims that arise under the Contract Disputes Act or with respect to disputes about debarment, suspension, or ineligibility from government contracting) must be lodged with the responsible contracting officer within 10 days of the date of the disagreement.⁹ If the disagreement is not resolved within 10 days following the lodging of the dispute with the contracting officer, the disagreement can be lodged with a newly created ombudsman.¹⁰ This ombudsman was appointed by USPS, reports to USPS's Vice President of Supply Management, and is to make decisions based on "best value" determinations. The decisions of the ombudsman are final and binding, and under the new regulations cannot be appealed to a federal court of jurisdiction except for cases where the decision was (1) procured by fraud or other criminal misconduct or (2) obtained in violation of the regulations contained in the Final Rule or an applicable public law enacted by Congress. The Final Rule also includes a statement that encourages the use of alternative dispute resolution (ADR) to resolve disagreements and conflicts.¹¹ A person or organization disagreeing with a USPS decision and the contracting officer are encouraged to consider ADR methods to resolve a dispute before pursuing the ombudsman process.

These changes differ from the manner in which disagreements were resolved under the previous regulations. First, under the *Purchasing Manual*, a protest could be filed with either the contracting officer or directly with USPS's General Counsel. If a protest was filed with the contracting officer but was not resolved, it could be referred to USPS's General Counsel for review. The General Counsel would either (1) review

⁹Claims that arise under the Contract Disputes Act are related to disagreements that arise only after a contract has been awarded.

¹⁰According to our past work, an ombudsman, or ombuds, is a dispute resolution practitioner who (1) receives complaints, concerns, and questions from individuals; (2) works to resolve these issues, making recommendations on individual matters where appropriate; and (3) brings to an entity's attention chronic or systemic problems and makes recommendations for improvement. See GAO, *Human Capital: The Role of Ombudsman in Dispute Resolution*, [GAO-01-466](#) (Washington, D.C.: Apr. 13, 2001).

¹¹ADR is a method for resolving disputes, usually involving intervention or facilitation by a neutral third party, as a means of avoiding more formal and costly dispute resolution processes. ADR may include such methods as mediation, dispute resolution boards, and arbitration.

the decision of the contracting officer or (2) review the protest that was filed directly with the General Counsel. Appeals of contracting officer and/or General Counsel decisions could be made to a federal court of jurisdiction. Under the Final Rule, the General Counsel is not an official decision maker in the bid protest process. Furthermore, the Final Rule restricts the reasons why a protestor can appeal a decision of the ombudsman and limits a supplier to an appeal from the ombudsman's decision based only on the grounds listed above.

A number of stakeholders commented that the use of ADR and the ombudsman are good steps in achieving a more efficient dispute resolution process. These stakeholders also stated that the ombudsman process is a promising idea and step in the right direction toward having a streamlined and fair resolution process. Some stakeholders, however, stated that uncertainties and a lack of independence pose serious threats to having a fair ombudsman process. These uncertainties included how the ombudsman would be appointed and to whom the ombudsman would report, both of which were not included in the proposed or Final Rule but may have implications on the independence of the ombudsman. Some of the stakeholders said that they preferred the ombudsman to be independent of USPS, or at least report to someone outside of USPS's purchasing organization. Furthermore, these stakeholders also believed that the ombudsman should have the authority to impose corrective and remedial action, and questioned the final and binding nature of the ombudsman decision making.¹² Some stakeholders also noted that federal court jurisdiction should not be limited to those cases identified by USPS.¹³ Some stakeholders stated that federal courts have supported the right of a protestor to appeal a bid protest decision of USPS to a federal court for review.

USPS officials told us that one of the purposes of these changes is to ensure that most disagreements arising between suppliers or potential suppliers and USPS regarding all aspects of solicitations, awards, and related

¹²In order to appeal a decision to a federal court, the decision must be final and binding. If the ombudsman makes a recommendation, the parties could not appeal until USPS made a final and binding decision.

¹³As stated earlier, the final rule limits appeals of USPS ombudsman decisions to a federal court with jurisdiction over such claims only on the grounds that the decision was procured by fraud or other criminal misconduct or obtained in violation of the regulations contained in the Final Rule or an applicable public law enacted by Congress.

matters, are resolved in an efficient manner at the management or contracting officer level. In an effort to avoid costly litigation and disputes, and mirror leading private and public-sector organizations, USPS revised its protest procedures to emphasize using ADR processes or its new ombudsman. USPS has noted that, in the past, it has been involved with litigation which is lengthy and costly for both parties and which could have potentially been resolved in a more informal and efficient way. From calendar year 2000 through 2004, on average each year, 21 contract bid protests/disputes were filed with USPS's General Counsel, and 2 cases were filed in federal court. USPS's Vice President of Supply Management also stated that the new provisions related to restricting appeals of ombudsman decisions are intended to streamline the appeals process and that, ultimately, the courts will decide what cases can be appealed.

USPS officials also told us that by placing added emphasis on ADR processes, they hoped to better resolve disagreements that arise between USPS and its suppliers and potential suppliers. USPS's Final Rule stated that USPS supports and encourages the use of ADR as an effective way to understand, address, and resolve business disagreements and conflicts with suppliers. Further, the Final Rule states that, in order to better serve its suppliers, USPS appointed an ombudsman who is to focus on best-value considerations for USPS and business decisions made by the contracting officer to determine which supplier should be awarded a contract. According to USPS, this will ensure that the right business decision for USPS has been made by the contracting officer. USPS has appointed a person as ombudsman who is from within the supply management organization, stating that the ombudsman needed to come from within the organization and be someone who understands supply management, knows the postal culture, and has knowledge of postal operations. USPS has said that it wants an ombudsman who is familiar with the business, which it said would ensure that a prompt result is more likely and less expensive in the long run than hiring someone from outside of the agency.

Diversity of Comments and Differing Expectations Reflect USPS's Unique Status

The diversity of comments on the proposed regulations reflect the differences in expectations that postal stakeholders have often debated as part of postal reform. This tension is inherent in USPS's unique status as a federal agency with a government monopoly that is operating in a more competitive marketplace than when Congress changed USPS's status in 1970 and removed the application of many federal laws to USPS so that it could act more like a business. We talked to several postal stakeholders who commented on USPS's proposed regulatory changes to obtain their

views on whether USPS addressed their concerns in the Final Rule and the potential impact of the Final Rule.¹⁴ Some association representatives that we spoke with felt that USPS had not addressed their concerns in the Final Rule. For example, although USPS made a substantive change in the Final Rule (it revised the basis for cancelling business relationships and dropped three criteria that were criticized in the comments as being too subjective), these representatives remain concerned about USPS's additional flexibilities in this area. Other stakeholders had similar concerns that USPS has more flexibility and discretion than most other federal agencies. They also noted that USPS has an advantage over private-sector organizations in that USPS has the right to terminate contracts for convenience, which private-sector organizations do not.¹⁵ However, we note that this is not new authority granted under the new regulations since USPS could terminate contracts for convenience under previous regulations.

Although it is too early to assess the impact of these changes because USPS has not issued its final guidance, and the regulations have only been in place for 7 months, the next challenge for USPS will be whether its implementation of these revised regulations will raise the confidence of its supplier community so that it can achieve the desired benefits. We further explored this area by focusing on the key purchasing reform principles and practices of leading public and private-sector organizations.

¹⁴We spoke to several stakeholders about the comments provided by their organizations on USPS's proposed rule from the American Bar Association; Wickwire Gavin, a law firm with a postal contracting practice area that represents over 100 of USPS's suppliers and contractors; the National Star Route Mail Contractors Association, an association that represents small business men and women who contract with USPS for highway mail transportation, and Lockheed Martin. We also spoke with officials from IBM and members of the Small Business Procurement Coalition, which includes organizations representing small business interests.

¹⁵The government can terminate contracts for convenience for the best interests of the government (not necessarily as a result of fault on the part of a contractor or for default for failure on the part of a contractor to live up to contractual obligations). Under termination for convenience, the government has the right to refuse to continue with contract performance—to stop the work and settle with the contractor at the point of termination. This procedure is unique to the federal government; private industry does not have comparable procedures.

USPS's Purchasing Changes Are Generally Consistent with Key Reform Principles and Practices, Except Those Related to the Ombudsman

We analyzed the provisions of USPS's purchasing changes, the revised purchasing regulations and draft guidance, in terms of key principles incorporated in postal reform legislation and the purchasing practices of leading public and private-sector organizations. The following summarizes these key principles:

- flexibility—utilize flexibility to implement leading practices, effectively respond to changing market conditions and competition, and revise policies and processes to reflect evolving changes;
- efficiency—promote efficient and effective operations;
- social responsibility—conduct operations in a manner that avoids conflicts of interest, promotes positive supplier relationships through courtesy and impartiality, encourages support for small, minority-, and women-owned businesses, ensures financial transparency in financial dealings, and treats people with dignity and respect; and,
- accountability—promote appropriate accountability by holding leadership accountable for the performance of the organization, as well as promote transparent operations by tracking, monitoring, evaluating, and reporting results.

For the most part, we found that USPS's changes are consistent with the key reform principles and purchasing practices of leading public and private-sector organizations. Leading purchasing organizations aim to develop an efficient purchasing system that takes advantage of available flexibilities to limit costs and maximize service and value and promote socially responsible behavior. However, we have concerns about inconsistencies between USPS's regulatory change related to its ombudsman and key practices and principles. Specifically, we believe the role, structure, and decision-making authority of USPS's ombudsman are not consistent with key principles or practices of independence and impartiality applied by leading ombudsman organizations. Based on these inconsistencies and uncertainties related to whether USPS's implementation of its new regulations will effectively balance the key principles, continued oversight of this area will be needed.

USPS Draft Guidance: The Supplying Principles and Practices

As we described earlier, the preamble to USPS's regulatory changes refer to new guidance that, according to USPS, will provide the principles and practices to guide USPS's contracting personnel in making purchasing decisions. This guidance, the Supplying Principles and Practices, has not yet been publicly released and was not part of the regulatory comment process. However, USPS provided us with a draft copy for the purposes of this review, and the references to guidance in this section reflect the draft guidance.

In order to compare USPS's principles and practices with those of leading organizations, we reviewed the eight key principles that were included in USPS's draft guidance. These draft principles are as follows:

- *Authority and structure:* The Postal Reorganization Act provides purchasing authority to the Postmaster General. That authority has been delegated to the Vice President of Supply Management. Only individuals that have delegated contracting authority from the Vice President or from other authorized individuals may award, modify, and terminate contracts for the purchase of goods and services. Individuals with delegated contracting authority must ensure that their contractual actions, including contract awards, modifications, and terminations, are within the scope of the authority delegated to them before taking those actions.
- *Best value:* USPS's supply management decisions are to be based on best value, which is defined as the outcome that provides the optimal combination of elements such as lowest total life cycle cost, technology, innovation and efficiency, assurance of supply, and quality relative to USPS's needs. In the sourcing area, best value is generally, but not always, achieved through competition, which brings market forces to bear and allows the direct comparison of proposals and life cycle costs. USPS's supply management teams are provided broad flexibility in (1) deciding which elements of value will be sought by USPS and expressed in solicitation evaluation factors and their weightings and (2) determining the best supply management method.
- *Ethics and social responsibility:* USPS's supply management professionals should conduct themselves with integrity and must adhere to the "Standards of Ethical Conduct for Employees of the Executive Branch," (5 C.F.R. 2635) and the "Supplemental Standards of Ethical Conduct for Postal Employees," (5 C.F.R. Part 7001). In addition, USPS's

supply management activities are guided by the Institute of Supply Management's "Principles of Social Responsibility."

- *People and culture:* USPS requires supply management personnel to have baccalaureate or postgraduate degrees so that they will have appropriate competencies, such as the ability to perform detailed pricing, market, and item analyses. Supply Management personnel are encouraged to take prudent risks to achieve desired goals. These goals will be aligned with Supply Management's organization goals, and goals will be the basis for metrics used to assess and reward the performance of supply management professionals.
- *Planning and strategies:* USPS will adopt proven supply management tools and techniques to meet its financial goals. USPS is committed to continually analyzing and improving its supplying practices to enhance its competitive advantage, efficiency, and effectiveness. USPS will use a variety of means, including benchmarking and other market research; participation in professional organizations; strategic planning; leveraging spend by centralizing spend categories and standardizing products to reduce total cost, including transaction costs; and improve quality and performance.
- *Statutory and regulatory requirements:* USPS will comply with its statutory and regulatory obligations contained in the C.F.R.
- *Supplier relations:* USPS will foster strong, mutually beneficial relations with its suppliers based upon sound business practices and mutual trust in which both parties work toward a common goal. USPS will continuously measure, analyze, and enhance supplier performance relative to contractual requirements and the best practices of leading supply organizations. USPS will establish a strong, competitive supplier base that reflects the diversity of the supplier community. Additionally, USPS suppliers will be encouraged to use small, minority-, and women-owned businesses as subcontractors to the maximum extent consistent with effective contract performance.
- *Technology:* One of USPS's goals is to have an integrated electronic business solution for all supply processes so that USPS suppliers will become capable of conducting business electronically. USPS will attempt to automate routine transactions to reduce processing time, improve quality through better record keeping and fewer errors in data, reduce inventory through faster and more accurate filling of orders, and

provide management with improved decision-making tools through near real-time access to business information.

The draft guidance also contains the general practices to be used by USPS employees when making purchasing decisions. These practices include Identify Key Stakeholders, Select Contract Type, and Provide Feedback and fall into the following six general areas:

1. identifying needs,
2. evaluating sources,
3. selecting suppliers,
4. delivering and receiving products and services,
5. measuring and managing supply, and
6. disposing of assets (end of life).

The guidance also identifies tools and techniques, roles and responsibilities, and key questions that need to be addressed by USPS contracting officials when making purchasing decisions.

Key Principles and Practices Applied by Leading Organizations

We also reviewed numerous documents from organizations involved in postal and procurement reform efforts and discussed leading procurement reform practices with experts in this area who consult with both public and private-sector organizations to determine the key principles that they follow when making reforms. Based on this information (which is described below), we identified the key principles of flexibility, efficiency, social responsibility, and accountability, as well as the practices applied by leading organizations in this area.

Proposed postal reform legislation: During the past 10 years, Congress has looked at ways to increase flexibility and authority for USPS so that it can better adapt to the changing marketplace and remain viable as a self-financing public institution. These legislative efforts have included provisions that would reform selected purchasing and contracting activities. The most recent postal reform legislation introduced in 2005—S. 662 and H.R. 22—would provide USPS additional flexibilities to operate in a more efficient manner but couple this additional flexibility with both

accountability and oversight mechanisms to ensure fairness and consistency.¹⁶ Specifically, S. 662, states that USPS should (1) ensure the fair and consistent treatment of suppliers and contractors through the use of mechanisms such as competitive contract award procedures, effective dispute resolution mechanisms, and socioeconomic programs and (2) implement commercial best practices in its purchasing policies to achieve greater efficiency and cost savings. Further, H.R. 22 included a provision that would have required USPS to report to the President and Congress on the number and value of contracts and subcontracts that USPS has entered into with small, minority-, and women-owned businesses.

President's Commission report: The Commission's 2003 report called for USPS to take advantage of certain corporate best practices to improve overall efficiencies and stated that, in instances where USPS is granted additional flexibility, mechanisms are needed to promote accountability and oversight of USPS's operations.¹⁷ The report said that USPS could save hundreds of millions of dollars by adopting purchasing practices that have substantially lowered costs for private-sector companies. The report also noted that although the 1970 act granted USPS flexibility in its procurement process, USPS officials have elected not to take advantage of those flexibilities and instead have abided by standards in line with those applicable to other federal agencies under the FAR. As such, the Commission recommended that USPS "take full advantage of the flexibility it is granted under the current law and that Congress strongly support its aggressive procurement reforms in acknowledgement of its substantial benefits to all ratepayers."

OMB Strategic Sourcing Guidance: Although they do not apply to USPS, we also reviewed the Office of Management and Budget's (OMB) guidance to federal agencies on implementing its strategic sourcing initiative so that agencies leverage their spending to the maximum extent possible. OMB describes strategic sourcing as a collaborative and structured process of critically analyzing an organization's spending and using this information to make business decisions about acquiring commodities and services more effectively and efficiently. This process helps agencies optimize performance, minimize price, increase achievement of socioeconomic

¹⁶S. 662, Title X, Section 1004 and H.R. 22, Title VII, Section 706.

¹⁷The President's Commission on the United States Postal Service, *Embracing the Future, Making the Tough Choices to Preserve Universal Mail Service* (Washington, D.C.: July 31, 2003).

acquisition goals, evaluate total life cycle management costs, improve vendor access to business opportunities, and otherwise increase the value of each dollar spent. Some of the practices included in OMB's guidance include the following:

- Strategic sourcing governance—A charter should be developed outlining the members, roles, responsibilities, and operations of an agencywide Strategic Sourcing Council and any commodity councils to be formed.
- Strategic sourcing goals and objectives—The Strategic Sourcing Council should establish annual strategic sourcing goals and objectives, by fiscal year. These goals and objectives should include existing strategic sourcing efforts, as well as prioritizing new initiatives. In addition to cost and performance goals, any strategic sourcing plan must be balanced with socioeconomic goals for small businesses, small disadvantaged businesses, women-owned small businesses, veteran-owned businesses, service-disabled veteran-owned businesses, and others, as appropriate.
- Performance measures—The Strategic Sourcing Council should establish agencywide performance measures and reporting requirements in order to enhance accountability by monitoring and continuously improving the strategic sourcing program.
- Communications strategy—The Strategic Sourcing Plan should also include a communication strategy that clearly conveys senior management's commitment to the effort, describes the scope of the effort, and identifies any organizational changes. The communications strategy should also include steps to make agency employees aware of awarded strategic sourcing contracts and how they are to be used.
- Training strategy—The plan should identify actions necessary to educate agency personnel to support effective and efficient strategic sourcing implementation and management.

GAO reports and testimonies: We have testified and reported on multiple occasions that we support postal reforms that would provide USPS additional flexibility to act in a more efficient, businesslike manner along with appropriate accountability mechanisms to ensure fairness.¹⁸ In September 2005, we established a framework for assessing the acquisition function at federal agencies, which highlighted the importance of promoting an efficient, effective, and accountable acquisition process.¹⁹ In particular, this framework identified how the consistent implementation of clear and transparent policies and processes will assist in effectively managing the acquisition process and promoting successful outcomes. We also have issued reports examining the savings that leading private-sector companies, including ChevronTexaco, Dell Computer, and IBM, have achieved by using a strategic approach to procurement and spend analysis and concluded that this approach can be effective for federal agencies as well.²⁰ These reports identified that the Departments of Defense, Veterans Affairs, Health and Human Services, and Agriculture have made progress in also have issued reports that focused directly on contracting activities at USPS. In these reports, we noted that although USPS was using supply chain management—a process that has helped private-sector companies leverage their buying power and identify more efficient ways to procure goods and services—USPS has had mixed success in implementing some of its initiatives in this area.²¹ These shortcomings will be discussed in more detail later in this report.

¹⁸GAO, *International Mail Air Transportation: Proposed Changes to the Rate-setting Process*, [GAO-05-529R](#) (Washington, D.C.: Apr. 8, 2005); GAO, *U.S. Postal Service: Key Reasons for Postal Reform*, [GAO-04-565T](#) (Washington, D.C.: Mar. 23, 2004); GAO, *Need for Comprehensive Postal Reform*, [GAO-04-455R](#) (Washington, D.C.: Feb. 6, 2004); GAO, *U.S. Postal Service: Key Elements of Comprehensive Postal Reform*, [GAO-04-397T](#) (Washington, D.C.: Jan. 28, 2004); GAO, *U.S. Postal Service: Bold Action Needed to Continue Progress on Postal Transformation*, [GAO-04-108T](#) (Washington, D.C.: Nov. 5, 2003).

¹⁹GAO, *A Framework for Assessing the Acquisition Function at Federal Agencies*, [GAO-05-218G](#) (Washington, D.C.: September 2005).

²⁰GAO, *Best Practices: Using Spend Analysis to Help Agencies Take a More Strategic Approach to Procurement*, [GAO-04-870](#) (Washington, D.C.: Sept. 16, 2004); GAO, *Best Practices: Improved Knowledge of DOD Service Contracts Could Reveal Significant Savings*, [GAO-03-661](#) (Washington, D.C.: June 9, 2003); and GAO, *Best Practices: Taking a Strategic Approach Could Improve DOD's Acquisition of Services*, [GAO-02-230](#) (Washington, D.C.: Jan. 18, 2002).

²¹GAO, *Postal Service: Progress in Implementing Supply Chain Management Initiatives*, [GAO-04-540](#) (Washington, D.C.: May 17, 2004); and GAO, *Contract Management: Postal Service's National Office Supply Contract Has Not Been Effectively Implemented*, [GAO-03-230](#) (Washington, D.C.: Jan. 17, 2003).

Private-sector purchasing experts: In addition to our previous work in the procurement area, we spoke to officials from organizations that are considered experts in the area of purchasing reform and who also consulted with USPS about changes needed in its purchasing practices. These included officials from IBM, the Center for Strategic Supply Research, and the Institute for Supply Management. These officials stated that leading organizations in this area continually look for opportunities to increase efficiency and “best value” in this area. Based upon our past work in this area, as well as discussions with these experts, we identified some of the leading practices that are related to implementing a strategic sourcing approach include the following:

- take an enterprise wide approach to buying goods and services;
- provide clear and strong leadership, including establishing goals and prioritizing initiatives to enhance accountability for performance;
- utilize supply chain management to leverage the organization’s buying power and identify more efficient ways to procure goods and services;
- develop information systems—i.e., a spend analysis system—to identify how much is being spent with which supplier for what goods or services;
- create commodity-specific experts and provide these experts the flexibility and discretion to make market-based decisions;
- demonstrate value and credibility of new processes through the use of cost and performance metrics and reporting to monitor and make continuous improvements; and
- establish proactive business relationships, particularly with high-quality suppliers, such as utilizing prequalified supplier lists.

These experts also noted other leading practices that private-sector companies incorporate in their purchasing processes. These include efforts to

- resolve disputes in an efficient manner, including alternative dispute resolution;

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- promote socially responsible contracting that incorporates a diverse supplier base and ensures that contracting officials act in an ethical, professional manner; and
 - establish flexible policies and procedures that can be updated in an expeditious manner to effectively respond to market changes.

USPS's Purchasing Changes Are Generally Consistent with Principles and Practices of Leading Organizations

For the most part, USPS's changes to its purchasing policies—its new regulations and its draft guidance—reflect leading practices aimed at increasing the flexibility, efficiency, social responsibility and accountability in its purchasing system. One area of USPS's regulatory changes that we do not believe is consistent with leading practices, its ombudsman, will be discussed in the next section of this report.

USPS's Purchasing Changes Are Consistent with the Leading Principle of Flexibility

We found that USPS's regulatory changes and guidance include leading practices related to flexibility. Leading organizations in both the public and private sector need to have the flexibility to take advantage of leading practices, such as reengineering their purchasing processes to incorporate supply management initiatives and strategic sourcing. USPS's new regulations state that they are designed to permit flexibility so that USPS may respond to market conditions in acquiring the best property goods and service to meet its needs at a fair and reasonable price. According to USPS officials, it will be able to update its non-binding guidance more expeditiously compared to its previous regulations. This allows for more timely and responsive reactions to changes in the marketplace. Also, USPS's new regulations provide flexibilities similar to those for leading private-sector organizations in terms of how they enter into business relationships and decline to accept or consider proposals. Further, USPS's new guidance enhances the discretion of contracting officers when making decisions.

USPS's Purchasing Changes Are Consistent with the Leading Principle of Efficiency

We also found that USPS's changes are consistent with leading practices related to increasing efficiencies. Leading organizations continually look for opportunities to improve the efficiency of their procurement systems and use a variety of practices to achieve these efficiencies including

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- incorporating supply chain management,
 - conducting spend analysis,
 - creating commodity-specific experts,
 - establishing proactive business relationships with suppliers, and
 - determining efficient ways to resolve disputes and disagreements.

USPS's draft guidance incorporates specific leading practices to implement supply chain management, conduct spend analysis, establish commodity-specific experts, have effective and expeditious dispute resolution processes, promote positive business relationships, improve management structure and oversight, prequalify suppliers, and effectively use technology. This guidance states that it expects that efficiencies will be gained by leveraging its nationwide network. For example, instead of purchasing gas from various suppliers, USPS intends to take advantage of volume discounts and consolidate its buys with fewer suppliers. These actions should allow USPS to reduce the number of transactions that occur and take advantage of volume discounts.

USPS's Purchasing Changes Are Consistent with the Leading Principle of Social Responsibility

USPS's new regulations include some specific factors that are consistent with leading supply management principles and practices related to social responsibility. These principles state that leading public and private organizations should conduct their operations in a socially responsible, professional manner by avoiding conflicts of interest, promoting positive supplier relationships through courtesy and impartiality, encouraging support for small, minority-, and women-owned businesses, ensuring financial transparency in financial dealings, and treating people with dignity and respect.²² The process and policies by which these results are achieved, however, can vary between public and private organizations. For example, a couple of USPS suppliers stated that they do not consider fairness to be a key component of their procurement policies and procedures, but that principles of socially responsible behavior, such as incorporating integrity, ethical behavior, and supplier diversity, are critical to their success. One of the key differences between public and private

²²Institute for Supply Management, *Principles and Standards of Ethical Supply Management Conduct*, January 2002, and *Principles of Social Responsibility*, April 2004.

sector purchasing is that purchasing regulations for public sector entities that fall under the FAR include specific references or objectives related to fairness. For example, the FAR emphasizes conducting business with integrity and fairness, such as requiring open communication with stakeholders and developing a trained, qualified procurement workforce. These actions are aimed at maintaining the public's trust in the federal procurement system.

USPS's ethics and social responsibility principle in its draft guidance calls for USPS's supply management professionals to act with the highest standards of conduct, ethics, and integrity, and these professionals also will be guided by the key principles of social responsibility identified by the Institute of Supply Management. This guidance specifies that contracting officials must maintain necessary professional proficiencies. Furthermore, under the principle titled "supplier relations," the guidance states that USPS will attempt to establish and maintain a strong competitive supplier base that reflects the diversity of the supplier community and provides suppliers with equal access to purchasing opportunities. Although it is specifically excluded from the operation of the Small Business Act by 15 U.S.C. 637c, USPS stated that it continues to be a leader in this area. For example, USPS reported that, on average over the past 5 years, it has distributed 4.1 percent of its prime contract commitments to minority-owned businesses, 6.4 percent to women-owned businesses, and 42.3 percent overall to small businesses (see table 3). In comparison, the Small Business Administration's governmentwide aggregate goals in fiscal year 2004 were 5 percent for women-owned businesses and 23 percent for small businesses.²³ USPS reported that in fiscal year 2004 it had contract commitments worth about \$344 million with minority-owned businesses, \$577 million with women-owned businesses, and over \$3.4 billion with small businesses.

²³While the statutory goals for representation in contracting by small businesses and women-owned small businesses are goals for the federal government overall, the Small Business Administration negotiates with each of the federal agencies individually to establish agency-specific goals so that the governmentwide goals are met in the aggregate. Since USPS is exempt from the Small Business Act, the Small Business Administration does not establish any goals for USPS. Also, we did not include a governmentwide goal for contracting with minority-owned businesses because Small Business Administration does not have a comparable governmentwide goal, rather it has a goal of 5 percent for small, disadvantaged businesses.

Table 3: USPS Prime Contract Commitments with Small, Minority-, and Women-Owned Businesses, Fiscal Years 2000-2004

Dollars in millions

Fiscal year	Minority-owned businesses		Women-owned businesses		Small businesses	
	Contract commitments	Percentage of overall contract commitments ^a	Contract commitments	Percentage of overall contract commitments	Contract commitments	Percentage of overall contract commitments
2000	\$336.8	4.7%	\$488.7	6.8%	\$3,564.9	49.6%
2001	313.9	2.3	569.5	4.1	3,807.6	27.6
2002	272.5	4.5	361.3	6.0	2,463.1	41.1
2003	334.0	3.8	590.4	6.6	3,863.9	43.4
2004	344.8	5.0	577.3	8.4	3,429.1	49.7
Average	\$320.4	4.1%	\$517.4	6.4%	\$3,425.7	42.3%

Source: USPS.

^aOverall contract commitments exclude instances where small, minority-, and women-owned businesses are not offered contracting opportunities. Such instances include contracts for mandatory sources, foreign contracts, utilities, or educational institutions.

Although the social responsibility principles included in the draft guidance are consistent with key principles and practices and USPS's past performance in this area exceeds the governmentwide averages, some small business suppliers are concerned that they may be negatively impacted as USPS implements its revised regulations and strives to become more efficient. We and USPS's Inspector General have previously reported on USPS's difficulties in incorporating small, minority-, and women-owned businesses into some of its supply chain management initiatives. These reports raised concerns about USPS not proactively exploring options for keeping small businesses involved; not setting targets for contracting with small businesses; and having incomplete and unreliable contracting data for small, minority-, and women-owned businesses.²⁴ Furthermore, members of the mailers' Small Business Procurement Coalition told us about their concerns regarding the extent to which small, minority-, and women-owned businesses are limited to subcontracts, rather than being awarded the primary contract where they would have greater authority. As we will later discuss, establishing targets and effectively tracking

²⁴GAO-04-540, GAO-03-230, and Office of Inspector General, U.S. Postal Service, *Supplier Diversity Program for Supplies, Services, and Equipment Purchases*, CA-AR-01-005 (Arlington, VA: Sept. 6, 2001).

performance, particularly for small, minority-, and women-owned businesses, will be important to ensuring appropriate accountability.

USPS's Purchasing Changes Are Consistent with the Leading Principle of Accountability

We believe that USPS's draft guidance includes performance mechanisms that are consistent with leading accountability practices. For example, it states that USPS will use goals and metrics to hold its professionals accountable and allow USPS to assess and reward performance. Leading procurement experts in both the public and private sectors have recognized the importance of accountability throughout the organization for results. For example, OMB's guidance to all federal Chief Acquisition Officers stressed the need for establishing performance goals and measures and for monitoring, reporting, and evaluating the results. We have also reported on the purchasing practices that leading private-sector companies, such as ChevronTexaco, Dell Computer, and IBM use to promote accountability. These companies have developed formal spend analysis programs that monitor, track, and analyze spending to improve their procurement processes.²⁵ Spend analysis programs help to identify areas for savings, as well as develop reports for top management to establish quarterly and annual savings goals and track financial and other benefits achieved.

USPS's changes identify accountability principles and practices that reflect those of leading organizations. For example, to enhance transparency, USPS guidance will be publicly available on USPS's Web site. USPS's guidance states that USPS plans to have goals that will be used to assess the performance of its purchasing professionals and metrics to be used in contract management that will be results-oriented, specific, measurable and achievable. The guidance also notes that USPS will use spend analysis to assist it in tracking spending and identifying potential savings. This process will help to determine whether to renew contract(s) with an existing supplier or switch to a new one and evaluate whether purchased products or services met specific USPS needs. These goals and measures can also address concerns raised by some stakeholders about whether USPS will achieve its projected efficiency goals under these regulatory changes.

²⁵[GAO-03-661](#).

USPS's Ombudsman Regulatory Provisions and Guidance Are Not Consistent with Leading Ombudsman Principles and Practices

USPS's ombudsman, as it is currently structured, is not consistent with the core principles of independence, impartiality, and confidentiality related to the role of the ombudsman as identified by leading organizations. USPS's ombudsman is not independent of the Supply Management organization—the ombudsman reports to the head of Supply Management—raising issues of conflict of interest or that its decisions may not be viewed as impartial. Furthermore, the decisions of USPS's ombudsman are final and binding; typically ombudsman decisions are recommendations. Concerns remain about USPS's intended purpose for its ombudsman position and the independence and impartiality of this process as it is currently structured.

Leading Principles and Practices for an Ombudsman

Leading organizations have established core principles and practices for developing and implementing an effective and credible ombudsman process. The American Bar Association (ABA) adopted a resolution in February 2004 that applies to the establishment of an ombudsman for both government and private-sector entities. The Coalition of Federal Ombudsmen has incorporated these ABA principles into its draft supplement to the ABA standards. In our past work, we have also reviewed the professional standards of practices related to ombudsman.²⁶ The core principles endorsed by these organizations include having an ombudsman who is independent, impartial/neutral, and protects confidentiality. According to leading experts in this area, these principles can apply to ombudsman in the private or public sector, and are as follows:

- **Independent:** An ombudsman should be free from interference or control by an official of the appointing entity or by a person who may be the subject of a complaint or inquiry. Furthermore, standards for the ombudsman state that an ombudsman should function independently of line management. This could include having the ombudsman report directly to the highest agency official, report directly to the official governing body of the organization, or having the ombudsman appointed by someone not a subject of a complaint or inquiry.

²⁶GAO-01-466, GAO, *Environmental Protection: Issues for Consideration in the Reorganization of EPA's Ombudsman Function*, GAO-02-859T (Washington, D.C.: June 25, 2002), and GAO, *Hazardous Waste: EPA's National and Regional Ombudsman Do Not Have Sufficient Independence*, GAO-01-813 (Washington, D.C.: July 27, 2001).

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- **Impartial/neutral:** An ombudsman should be free from initial bias and conflicts of interest when conducting inquiries and investigations. The ombudsman should not represent complainants or the organization and should conduct investigations in an impartial manner. Furthermore, leading organizations state that typically, ombudsman decisions are “recommendations” rather than legally-binding decisions and emphasize that periodic reports should be issued regarding the rulings of the ombudsman.
 - **Protect confidentiality:** An ombudsman should not be required to disclose any information provided in confidence or reveal the identity of a complainant without the complainant's express consent to prevent the risk of reprisal.

These leading organizations also stated that typically an ombudsman has played a more informal mediation role as a neutral third party by assisting in negotiations to resolve disputes. According to our past work, the ombudsman is a dispute resolution practitioner who uses a variety of techniques, including ADR processes, to deal with complaints, concerns, and questions. The ombudsman is an informal alternative to more formal processes that an organization has in place to deal with conflict resolution. Both the ABA's rule and the Coalition of Federal Ombudsman's supplement provide that an ombudsman should not make binding decisions or determine rights but instead make recommendations to management.

Inconsistencies in USPS's Ombudsman Provisions and Guidance

We have concerns related to USPS's ombudsman provision and the ombudsman's ability to fairly resolve business disagreements because its role, structure, and authority are not consistent with key principles of impartiality and independence embodied by leading organizations. These uncertainties may have a negative effect on supplier confidence and perceptions of fairness, which could severely hinder USPS's credibility and its ability to achieve successful supplier relationships. Furthermore, leading ombudsman organizations raised concerns about inconsistencies between the role and structure of USPS's ombudsman and the key principles endorsed by these organizations, which could contribute to confusion in their efforts to develop a common understanding of the role and responsibilities of an ombudsman in both public and private-sector organizations.

USPS stated that its ombudsman process was established based on the structure and role of an ombudsman at leading organizations, including

IBM and National Aeronautics and Space Administration (NASA). Further, USPS officials told us that one of their key objectives in revising their purchasing regulations was to ensure that responsibility and accountability for purchasing decisions was clearly within the supply management organization. Also, they explained that when they considered the establishment of the ombudsman provision, they wanted a process that would resolve disagreements with aggrieved suppliers/potential suppliers in an expedited manner, both inexpensively and with finality, and that decisions would be made based on best value determinations for USPS. Although it is not explicitly stated in the regulation or guidance, USPS preferred appointing as ombudsman a person from within USPS's Supply Management organization, who understands supply management, knows the postal culture, and has knowledge of postal operations. According to USPS officials, this knowledge would help the person who serves as the ombudsman ensure that disagreements are resolved in an efficient and prompt manner.

USPS's draft guidance specifies that USPS would prefer to resolve disputes prior to their reaching the ombudsman by encouraging the contracting officer and supplier to come to mutual agreement, whenever possible, and encourages the use of negotiation to resolve differences before turning to formal ADR processes.²⁷ The guidance encourages the use of ADR techniques such as mediation, conciliation, neutral evaluation, expert determination, adjudication, and arbitration prior to pursuing the ombudsman process. USPS's guidance describes the process that the ombudsman will use when making its final and binding decisions and states that litigation should be considered as a method of last resort.

USPS's ombudsman, as it is currently structured, is not consistent with the core principles of independence, impartiality, confidentiality, or the role of the ombudsman as identified by leading ombudsman organizations. The inconsistencies include the following:

- USPS's ombudsman is not independent of, or impartial from, the Supply Management organization. The appointed ombudsman holds a position in USPS's Supply Management organization, is appointed by the Vice President of Supply Management, reports to the Vice President of Supply Management, and continues to have other responsibilities within

²⁷The guidance states that informal negotiation, litigation, and the ombudsman procedures are not forms of ADR.

the Supply Management organization. Furthermore, the Vice President of Supply Management is the official who may make decisions to decline to accept or consider proposals. In contrast, both IBM's and NASA's ombudsmen, who handle purchasing-related disputes, report to someone outside of the procurement organization.

- USPS's ombudsman makes final, binding decisions, which is inconsistent with the authority of an ombudsman in leading organizations. Officials from leading professional organizations stated that an ombudsman typically makes "recommendations" and works to facilitate negotiations and resolve issues and complaints. These officials stated that USPS's current structure is more consistent with that of an arbitrator. One key difference between USPS's and NASA's ombudsman is that the decisions of NASA's ombudsman are recommendations, while those of USPS's are binding.
- USPS's ombudsman process does not promote confidentiality of the parties raising the dispute against USPS. Although the Final Rule provides that the ombudsman will protect confidential or privileged material, it does not protect the identity of the complainant. The Final Rule specifies that the ombudsman provides a copy of the disagreement to the contracting officer (the person who may make contract award decisions from which the dispute arises). Officials from leading professional organizations stated that ombudsman investigations should be conducted in a confidential manner to protect the identity of the person making the complaint against the decision-making contracting official to limit any future retribution.

The inconsistencies in USPS's ombudsman from the principles and practices of leading organizations may have several consequences. For example, based on comments from experts and stakeholders we spoke with (1) suppliers may potentially feel reluctant to spend the resources to go through the ombudsman process or raise complaints against USPS; (2) suppliers may add additional costs into their initial bid submissions to cover the potential costs and risk associated with the ombudsman process, particularly because USPS has set its ombudsman method up as a formal, binding process; and/or (3) suppliers may lose confidence in the fairness and credibility of the process and eventually stop contracting with USPS, which could erode the supplier base. Officials from leading ombudsman organizations also voiced concerns about how the current structure and role of USPS's ombudsman may create confusion and impede their

organizations' attempts to ensure consistent, professional ombudsman's standards across both public and private-sector entities.

To address these inconsistencies, there are several options that USPS could consider. The first option is to revise its ombudsman regulations so that they comport with the leading principles and practices. USPS could change its regulatory provision so that the ombudsman would make recommendations rather than binding decisions. The recommendations of the ombudsman could then be reported to someone outside the purchasing organization who would make a final, binding agency decision. Under this option, USPS would also then need to revisit the regulatory provisions related to the basis for appeals of ombudsman decisions because the ombudsman would no longer be making the final agency decision. USPS could also consult with leading ombudsman organizations, such as the Coalition of Federal Ombudsman, to determine appropriate structure, standards, and training qualifications.

Another option would be for USPS to eliminate its current ombudsman position, determine who would make the final, binding agency decision, and make corresponding changes in its regulations and appeals provisions. USPS could also determine whether it wants to establish or continue to use other formal or informal dispute resolution mechanisms to reach its goal of handling disagreements in an expedited manner with finality. For example, Federal Aviation Administration (FAA) does not have an ombudsman as part of its dispute resolution process, but has instead established the Office of Dispute Resolution for Acquisition. This office encourages parties to mutually agree to the use of ADR mechanisms as the primary means of resolving bid protests and assigns an officer to facilitate these discussions.²⁸ The head of this office also stated that he prefers more informal mechanisms such as neutral evaluation and mediation as opposed to more formal mechanisms such as binding arbitration because they are faster, less costly, and parties have more control of the outcome. This official also serves as the Chair of the Interagency Alternative Dispute Resolution Working Group and suggested that this working group would be

²⁸Parties also have the option to submit their protest to a default adjudicative process that would result in a final agency decision, which can then be appealed to the federal court of jurisdiction.

available to assist USPS and other federal entities in developing their dispute resolution processes.²⁹

Continued Oversight of USPS's Implementation of Its New Regulations Is Needed

Continued oversight of USPS's changes in the purchasing area is needed not just based on the ombudsman inconsistencies identified above but also due to other factors such as the uncertainty related to the issuance of USPS's final guidance, the potential impact on suppliers, and USPS's ability to achieve efficiencies under these new flexibilities while ensuring fair and consistent treatment of suppliers. As we previously discussed, we have concerns related to the credibility of USPS's ombudsman and how its role and structure is inconsistent with the principles and practices of leading organizations. Leading organizations favor the use of an ombudsman as a neutral, third-party facilitator, while USPS's is a final agency decision maker that focuses on best value decisions for USPS. We also have concerns related to the uncertainty surrounding the final guidance. USPS continues to delay the issuance of its final guidance, which we were told would be available in the fall 2005 and was later changed to early in calendar year 2006. Considering that the final guidance was not yet completed when the final rule was implemented, and that there have been additional delays since, uncertainties remain for both the supplier community and other interested stakeholders about the principles and practices that will guide future USPS purchasing decisions.

This relatively short implementation period of these regulatory changes—they have only been in place 7 months—creates additional uncertainties regarding the potential impact of these changes on USPS's suppliers and the sufficiency of USPS's accountability mechanisms for tracking and monitoring its performance in this area. USPS officials have acknowledged that the changes in USPS's purchasing regulations could result in a decrease in the number of USPS suppliers and that the number of small, minority-, or women-owned businesses could be impacted by these changes. These officials also stated, however, that USPS's contracting with small, minority-, and women-owned businesses have continually exceeded that of other federal agencies and that USPS's draft guidance promotes supplier diversity and encourages the use of these businesses when issuing

²⁹This interagency group was established by the President under the authority created by the Administrative Dispute Resolution Act of 1996 to facilitate and encourage agency use of dispute resolution. Executive Order 12866; Administrative Dispute Resolution Act of 1996 (ADRA), Pub. L. No. 104-320.

certain contracts. Although we recognize USPS efforts in this area, our past reports have raised concerns about the sufficiency of USPS's accountability mechanisms in this area. In 2004, we reported that USPS had difficulties in achieving its desired efficiencies for its bulk fuel program initiative, had unreliable data on the dollar amounts of small business contracts, and no longer included targets for contract dollars awarded to these businesses.³⁰ We recommended that USPS focus attention on small business concerns in carrying out its supply chain management initiatives and develop targets to promote accountability in its small business contracting. At that time, USPS generally agreed with our recommendation but stated that it did not plan to establish small business targets at that time but would consider reestablishing targets for small business contracts if its achievements slipped. In 2003, we also reported that USPS did not meet its savings targets related to its office supply contract, and it was not accurately tracking small, minority-, and women-owned business participation.³¹ We recommended that USPS develop a plan that accurately and clearly reflects realistic contracting goals for small, women-, and minority-owned businesses. We recently discussed these reports with USPS officials who stated that USPS has made significant progress in achieving efficiencies in its supply chain initiatives since these reports were issued, particularly in tracking small, minority-, and women-owned participation, but they continue to disagree with our recommendation to establish targets because of their positive performance in this area and the difficulty in developing useful targets. We continue to believe that targets are necessary because without establishing targets and providing reliable information on performance goals and results related to USPS's purchasing activities, including its contracts with small, minority-, and women-owned businesses, it will be difficult for stakeholders to hold USPS decision makers accountable for their actions or ensure that USPS (1) maintains a diversified supplier base, (2) achieves its desired efficiencies, and (3) implements its revised regulations in a manner consistent with the principles of postal and procurement reform.

Concerns also remain about the use of ADR mechanisms in the purchasing area, given that they were available under the previous regulations but rarely used. Although USPS encourages the use of ADR as an effective way to understand, address, and resolve disagreements, the head of Supply

³⁰GAO-04-540.

³¹GAO-03-230.

Management has stated that past USPS efforts in this area did not gain much traction. Considering the increased focus on ADR under the new rule—the rule stated that any party disagreeing with a USPS decision must consider the use of ADR to resolve particular disagreement regardless of the nature of the disagreement or when it occurs during the purchasing process—it will be important for these ADR mechanisms to be effectively implemented to have a credible dispute resolution process.

Proposed legislation and oversight mechanisms by Congress have also identified issues related to how USPS can achieve efficiencies by taking advantage of increased flexibility, while at the same time ensuring fair and consistent treatment of suppliers. In the legislative arena, we have mentioned that pending postal reform bills include provisions related to USPS's purchasing activities. Specifically, the Senate's bill, S. 662, states that USPS should implement commercial best practices to achieve greater efficiency and cost savings in a manner that is compatible with the fair and consistent treatment of suppliers and contractors. Further, H.R. 22, the House postal reform bill, includes a requirement that USPS's Board of Governors submit a report to the President and the Congress concerning the number and value of contracts and subcontracts USPS has entered into with women, minorities, and small businesses. Congress' oversight mechanisms include annual reports from USPS, such as its annual operations report, the Comprehensive Statement on Postal Operations, which provide information related to USPS's supply management activities. The 2004 Comprehensive Statement reported that USPS's supply management activities had achieved \$1.4 billion in cost savings, reductions, avoidances, and revenue since fiscal year 2000, discussed how cost efficiencies were achieved, described key initiatives in this area, and discussed its supplier diversity achievements and contract commitments. USPS is also required to report to the Senate Committee on Homeland Security and Governmental Affairs and the House Committee on Government Reform on the actions it plans to take to respond to our recommendations within 60 days of the issuance. Finally, as another oversight mechanism, Congress has asked us to report on USPS's activities in this area as indicated by this report and other reports previously mentioned.

Continued oversight will be needed to ensure that USPS successfully implements the recent changes to its purchasing regulations. The areas for oversight include

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- how USPS has addressed the inconsistencies in its ombudsman regulatory provisions to better reflect the principles and practices of leading organizations;
 - when USPS will issue its final guidance, which details how it plans to implement the changes to its purchasing regulations;
 - how USPS intends on ensuring accountability and supplier diversity by effectively tracking, monitoring, and reporting its contracting performance, including the impacts on small, minority-, and women-owned businesses;
 - the extent to which USPS is utilizing ADR methods for resolving bid protests; and
 - whether USPS has taken advantage of its increased flexibility and achieved greater efficiency while ensuring fair and consistent treatment of suppliers.

Conclusions

USPS continues to face financial and operational challenges, and its procurement program represents a key part of its annual expenses. USPS has recognized opportunities to increase efficiencies in this area by making major changes to its purchasing regulations. Generally, USPS's recent changes to its procurement regulations and draft guidance are consistent with the principles of postal and procurement reform and the leading practices in this area. However, the regulatory provision related to USPS's new ombudsman process is not consistent with core principles related to independence and impartiality that were identified by various ombudsman authorities. Specifically, the reporting relationship is inconsistent because the ombudsman reports to the Vice President of Supply Management, the head of the purchasing organization, and the ombudsman's decisions are final and binding, rather than recommendations. These inconsistencies may lead to a loss of supplier confidence in the fairness or credibility of USPS's dispute resolution process. Also, the ombudsman organizations were concerned that the inconsistencies in USPS's ombudsman regulatory provision would create confusion about the role of an ombudsman as an independent neutral facilitator. There are several options that USPS could consider to address the inconsistencies of its ombudsman provision.

Recommendations for Executive Action

We recommend that the Postmaster General take actions to address the inconsistencies in USPS's ombudsman with the leading principles and practices related to independence and impartiality. USPS should consult with expert ombudsman and dispute resolution organizations to explore options related to its intended purpose for the ombudsman position and alternatives for changing this position to conform to leading principles and practices. If USPS wants to retain the ombudsman position, it should revise (1) the ombudsman's reporting relationship to the purchasing organization so that it is independent and neutral; (2) the ombudsman's role so that it makes recommendations rather than final, binding decisions; and (3) the appeals provision so that it applies to the final, binding agency decision rather than the ombudsman's recommendation. Another alternative is that USPS could eliminate the ombudsman position and use other dispute resolution mechanisms, such as ADR. USPS could then designate another agency official to make the final, binding decision. For either alternative, USPS would need to change its regulations and guidance accordingly.

Agency Comments and Our Evaluation

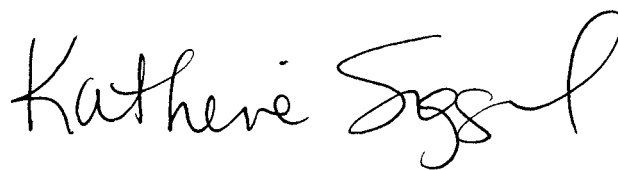
We provided a draft of this report to USPS for its review and comment. USPS provided its comments in a letter from the Vice President, Supply Management, dated December 5, 2005. These comments are summarized below and included in appendix IV. USPS concurred with our finding that its regulatory changes, including its draft internal guidance, are generally consistent with key reform principles and practices of leading public and private-sector organizations. In its comments, USPS also reiterated that its new Supplying Principles and Practices will be issued early next year. Regarding our recommendations related to its new supplier ombudsman, USPS stated that it understood our concerns, and in keeping with our recommendations, would consult with appropriate ombudsman and dispute resolution organizations and reassess its ombudsman's role and reporting relationship. Further, USPS stated that it would keep us informed of its progress and decisions related to its ombudsman. Changes to the ombudsman will help to ensure independence and impartiality in USPS's dispute resolution process, and we will continue to monitor USPS's actions related to this issue.

We are sending copies of this report to the Chairman and Ranking Minority Member of the House Committee on Government Reform, Ranking Minority Member of the Senate Committee on Homeland Security and Governmental Affairs, Senator Thomas R. Carper, the Postmaster General,

and other interested parties. We also will provide copies to others on request. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staff have any questions regarding this report, please contact me at siggerudk@gao.gov or by telephone at (202) 512-2834. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix V.

Sincerely yours,

A handwritten signature in black ink that reads "Katherine Siggerud". The signature is written in a cursive style with a large, looping initial 'K'.

Katherine Siggerud
Director, Physical Infrastructure Issues

Objectives, Scope, and Methodology

To describe the major changes to the U.S. Postal Service's (USPS) purchasing regulations, we reviewed the Final Rule in the *Federal Register* that was issued on April 19, 2005, as well as USPS's proposed rule that was issued on March 24, 2004. To describe the stakeholder views of those changes, we reviewed all of the comments that were filed in response to the proposed rule, which included such suppliers as Northwest Airlines; Hewlett-Packard; Siemens Dematic Postal Automation, L.P.; and the National Star Route Mail Contractors' Association. We also followed up with selected parties to discuss with them the comments their organizations provided on the proposed rule, including both large and small suppliers, as well as other legal representatives such as Wickwire, Gavin P.C., the American Bar Association, and Thompson Coburn LLP. We also spoke with selected stakeholders who did not directly provide formal comments, including various representatives of small business associations such as the National Small Business Association and the Association for Procurement Technical Assistance Centers. To describe USPS's rationale for making these changes, we met with USPS officials and reviewed USPS's purchasing manuals, circulars, and instructions, the preambles and regulatory case files for the proposed and Final Rule, USPS's Comprehensive Statement on Postal Operations, and USPS's purchasing information. We assessed the reliability of USPS data on contract spending for inconsistencies. In those cases where we found discrepancies, we worked with USPS to address those problems. We determined that the data were sufficiently reliable for our review.

In order to conduct an assessment of USPS's purchasing changes, we needed to determine what information would be contained in USPS's internal guidance, the Supplying Principles and Practices. As such, we requested a draft copy of this document from USPS, which provided it to us for use in our analysis. Then, to assess how USPS's regulatory changes and its draft guidance reflect the principles of postal and procurement reform, we developed key principles of efficiency, flexibility, accountability, and fairness or social responsibility based on reviewing information from a variety of sources. These included our past work on postal reform and on procurement leading practices, which included reviewing the spend analysis purchasing efforts at various federal agencies (Departments of Defense, Veterans Affairs, Health and Human Services, Agriculture, Justice, and Transportation) as well as leading private organizations that were recognized for their acquisition services (IBM, ChevronTexaco, Bausch & Lomb, Delta Air Lines, and Dell). We also met with officials from the Institute for Supply Chain Management and Center for Strategic Supply Research, which are two leading procurement organizations. We also

reviewed USPS's Transformation Plan and its respective updates; USPS's Supply Management 5-Year Strategic Plan; the President's Commission's report; OMB's sourcing guidance, "Implementing Strategic Sourcing"; and proposed postal reform legislation. We also talked to various ombudsman experts from organizations such as the Coalition of Federal Ombudsman, the United States Ombudsman Association, the International Ombudsman Association, and the Interagency Alternative Dispute Resolution Working Group. Key members of these organizations serve as the ombudsman for various federal and state organizations including the National Institutes of Health, the State of Iowa, and the State of Hawaii. Representatives from these groups also provided the names of Coca-Cola and United Technologies Corporation as leading organizations that use ombudsman, with whom we also followed up. These experts also recommended that we consult the American Bar Association's adopted resolution entitled "Standards for the Establishment and Operations of Ombuds Offices," for leading principles that should be considered when implementing an ombudsman, which we reviewed and discussed this document with these experts. Our work was conducted from April 2005 to December 2005 in accordance with generally accepted government auditing standards.

Selected Federal Laws Applicable to USPS Purchasing

In its draft Supplying Principles and Practices, the U.S. Postal Service (USPS) identified the following list of laws governing purchasing at USPS, which are either mandated in Title 39, as enacted or amended, or apply to USPS by their own terms (see table 4). The draft guidance states that the Supply Management organization must comply with these requirements in all activities. We did not conduct an independent assessment of USPS's list or other laws which may apply to USPS, which was not within the scope of this review.

In addition, USPS provided in its draft Supplying Principles and Practices a list of additional laws and executive orders, which are applicable to it, and may affect USPS purchasing. These include: the National Environmental Policy Act, the Interstate Commerce Act, the Resource Conservation and Recovery Act, and the Program Fraud and Civil Remedies Act. USPS also included a listing of federal laws that do not apply to its purchasing processes, including the Competition in Contracting Act, the Federal Acquisition Streamlining Act, Truth in Negotiations Act, and the Procurement Integrity Act.

Table 4: USPS Compilation of Selected Federal Laws That Apply to USPS Purchasing

Law, regulation, executive order, or policy	Description
Laws mandated in Title 39 either as enacted or since amended	
<i>Randolph-Sheppard Act</i> , 20 U.S.C. 107 et seq., made applicable by 39 U.S.C. 410(b)(3)	Requires that licensed blind suppliers must be given priority for the operation of food vending services in USPS facilities.
<i>Miller Act</i> , 40 U.S.C. 270a-270f, made applicable by 39 U.S.C. 410(b)(4)(B)	Requires contract surety bonds on federal construction; contractor must post a performance bond and a labor and material payment bond.
<i>Davis-Bacon Act</i> , 40 U.S.C. 276a et seq., made applicable by 39 U.S.C. 410(b)(4)(C)	Requires that construction contracts over \$2,000 contain a provision setting the minimum wages to be paid to all classes of laborers and mechanics working on the work site. Wage rates determined by Secretary of Labor.
<i>Copeland Anti-Kickback Act</i> , 18 U.S.C. 874 and 41 U.S.C. 276(c), made applicable by 39 U.S.C. 410(b)(4)(D)	Applies to any construction contract over \$2,000 (subject to the Davis Bacon Act) and makes it unlawful to force laborers or mechanics to give up any part of their compensation except for permissible deductions such as taxes and union dues.
<i>Contract Work Hours and Safety Standards Act</i> , 40 U.S.C. 327-333, made applicable by 39 U.S.C. 410(b)(4)(E)	Requires that certain contracts contain a clause specifying that no laborer or mechanic doing any work under the contract may be required or permitted to work more than 40 hours per work week unless paid time and a half for all overtime hours.
<i>Walsh Healey Public Contracts Act</i> , 41 U.S.C. 35-45, made applicable by 39 U.S.C. 410(b)(5)(A)	Applies to indefinite delivery contracts and ordering agreements if the aggregate amount of all orders is expected to exceed \$10,000 during the year following award. Requires these contracts to incorporate certain requirements by reference.

Appendix II
Selected Federal Laws Applicable to USPS
Purchasing

(Continued From Previous Page)

Law, regulation, executive order, or policy	Description
<i>Service Contract Act</i> , Pub. L. No. 89-286, 41 U.S.C. 351 et seq., made applicable by 39 U.S.C. 410(b)(5)(B)	Applies to any contract whose principal purpose is to provide services to be performed by service employees. Employees working under a service contract must be paid no less than the minimum wage specified by the Fair Labor Standards Act.
<i>Prohibition on Convict Labor</i> , 39 U.S.C. 2201	Requires USPS not contract for supplies manufactured by convict labor except from Federal Prison Industries, Inc.
<i>Architectural Barriers Act</i> , 42 U.S.C. Chapter 51, made applicable by 39 U.S.C. 410(b)(8)	Requires that postal buildings are accessible to the physically handicapped.
<i>Prompt Payment Act</i> , 31 U.S.C. Chapter 39, made applicable by 39 U.S.C. 410(b)(9)	Provides incentives for USPS to pay its bills on time to suppliers. Requires the head of an agency acquiring property or service who does not pay for each complete delivered item by the required payment date to pay an interest penalty on the amount of the payment due.
<i>Freedom of Information Act</i> , 5 U.S.C. 552 made applicable by 39 U.S.C. 410(b)(1)	Provides the public with a right to access to records maintained by federal agencies.
<i>The Privacy Act of 1974</i> , 5 U.S.C. 552a made applicable by 39 U.S.C. 410(b)(1)	Provides privacy protections for personal information maintained by federal agencies. Provides that, when an agency maintains a system of records with such information, it must publish a notice describing that system in the <i>Federal Register</i> and must provide information on how that information is collected, used, disclosed, stored, and discarded. Includes how individuals can obtain access to and amend their personal information.
Laws applied to USPS by their own terms	
<i>Contract Disputes Act</i> , 41 U.S.C. 601 et seq.	Creates comprehensive system for resolving disputes between supplier and supply management relating to performance of most purchase contracts. The trigger point is the contracting officer's decision. Claims of the supplier and USPS must be the subject of a contract officer's decision. Supplier may appeal to appropriate agency board of contract appeals or file suit in U.S. Court of Federal Claims. Supplier and USPS can appeal a decision of a board of contract appeals or the federal court to the U.S. Court of Appeals for the Federal Circuit. Provisions of the Contract Disputes Act with regard to administrative resolution of disputes made by the Administrative Dispute Resolution Act (ADRA) are applicable to USPS, although other portions of the ADRA codified in 28 U.S.C. are not.
<i>Administrative Dispute Resolution Act of 1996 (ADRA)</i> , 28 U.S.C. 1491(b)	Requires USPS to have policies that address the use of alternative dispute resolution (ADR) techniques and to appoint a Dispute Resolution Specialist. Requires USPS to examine use of ADR in connection with rulemakings, formal and informal adjudications, enforcement actions, issuing and revoking licenses or permits, contract administration, litigation, or other actions.
<i>Vietnam Era Veterans Readjustment Assistance Act of 1972</i> , 38 U.S.C. 4212	Requires suppliers to take affirmative action to employ and advance in employment qualified special disabled veterans, veterans of the Vietnam era, and other eligible veterans without discrimination based on their disability or veterans' status, and list all employment openings with appropriate local employment services.
<i>Javits-Wagner-O'Day Act</i> , 41 U.S.C. 46-48	Requires that USPS and other federal agencies purchase certain supplies and services from qualified workshops which employ people who are blind or severely disabled.
<i>Rehabilitation Act of 1973</i> , 29 U.S.C. 702 et seq. including Section 508	Requires suppliers to take affirmative action to employ and advance qualified individuals without discrimination as to their physical or mental handicaps.

Source: USPS.

USPS Revised Purchasing Regulations— Provisions Governing the Acquisition of Goods and Services

Citation in the C.F.R.	Description and changes
601.100 – Purchasing policy	<p>Acquiring property and services in accordance with 39 U.S.C. 410 and all other applicable laws enacted by Congress.</p> <p>Previously, 601.100 incorporated, by reference, the provisions of the <i>Purchasing Manual</i>.</p>
601.101 – Effective date	Regulations are effective May 19, 2005.
601.102 – Revocation of prior purchasing regulations	Revokes all previous purchasing regulations including the <i>Purchasing Manual</i> and procurement handbooks, circulars and instructions, and all are superseded by the regulations below.
601.103 – Applicability and coverage	<p>Regulations in this part apply to all USPS procurements of property and services (except real property).</p> <p>Previously, this section set forth the contents of the <i>Purchasing Manual</i>, chapter by chapter.</p>
601.104 – Postal purchasing authority	<p>Lists who has the authority to bind USPS when entering into, modifying, or terminating contracts.</p> <p>Previously, this section addressed amendments to the <i>Purchasing Manual</i>, stating that they would be incorporated by reference into this part of the C.F.R.</p>
601.105 – Business relationships	<p>States USPS' expectation that it will be treated as a valued customer.</p> <p>Previously, there was no equivalent section in the C.F.R. However, in the <i>Purchasing Manual</i>, which had the force and effect of law, the regulations provided a reciprocal USPS commitment to fair treatment of its suppliers throughout the <i>Purchasing Manual</i>.</p>
601.106 – Declining to accept or consider proposals	<p>USPS has the right to decline to accept/consider proposals from entities failing to meet reasonable business expectations for a specific or indefinite time.</p> <p>Previously, there was no equivalent section in the C.F.R. or in the <i>Purchasing Manual</i>.</p>
601.107 – Initial disagreement resolution	<p>Provisions regarding alternative dispute resolution procedures, which are encouraged, but are not required, and are not mandatory of the supplier or the contracting officer. Protests can be lodged with contracting officer or with ombudsman if not resolved.</p> <p>Previously, was titled Protests under the Supplier Relations chapter in the <i>Purchasing Manual</i>, and under prior bid protest procedures, a protest could also be filed with USPS's General Counsel in lieu of the contracting officer.</p>
601.108 – Ombudsman disagreement resolution	<p>Establishes ombudsman procedure to resolve disagreements that cannot be resolved with contracting officers or management. The ombudsman will focus on best value considerations and business decisions made by the contracting officer to determine which supplier should be awarded a contract. Ombudsman decision is final and binding except in cases of fraud or misconduct.</p> <p>Previously, there was no equivalent section in either the C.F.R. or in the <i>Purchasing Manual</i>.</p>
601.109 – Contract claims and disputes	<p>Provisions for implementing the Contract Disputes Act.</p> <p>Previously, was titled Claims and Disputes under the Contract Administration chapter of the <i>Purchasing Manual</i>.</p>
601.110 – Payment of claims	<p>Claims determined in a final decision should be paid promptly to the supplier, and any board or court decisions favorable to the supplier must be implemented promptly.</p> <p>No change from prior regulations.</p>

Appendix III
USPS Revised Purchasing Regulations—
Provisions Governing the Acquisition of
Goods and Services

(Continued From Previous Page)

Citation in the C.F.R.	Description and changes
601.111 – Interest on claim amounts	Interest on amount due on a supplier's claim must be paid from the date the contracting officer received the claims, or from the date payment would otherwise be due, until the date of the payment. Previously, was titled Claims and Disputes under the Contract Administration chapter of the <i>Purchasing Manual</i> , and there were no changes other than deleting reference to a <i>Purchasing Manual</i> appendix.
601.112 – Review of adverse decisions	Any party can seek review of an adverse decision of the Board of Contract Appeals in the Court of Appeals for the Federal Circuit or any other appropriate forum. Previously, was titled Claims and Disputes under the Contract Administration chapter of the <i>Purchasing Manual</i> , and stated that USPS could seek review, if the Vice President of Supply Management with concurrence of USPS's <i>General Counsel</i> , decided to pursue the appeal.
601.113 – Debarment, suspension, and ineligibility	Provisions for causes for, mitigating factors of, and period of debarment and suspension. Previously, was titled Supplier Debarment, Suspension, and Ineligibility under the Supplier Relations chapter in the <i>Purchasing Manual</i> , and changes include: (1) requiring the vice president of Supply Management to concur with USPS's General Counsel before making a decision to debar a supplier, or before initiating a debarment proceeding, or deciding whether debarment is merited based on a conviction or civil judgment; (2) providing for procedures when the Vice President of Supply Management proposes a debarment when a supplier is already debarred by another government agency; (3) giving additional causes for debarment; and (4) period of suspension increased to 1 year from 6 months.

Source: USPS.

Comments from the U.S. Postal Service

VICE PRESIDENT, SUPPLY MANAGEMENT



December 5, 2005

Ms. Katherine A. Siggerud
Director, Physical Infrastructure Issues
United States Government Accountability Office
Washington, DC 20548-0001

Dear Ms. Siggerud:

Thank you for providing the Postal Service the opportunity to review and comment on the GAO draft report, U. S. Postal Service: Purchasing Changes Seem Promising, but Revisions to Ombudsman Position are Needed (GAO-06-190).

As noted in your draft report, Postal Service purchasing has for some time undergone a number of improvements, and our latest changes are the result of a two-decade-long effort to fulfill Congress' intent that the Postal Service's purchasing function operate in as businesslike a manner as possible. By continually improving our policies and procedures, most recently by introducing supply chain management into our day-to-day purchasing operations, we have made real, measurable progress. As you also note, these changes are in full accord with the Postal Service's Strategic Transformation Plan and its goals of lowering overall costs and furthering the business and competitive goals of the Postal Service. We have realized more than \$2.1 billion in cost reductions and cost avoidance since introducing supply chain management into our operations in 2000, and we expect to continue and enhance these bottom-line results.

We are gratified to see that, with the exception of certain aspects of our new Supplier Ombudsman program, the report finds that our changes are consistent with key reform principles and practices of leading public and private-sector organizations. As you note, our changes reflect leading principles aimed at increasing the flexibility, efficiency, social responsibility, and accountability in our purchasing system. When issued early next year, our new Supplying Principles and Practices, in combination with the new purchasing regulations published last May, will further promote these objectives, and will add to them a comprehensive set of business practices that purchase teams will be able to use to even greater advantage.

In regard to our new Supplier Ombudsman, we understand your concerns, and in keeping with your recommendation, we will consult with the appropriate ombudsman and dispute resolution organizations and reassess our Supplier Ombudsman's role and reporting relationship. If our research identifies particular changes that would enhance the ombudsman's effectiveness, we will thoroughly consider adopting those changes. We will keep you informed of our progress and decisions.

We appreciate the efforts and professionalism of your review team and the support the report provides for the ambitious goals we have set for our supply chain management initiatives. If you or your staff would like to discuss any of these matters further, I am available at your convenience.

Sincerely,

A handwritten signature in cursive script that reads "Keith Strange".

Keith Strange

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GAO Contact and Staff Acknowledgments

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