

March 31, 2003

Mr. Dennis Shea
Executive Director
President's Commission on the U.S. Postal Service
1120 Vermont Avenue, Suite 971
Washington, D.C. 20005

Re: Written Submission of the National Star Route Mail Contractors' Association
Testimony to the President's Commission on the U.S. Postal Service

Dear Mr. Shea:

I write to you today as the President of the National Star Route Mail Contractor's Association (the "Association"). The Association is a not-for-profit association that ultimately represents more than 17,000 small businessmen and women who provide surface transportation for the U.S. Mail and the United States Postal Service (the "USPS"). The Association's constituency is comprised of a variety of members who perform various tasks for the USPS, some of which are outside the scope of the USPS's normal functions, and some of which are performed by USPS employees. As an example, approximately 7,000 of our members are box delivery contractors who perform the same task of actually delivering mail to rural America, as do the USPS rural carrier employees.

The Association was organized to advocate the legislative and regulatory needs of its member contractors at both the state and federal government levels. The Association and the USPS have enjoyed a long and storied past of cooperation. In many respects, the USPS and the Association can be characterized as having worked hand-in-hand, as partners, to better the USPS and ourselves, while always having been cognizant of the goals and purpose of the USPS and its product – delivering the U.S. Mail. In fact, we have a joint policy committee which meets two or three times a year to discuss policies having a mutual impact, a good example of private – government interaction. Of course, the Association and its members are intent on maintaining this partnership relationship with the USPS for many years to come.

In the spirit of partnership and progress, we offer this written testimony for the President's Commission to consider when performing its daunting task of identifying the operational, structural, and financial challenges that face the USPS, examining potential

solutions, and ultimately recommending to the President of the United States legislative and administrative means to ensure the viability of the USPS long into the future. The USPS highway contracting industry (the “industry”) is well aware of the importance of maintaining the viability of the USPS, not only for the benefit of the industry, but also for the benefit of the USPS and the hundreds of millions of Americans who rely on the USPS’s services. The industry and the Association applauds the initiative taken by the President and the Commission to investigate the status quo of the USPS, and to recommend steps to be taken to streamline it, as well as improve its operation. It is on this premise that the Association bases its recommendations as is set forth more fully below. The industry, as it has historically done, desires only to further improve upon its partnership with the USPS, and to assist the USPS in any way it possibly can.

It is in this context – looking over our 200-year-plus history and mindful of today’s practices and problems – that we offer our example as a model for this Commission to harness the competitive power of the market place with the certainty, celerity and security of a public sector model.

This Commission is well aware of the issues, or potential issues which the USPS faces now and in the future. Thus, forsaking redundancy, I will not rehash them. The industry is also aware of these issues. However, the catalysts for our work together are private industry opportunities and the advancement of communication technology. The Association views the appointment of this Commission as a rare opportunity for the USPS to re-invent itself in order to bring it into the 21st Century. Although the Association believes that in the abstract the status quo has many compelling features, it also believes that some changes allow the USPS to better serve America, and, in the end, continue to be self-sufficient as an independent, federal government activity.

Ultimately, the Association embraces and champions the views of the overwhelming majority of those persons or entities who have previously testified before this commission — that the USPS must remain in the hands of government to provide universal service to the millions of Americans who have relied on the USPS for hundreds of years. The Association defines “universal service” as the USPS maintaining its current monopolies, and continuing its six-day mail service. The Association does not believe that complete privatization of the postal system in the United States is the best solution. Rather, the Association, along with the consensus of Americans, believes that the hybrid system of service that is currently employed by the USPS is still the premiere solution — i.e., the USPS is ultimately responsible for “putting the mail in the box,” but it contracts with private industry to harness the benefits of competition to perform various tasks to allow the USPS to most efficiently perform its function and responsibility.

In the Association’s view, the solution to the issues and difficulties currently facing the USPS, and those it will encounter, is simple. The USPS must restructure and streamline its business and administration models to (1) permit the USPS to more efficiently and effectively

perform its function, and (2) ultimately allow the USPS to venture outside of its perceived “monopoly-only” purposes and compete with private industry in non-monopoly markets and services to allow the USPS to reclaim some of the services that it has effectively given away to its private industry competitors in the past. To accomplish this goal, first, Congress must cooperate and enact legislation giving the USPS the flexibility to act more independently, but with accountability. In turn, the USPS must look internally at its resources to responsibly carry out its burden of accountability.

One of the USPS’s best and most loyal resources is members of the industry. Even before the United States established the USPS, history documents people — everyday, private citizens — like the current contractors, who would carry the mail from post to post. Since the 1800s, the highway contractors and the USPS have maintained a constant and a genuine symbiotic relationship — one cannot survive without the other. At the heart of the industry’s contributions to the success of the USPS is service with certainty, celerity and security. It is therefore necessary that the USPS and the highway contracting industry, through the Association, continue to work in conjunction to better the USPS.

The industry believes that the USPS has chosen a course recently which could damage the relationship between the USPS and the industry. In the Association’s view, the derogation of the relationship is in large part due to the USPS’s focus on bottom-line economics — in other words, the greater the cost savings, the better for the USPS and those that rely on its services. As is more fully set forth below, the Association believes that the USPS has focused entirely on the immediate, panacea-like policies to save costs today, but those policies will eventually erode the underlying tenets that have historically ensured that the USPS can perform its function, and will ultimately culminate in the USPS’s decline if they are not re-focused.

We believe that the following issues should be investigated and ultimately altered:

❖ **The USPS should not use “reverse auctions” to solicit bids for transportation services**

The USPS should do away with the current practice of conducting “reverse auctions” for contracts, where the maximum amount is posted and the lowest bid is disclosed. This practice encourages cut-throat bidding and, for the reasons stated above, will ultimately kill our industry and the USPS’s suppliers. Sealed bidding and offers have been the hallmark of government contracting for years. Sealed bidding is a convenient method to allow each contractor to analyze its own ability to provide the service, while not losing money. The USPS’s current practice of conducting reverse auctions is nothing more than a scheme to get people to make mistakes and find themselves in financial trouble with the resulting inability to perform. Reverse auctions, in theory, can work when dealing with a commodity, a constant. However, it is undisputed that the transportation business is unpredictable and unstable. Therefore, the USPS must ensure that it has a reliable and solid work force of contractors at its disposal at all times. The USPS should

maintain the integrity of its contractors' financial and performance abilities, and immediately do away with reverse auctions for contracts and other matters. Reverse auctions will lead to the elimination of small, independent, and women and minority owned businesses who must bid contracts to stand on their own versus a corporation that could buy the service and support it with other corporate assets. Many small businesses and minorities do not have the administrative staff or resources to sit at a computer terminal looking for opportunities.

❖ **USPS should avoid intruding into its contractors' businesses**

A contractor who bids to run a certain route for the USPS must be able to control his or her ability to negotiate with his or her suppliers. The USPS has embarked on a program to require all contractors to obtain fuel from a single supplier chosen by the USPS. The stated purpose of this initiative is to reduce the highway contracting industry's collective fuel costs. They have intimated that they may well extend this to other items purchased by the contractor.

In fact, a voluntary program already exists in this regard. Contractors may purchase tires at the same price as those bought by the USPS for its internal fleet. The tire supplier requires a contractor to complete a certification of eligibility, and a USPS contract number, in order to purchase tires at the reduced cost. This lowers the contractors' expense and costs the USPS nothing for administration.

The industry agreed to a similar voluntary program for fuel purchases. The USPS should negotiate the best price per gallon for its fleet, and make the fuel available to the industry. They contend that they cannot achieve the desired price without controlling all purchases, both internal and external. We hired a respected fuel consultant who disagreed. He contended that it was not necessary to bundle all gallons purchased to achieve the lowest cost.

We are independent business men and women. We believe in the "invisible hand" of Adam Smith that controls the marketplace. Economic freedom is inseparable from the other freedoms we enjoy in the United States. We trust that contractors who can benefit from voluntary purchasing under a USPS program will do so. We do not believe in a centrally run economy. It is both unnecessary and undesirable. The free exchange of goods and services between individuals has formed the basis for American economic life for over 200 years.

The USPS seeks to avoid being micromanaged by the U.S. Congress, while it is concurrently engaged in this attempt to micromanage our industry. If it could move the mail at lower overall cost than the contracting industry, it would. The USPS fuel program will build an internal bureaucracy and create an unnecessary distraction for postal management. It limits competition between contractors, and runs entirely counter to a free market economy. The USPS should refrain from instituting policies that limit or restrain a contractor's ability to be competitive. This system is forcing out small and minority owned businesses. Some local fuel vendors have already been forced out by this fuel initiative. Could local truck dealers be next?

Individual USPS contractors are economically stressed. Breakdown of the network will not serve USPS well in the long term. No one will, or can, sell below the cost of production in the long run. This could be a short term benefit, but a long term disaster.

❖ USPS should lighten up in its exuberance to weaken indemnity provisions in contractors' agreements

In most four-year service contracts, the USPS has insisted that clauses be inserted which weaken indemnity provisions due to the contractor for a contract cancellation for convenience of the USPS. However, and conversely, contractors still bear all risks of the USPS liability for termination and or breaching a contract with the USPS. Unless the parties have mutuality of obligation and consequence, the strong, competitive base of mail haulers will quickly be diluted, and the USPS will eventually lose all bargaining power and security it has now with the industry. Indemnity often provides the security to financial institutions for small businesses and minority contractors to receive loans to purchase equipment.

❖ USPS must continue to bargain in good faith

In an apparent effort to cut its costs, the USPS has endeavored, in some cases, especially in the 1990s, to throw out good faith and fair dealing in contracting with the industry. More specifically, the USPS has attempted to compel contractors desiring to renew contracts to renew at lower rates, for the same rate but increased service, by using questionable comparable routes and contract amounts, and by changing contract terms during the term of the contract without the contractors' consent to terms more favorable to the USPS. The Association believes that the USPS's desired effect in using such tactics is to obtain the lowest bids possible. However, cut-throat bidding does not ensure reliability, and in fact, tends to increase risks of unreliability of those who simply bid the lowest amount. If the USPS continues on this course, the USPS cannot, in the future, ensure that the same, dedicated mail haulers who service the USPS today will be around in the future. In addition, the Association is confident that the USPS will encounter more situations where a contractor cannot perform. The USPS must refocus its efforts to its primary, and greatest resource - its infrastructure and support (i.e., its employees and its suppliers and contractors). In its transformation plan and DN proposed business plan, the USPS expresses a desire to reduce its contractor base via consolidation of small routes into one larger route. President Bush, while Governor of Texas, did the reverse and broke apart large businesses into smaller companies to share in the business. If the USPS consolidates routes, it could lead to the elimination of many small, family-owned, women, and minority-owned businesses which now provide excellent service to the USPS.

❖ The USPS must be required to follow federal law and, where it is supposed to, take appropriate action to ensure it is getting quality service

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The federal Prompt Payment Act requires the USPS to pay interest on overdue obligations due, among others, contractors. However, in most instances, the USPS ignores this liability. Again, what are contractor's to do? All bargaining power has been stripped from the contractors, and they simultaneously bear all of the risk.

In addition, although in many cases (depending on the issue), the USPS preaches as justification for actions that it is attempting to ensure the safety and/or security of its services, in many other instances, wherein the benefit clearly is not as great, the USPS fails to follow its own responsibility to ensure that a successful bidder of a contract is complying with the requirements of the Service Contract Act. In effect, the USPS benefits by the violations or failures to correct a violation by an unqualified contractor because presumably if the successfully bidding contractor is not complying with the standards of the Service Contract Act, the USPS is receiving the service at a reduced cost. In today's day and age, and given the September 2001 security issues that arose, the last thing the USPS needs or wants are rogue mail haulers whose only qualification for winning the bid is that he or she bid the lowest. Rather, the Association believes that the USPS believes that the mail must be delivered safely. The fastest way to erode the USPS's confidence that its mail is being transported safely is to drive those that the USPS trusts most out of business. The Association, therefore, would hope that the USPS holds itself to a greater responsibility to examine to whom or to which it awards its bids and be flexible enough to consider other important matters other than cost. Homeland security could become a serious issue if the USPS awards transportation contracts to people or firms whose reputation and integrity is little known, or not known at all.

The Association, on behalf of the highway contracting industry, thanks you and the commission for the opportunity to provide you with this information. We certainly applaud your efforts and hope that you will call on us if we can provide to you further assistance.

Very truly yours,

Robert B. "Brownie" Matheson
President
National Star Route Mail Contractors'
Association