



**OFFICE OF
INSPECTOR GENERAL**
UNITED STATES POSTAL SERVICE

**Prohibited
Inbound
International
Mailings**

Audit Report

Report Number
MS-AR-17-008

July 18, 2017

PROHIBITED

A background image showing various prohibited items: a syringe with a needle, several pills (some in a blister pack), and cigarettes. A large red stamp with the word "PROHIBITED" is overlaid on the image.



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Highlights

With limited exceptions, all inbound international mail is subject to inspection by U.S.

CBP and [REDACTED]

[REDACTED]

[REDACTED]

Background

Inbound international mail originates in foreign countries for delivery in the U.S. This mail typically arrives at one of the five U.S. Postal Service International Service Centers (ISC), the Honolulu Processing and Distribution Center, or the New Jersey International Network Distribution Center. In fiscal year (FY) 2016, the Postal Service recorded inbound international mail volume of about 621 million pieces, [REDACTED] million of which were packages, including ePackets. The Postal Service recorded total inbound international mail revenue of \$821 million during that time.

With limited exceptions, all inbound international mail is subject to inspection by U.S. Customs and Border Protection (CBP) and [REDACTED]

CBP inspects these mailings to ensure compliance with federal laws and related federal regulations and policies. For mailings that would fall under CBP's jurisdiction and that it confirms as being prohibited – such as threats to national security, illegal narcotics, or synthetic drugs – CBP manages the resulting handling of these items. This specific handling could entail seizure, destruction, or held for prosecution.

For other suspicious mailings like cigarettes, prescription drugs, or controlled substances that would fall under the jurisdiction of other federal agencies – such as the U.S. Food and Drug

Administration (FDA) or the Postal Service – CBP may detain these items pending review by the respective agency, which may then advise, as appropriate, if the items should be removed from the domestic mailstream and how they should be handled. The Universal Postal Union maintains a list of prohibited inbound mailings for its member countries (which includes the U.S.).

The Postal Service plays a central role in this overall process by routing the mail to CBP for review and by (a) establishing “nonmailability” standards that apply to its customers; (b) coordinating with CBP, other federal agencies, and the Postal Inspection Service; (c) handling CBP-cleared mailings that are redeposited back into the mailstream; and (d) returning nonmailable items to international senders.

Our objective was to evaluate the Postal Service's processes for handling prohibited inbound international mailings such as cigarettes and prescription drugs.

What the OIG Found

The Postal Service needs to improve its processes for handling prohibited inbound international mailings. We determined the Postal Service returned at least 54,126 prohibited packages to international senders between FY 2014 and FY 2016. Note that these reflect only barcoded items such as Express Mail Service and Parcel Post.



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The Postal Service returns these items because related laws, regulations, and policies are ambiguous and open to interpretation – particularly those related to how these items should be handled. Postal Service officials believe that returning these items is the most cost effective method of disposal, although they have not conducted a formal cost analysis. Furthermore, there are no formal agreements between the Postal Service, CBP, and other federal agencies describing the Postal Service’s responsibilities for handling prohibited items. In addition, the Postal Service’s policies in this area are relatively vague, particularly related to coordinating with foreign postal operators when significant numbers of these types of mailings are coming from their respective countries.

Returning these prohibited international mailings may not sufficiently deter mailers from trying to send prohibited items into the U.S. – a condition that could negatively impact the Postal Service’s brand and image and could increase the risk that the items will re-enter the mailstream without detection.

We also determined that the Postal Service is storing about 25 bulk mail containers of prescription drugs at the [REDACTED] ISC because of disagreements with the FDA about how to handle these packages. FDA staff told the Postal Service that the packages contained prescription drugs that appear to violate the Federal Food, Drug, and Cosmetic Act. Postal Service officials stated that the Postal Service is prohibited from knowingly returning items that are banned from entering the U.S. These prescription drugs will remain a safety and security risk at the ISC until a permanent resolution is reached.

In related matters, our recent December 2016 report recommended the Postal Service, CBP, and other stakeholders advocate requiring additional advance electronic mailing data (such as name, address, and item content) to assist inspection and processing efforts. When implemented, corrective action should help enhance the Postal Service’s and CBP’s ability to identify and potentially prevent prohibited items.



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What the OIG Recommended

We recommended management:

- Work with Congress and key stakeholders to clarify legal provisions related to handling prohibited mailings, agency responsibilities, and costs allocation;
- Clarify policies for handling prohibited items;
- Conduct a formal cost analysis comparing various disposal options for the Postal Service's handling of prohibited mailings and determine which is the most cost effective;
- Coordinate with CBP to establish a memorandum of understanding describing the Postal Service's responsibilities for handling prohibited mailings;
- Develop procedures for coordinating with foreign postal operators when significant amounts of prohibited inbound mailings from those countries are identified; and,
- Continue to coordinate with the FDA and the Postal Inspection Service to find a permanent resolution for removing the prescription drugs currently stored at the [REDACTED] ISC.

Transmittal Letter



OFFICE OF INSPECTOR GENERAL
UNITED STATES POSTAL SERVICE

July 18, 2017

MEMORANDUM FOR: ROBERT CINTRON
VICE PRESIDENT, NETWORK OPERATIONS

E-Signed by Janet Sorensen
VERIFY authenticity with eSign Desktop

A handwritten signature in cursive script, appearing to read "Janet M. Sorensen".

FROM: Janet M. Sorensen
Deputy Assistant Inspector General
for Retail, Delivery and Marketing

SUBJECT: Audit Report – Prohibited Inbound International Mailings
(Report Number MS-AR-17-008)

This report presents the results of our audit of Prohibited Inbound International Mailings (Project Number 16RG016MS000).

We appreciate the cooperation and courtesies provided by your staff. If you have any questions or need additional information, please contact Joe Wolski, Director, Retail, Marketing and International, or me at 703-248-2100.

Attachment

cc: Corporate Audit and Response Management
Executive Director, International Operations (A)
Managing Director, Global Business
Chief Counsel, Global Business & Service Development
Deputy Chief Counsel, U.S. Postal Inspection Service (A)
Plant Manager, [REDACTED] International Service Center
Manager, [REDACTED] District

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Findings

Introduction

This report presents the results of our self-initiated audit of the U.S. Postal Service's handling of prohibited¹ inbound international mailings (Project Number 16RG016MS000).² Our objective was to evaluate the Postal Service's processes for handling prohibited inbound international mailings such as cigarettes and prescription drugs. See [Appendix A](#) for additional information about this audit.

Inbound international mail originates in foreign countries for delivery in the U.S. This mail typically arrives at one of the five Postal Service International Service Centers (ISC),³ the Honolulu Processing and Distribution Center (P&DC), or the New Jersey International Network Distribution Center (NDC). These facilities processed about 621 million pieces in fiscal year (FY) 2016, about [REDACTED] million of which were packages⁴ (see Table 1). The Postal Service recorded total inbound international mail revenue of \$821 million during that time.

Table 1. Inbound International Package Volume, FY 2016

Facility	Volume (in millions)	Percent of Total
[REDACTED]	131.8	47.9%
[REDACTED]	55.8	20.2
[REDACTED]	39.5	14.4
[REDACTED]	36.1	13.1
[REDACTED]	10.3	3.7
[REDACTED]	1.5	0.5
[REDACTED]	0.5	0.2
TOTAL	275.5	100.0%

Source: U.S. Postal Service Office of Inspector General (OIG) analysis of Postal Service Enterprise Data Warehouse (EDW) data.

With limited exceptions, all inbound international mail is subject to inspection by U.S. Customs and Border Protection (CBP). The Postal Service [REDACTED].⁵ CBP inspects these mailings to ensure compliance with federal laws and related federal regulations and policies.⁶

¹ Prohibited items include certain potentially undesirable, harmful, or dangerous matter which are nonmailable by statute or regulation according to Postal Service Publication 52, *Hazardous, Restricted, and Perishable Mail*, November 2016.

² The Universal Postal Union (UPU) maintains a [list](#) of prohibited inbound mailings for its member countries (which includes the U.S.).

³ Each ISC generally processes mail for different regions of the world.

⁴ For the purposes of this report, we focused on international mailings such as [REDACTED] and refer to them as "mailings", "mail", or "items" throughout the report. This does not include letters and flats, unless otherwise noted.

⁵ Each ISC generally processes mail for different regions of the world.

⁶ CBP has partnered with 47 federal agencies to implement automated systems that will aid in compliance with federal regulations and policies.

Inbound international mail volumes have increased over the last few years, sparking safety and security concerns from the Postal Service, law enforcement, oversight bodies, and the general public. Congress has shown interest in the security of inbound international mail, particularly related to how synthetic drug traffickers use international shipping.

For mailings that would fall under CBP's jurisdiction – such as threats to national security, illegal narcotics, or synthetic drugs – CBP manages the resulting handling of these items. This specific handling could entail seizure, destruction, or holding for prosecution. For other suspicious mailings like cigarettes, prescription drugs, or controlled substances that would fall under the jurisdiction of other federal agencies – such as the U.S. Food and Drug Administration (FDA) or the Postal Service – CBP may detain these items pending review by the respective agency, which may then advise, as appropriate, if the items should be removed from the domestic mailstream and how they should be handled.

The Postal Service plays a central role in this overall process by originally routing the mail to CBP for review and by (a) establishing “nonmailability”⁷ standards that apply to its customers; (b) coordinating with CBP, other federal agencies, and the Postal Inspection Service; (c) handling CBP-cleared mailings that are redeposited back into the mailstream; and (d) returning nonmailable items to international senders.

Inbound international mail volumes have increased over the last few years, sparking safety and security concerns from the Postal Service, law enforcement, oversight bodies, and the general public. Congress has shown interest in the security of inbound international mail, particularly related to how synthetic drug traffickers use international shipping. Three senators introduced legislation in September 2016 designed to help stop the dangerous drugs fentanyl and carfentanil from being shipped across our borders to drug traffickers in the U.S. This legislation would require the Postal Service to transmit, or ensure the transmission of, advance electronic data to CBP for shipments received from foreign postal operators.⁸

We recently issued a series of reports highlighting operational issues at various Postal Service facilities that process inbound international mail. We found the Postal Service was not consistently complying with its verification processes for inbound international mail,⁹

[REDACTED]

Example of Prohibited Mailings Forwarded to the Postal Inspection Service

The Postal Inspection Service destroyed about 1.2 million pieces of lottery-related material and facsimile checks in FY 2016 that were forwarded from CBP for suspected violations of mailability standards, at a cost of about \$5,000.

7 The Postal Service provides guidance on mailing standards through publications such as the *Domestic Mail Manual* and *International Mail Manual*. The burden rests with the mailer to ensure compliance with domestic, international, and individual country rules and regulations for mailability. Items that do not comply with these standards are considered prohibited, therefore, nonmailable.

8 Synthetics Trafficking & Overdose Prevention (STOP) Act. Congress re-introduced similar legislation in the House (H.R. 1057) and Senate (S. 372) in 2017. As of May 15, 2017, the Senate bill had 16 co-sponsors and the House bill had 111 co-sponsors. The Senate bill has been referred to the Finance Committee, and the House bill has been referred to the Ways and Means and House Committee on Oversight and Government Reform.

9 *International Inbound Mail Verification* (Report Number [MR-MT-16-001](#), dated January 28, 2016).

10 *Inbound International Mail Operations – [REDACTED] International Service Center* (Report Number [MS-MT-16-003](#), dated September 21, 2016); *U.S. Postal Service Handling of Inbound International Mail at the [REDACTED] International Service Center in [REDACTED]* (Report Number [NO-MA-15-006](#), dated September 3, 2015); *Inbound International Mail Operations – [REDACTED] International Service Center* (Report Number [MS-AR-17-003](#), dated December 30, 2016).

11 *Inbound International Mail Operations – [REDACTED] International Service Center* (Report Number [MS-MT-16-004](#), dated September 28, 2016).

12 *Inbound International Mail Operations – [REDACTED] International Service Center* (Report Number [MS-AR-17-003](#), dated December 30, 2016).

The Postal Service needs to improve its processes for handling prohibited inbound international mailings. We determined the Postal Service returned at least 54,126 prohibited packages.

We also determined that the Postal Service is storing about 25 bulk mail containers of prescription drugs at the [REDACTED] ISC because of disagreements with the FDA about how to handle these packages.

These concerns are not likely to subside as the international mailing and shipping industry continues to grow — global e-commerce topped \$1.55 trillion in 2015, and is projected to grow another 162 percent by 2020. This growth presents a significant revenue opportunity, with borderless commerce and active competitors, but also presents sizable challenges related to promoting efficient operations and the safety and security of the mail.

Summary

The Postal Service needs to improve its processes for handling prohibited inbound international mailings. We determined the Postal Service returned at least 54,126 prohibited packages¹³ to international senders between FY 2014 and FY 2016. The Postal Service returns these items because related laws, regulations, and policies are ambiguous and open to interpretation — particularly those related to how these items should be handled. Postal Service officials believe that returning these items is the most cost-effective method of disposal, although they have not conducted a formal cost analysis. Furthermore, there are no formal agreements between the Postal Service, CBP, and other federal agencies describing the Postal Service's responsibilities for handling prohibited items. In addition, the Postal Service's policies in this area are relatively vague, particularly those relating to coordinating with foreign postal operators when significant numbers of these types of mailings are coming from their respective countries.

Returning these prohibited international mailings may not sufficiently deter mailers from trying to send prohibited items into the U.S. — a condition that could negatively impact the Postal Service's brand and image and could increase the risk that the items will re-enter the mailstream without detection.

We also determined that the Postal Service is storing about 25 bulk mail containers of prescription drugs at the [REDACTED] ISC because of disagreements with the FDA about how to handle these packages. FDA staff told the Postal Service that the packages contained prescription drugs that appear to violate the Federal Food, Drug, and Cosmetic Act (FD&C Act). Postal Service officials stated that the Postal Service is prohibited from knowingly returning items that are banned from entering the U.S. These prescription drugs will remain a safety and security risk at the ISC until a permanent resolution is reached.

In related matters, the planned actions from the Postal Service to collect additional advance electronic mailing data (such as name, address, and item content) in response to our December 2016 report should enhance the Postal Service's and CBP's ability to identify and potentially prevent prohibited items.

Handling of Prohibited Inbound International Mailings

The Postal Service needs to improve its processes for handling prohibited inbound international mailings. The Postal Service continues to return an increasing portion of these prohibited mailings, including cigarettes, to international senders and is also storing sizeable portions of prescription drugs at the [REDACTED] ISC pending a decision on disposition.

¹³ Note that these returned volumes reflect only barcoded items such as EMS and Parcel Post. The actual volume is likely higher.

Returning Prohibited Items to International Senders

The Postal Service returned at least 54,126 prohibited packages to international senders between FY 2014 and FY 2016 (see Figure 1). A significant portion of the prohibited items returned were cigarettes, according to Postal Service and CBP officials.

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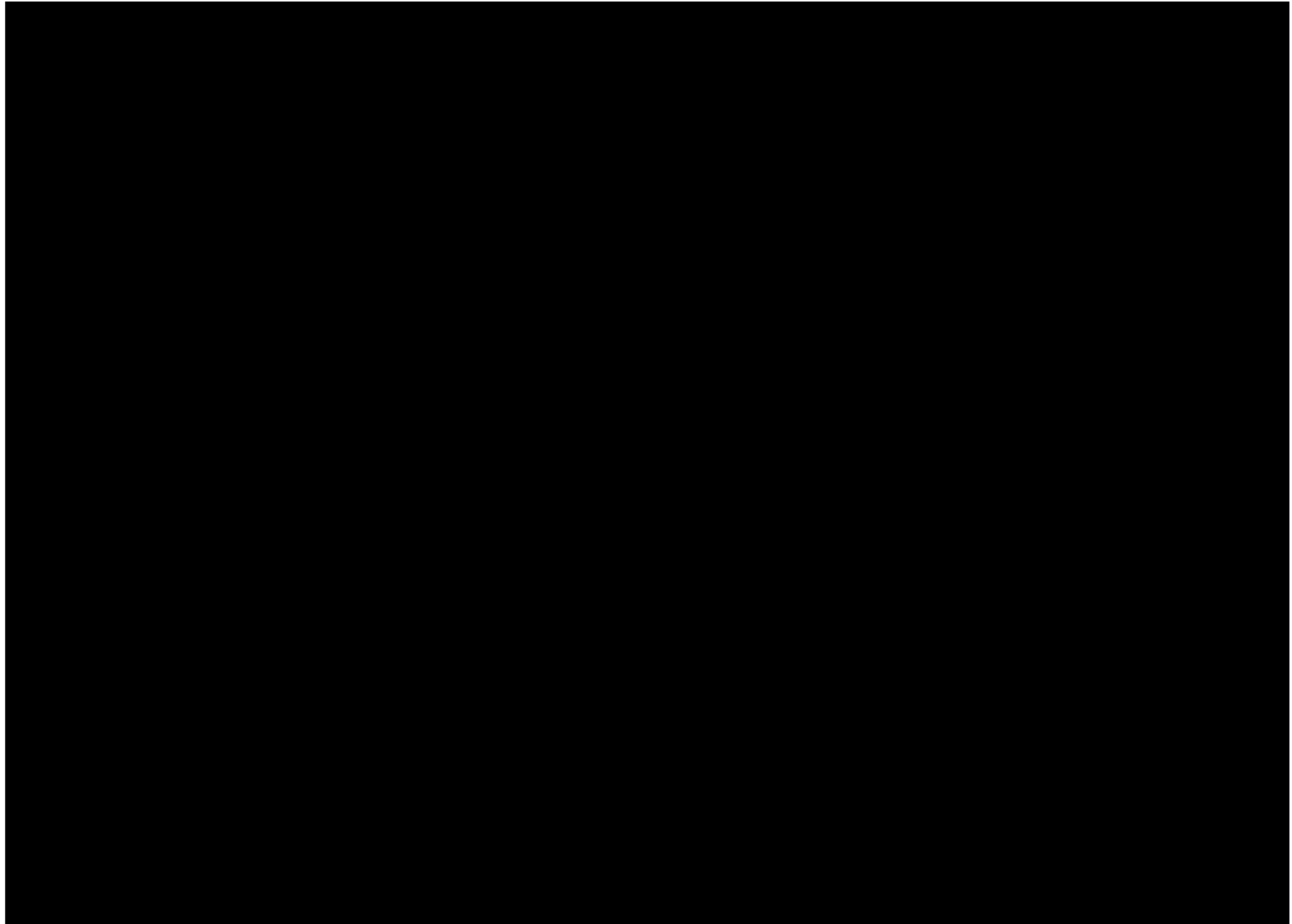
Cigarettes Returned from the [REDACTED] ISC to International Senders in March 2015

Officials at the [REDACTED] ISC returned at least 60,532 kilograms (133,450 pounds) of cigarettes to international senders in seven countries in FY 2015.



These volumes became so problematic that in 2015, the Postal Service sent letters to foreign postal operators from countries with high volumes of cigarette shipments, reminding them about the Prevent All Cigarette Trafficking (PACT) Act of 2009 prohibitions, and asking them to advise mailers accordingly.

Source: Postal Service photograph.



Source: Prohibited return to sender volume was queried using the Prohibited Return to Sender Reason Codes 19 and 20 in the Global Business System (GBS) item table. Information recorded in GBS includes only barcoded items such as EMS and Parcel Post. Other packages without barcodes were excluded from this analysis.

The Postal Service returns these items because related laws, regulations, and policies are ambiguous and open to interpretation — particularly those related to how these items should be handled (e.g., destroyed, held for prosecution, or returned).

The Postal Service returns these items because related laws, regulations, and policies are ambiguous and open to interpretation — particularly those related to how these items should be handled (e.g., destroyed, held for prosecution, or returned). For example,

- Laws – the PACT Act¹⁴ stipulates that any nonmailable cigarettes or smokeless tobacco deposited in the mail shall be subject to seizure and forfeiture and then destroyed, or held for prosecution and then destroyed after the disposition of the case.¹⁵ Key examples of ambiguity in this provision are the following:
 - “*deposited in the mail*”: The Postal Service argues that these prohibited inbound mailings were never considered “mail” as the Postal Service refused their acceptance prior to entering the domestic mailstream.
 - “*shall be subject to...destruction*”: This is not a clear requirement for destruction, and therefore allows for enforcement discretion in alternative handling (e.g., returning).¹⁶
- Postal Service policy states that when controlled substances, drugs, and drug paraphernalia are found in the mail, “*they should be held temporarily and the Inspection Service should be advised immediately.*”¹⁷ The Inspection Service is required to provide prompt instruction for disposal of the controlled substances, but this policy does not provide clear guidance on how the items should be handled. Similarly, the Postal Service’s Handbook T-5, *International Mail Operations*, does not include references for specific processes or procedures for handling drugs, drug paraphernalia, or other prohibited mailings. Additionally, the Postal Service’s *International Mail Manual* provides guidance for items returned from customs custody with advice that the addressee has not complied with required customs entry procedures to be treated as undeliverable. However, it does not provide processes or procedures for handling items returned from customs custody that are nonmailable such as drug paraphernalia, or other prohibited mailings; or address the handling of items set aside for further examination by CBP officials.

Postal Service officials determined the most appropriate method for handling these prohibited mailings is to return them to the international senders. They continue to believe that having the Postal Service return these items is the most cost-effective handling method; however, the Postal Service was unable to provide evidence of a cost analysis to draw this conclusion.

This overall ambiguity is exacerbated by other considerations. First, there are no formal agreements between the Postal Service, CBP, and other agencies describing the Postal Service’s responsibilities for handling prohibited items. In the absence of such agreements,

[REDACTED] The Postal Service previously stated they were working with CBP on a memorandum of understanding (MOU) and planned to finalize it by February 28, 2017.¹⁸

Second, Postal Service’s policies in this area continue to be relatively vague, particularly related to how these items should be handled and coordination with foreign postal operators when significant numbers of these types of mailings are coming from their respective countries.

¹⁴ Public Law 111–154—March, 31, 2010.

¹⁵ 18 U.S. Code § 1716E (c).

¹⁶ *International Mail Manual*, Section 766.24 (Items Returned From Customs Custody), April 3, 2017.

¹⁷ *Postal Operational Manual*, Section 139.117.

¹⁸ As of the date of this report, the MOU has not been finalized.

Returning these prohibited international mailings may not sufficiently deter mailers from trying to send prohibited items into the U.S. — a condition that could negatively impact the Postal Service’s brand and image and could increase the risk that the items will re-enter the mailstream without detection.

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Storing Prescription Drugs

The Postal Service is storing about 25 bulk mail containers of prescription drugs originating from [REDACTED] ISC. FDA staff told the Postal Service that the packages contained prescription drugs that appear to violate the FD&C Act.

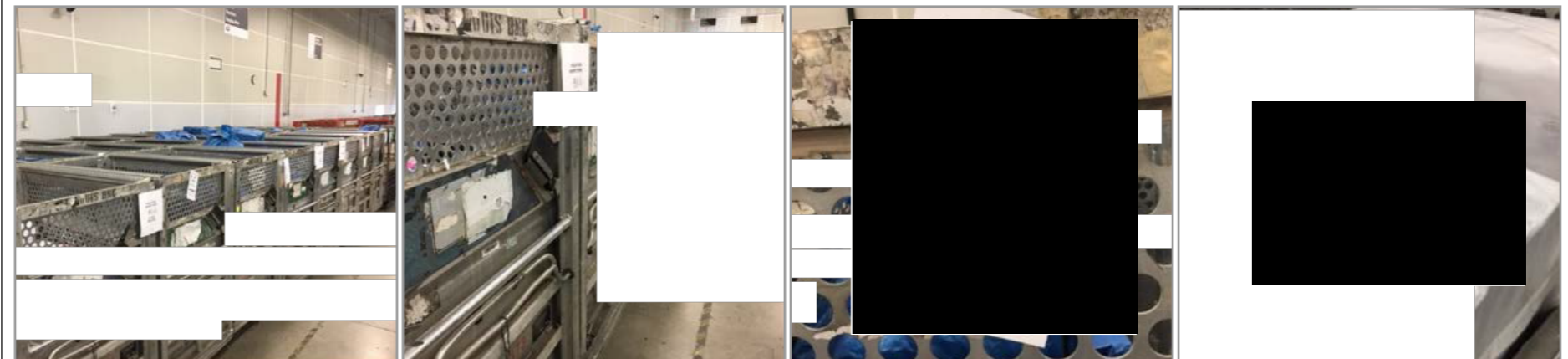
The Postal Service is storing these items because it disagrees with the FDA about how to handle them. FDA officials stated they return parcels that contain articles that appear to violate the FD&C Act to the Postal Service to be returned to senders, and that the FDA, CBP, and the Postal Service agreed to this process in 2006. Postal Service officials, however, stated they are unable to return these packages because FDA officials have identified them as containing prescription drugs that appear to violate the FD&C Act. Postal Service officials asserted that the Postal Service cannot knowingly return these items because Universal Postal Convention Articles¹⁹ prohibit the delivery and the return of drugs that are banned from entering the U.S. These prohibited items remain stored at the [REDACTED] ISC pending resolution between the FDA and the Postal Service.

The Postal Service contacted [REDACTED] Post in September 2016 asking them to contact the sender to inform them that the shipments were banned from entering the U.S. and could not be returned via UPU channels. [REDACTED] Post had not responded to the Postal Service’s correspondence as of May 15, 2017.

We also observed these packages were stored in [REDACTED] (see Figure 2).

Figure 2. [REDACTED]

Source: OIG photographs taken in January 2017



We discussed these issues with Postal Service and Postal Inspection Service officials, and Inspection Service staff subsequently implemented corrective actions. After checking to see that other mail was not mixed into these shipments, these containers were placed in a [REDACTED].

¹⁹ *International Mail Manual*, Section 766.24 (Items Returned From Customs Custody), April 3, 2017.

Until a permanent resolution is reached, these prescription drugs will remain a safety and security risk.

While the [REDACTED] provides a temporary solution, the Postal Service should continue to coordinate with the FDA, and other relevant parties to find a permanent solution for removing these items from [REDACTED]. According to FDA officials, the FDA, CBP and the Postal Service met in May 2017 to work towards a permanent resolution and continue to discuss possible solutions to the disposition of these items. Until a permanent resolution is reached, these prescription drugs will remain a safety and security risk.

Other Matters

In related matters, Postal Service and CBP officials have noted ongoing challenges for inspecting and processing the growing amounts of inbound international mail. In December 2016, we reported that the Postal Service, CBP, and other stakeholders advocate requiring additional advance electronic mailing data (such as name, address, and item content) from foreign mailers to assist these efforts, and we included corresponding recommendations. The resulting corrective actions should help enhance the Postal Service's and CBP's ability to identify and potentially prevent prohibited items.

Recommendations

We recommended management work with Congress and key stakeholders to clarify legal provisions; clarify policies for handling prohibited items; conduct a formal cost analysis; coordinate with CBP to establish a memorandum of understanding; develop procedures for coordinating with foreign postal operators; and continue to coordinate with the FDA and the Postal Inspection Service

We recommend the Vice President, Network Operations:

1. Work with Congress and key stakeholders to clarify legal provisions related to handling prohibited mailings, agency responsibilities, and cost allocation.
2. Clarify policies for handling prohibited items.
3. Conduct a formal cost analysis comparing various disposal options for the Postal Service's handling of prohibited mailings and determine which is the most cost effective.
4. Coordinate with U.S. Customs and Border Protection to establish a memorandum of understanding describing the Postal Service's responsibilities for handling prohibited mailings.
5. Develop procedures for coordinating with foreign postal operators when significant amounts of prohibited inbound mailings from those countries are identified.
6. Continue to coordinate with the U.S. Food and Drug Administration and the Postal Inspection Service to find a permanent resolution for removing the prescription drugs currently stored at the █████ International Service Center.

Management's Comments

Management partially agreed with the findings, agreed with recommendations 2, 4, 5, and 6, and disagreed with recommendations 1 and 3.

Regarding recommendation 1, management disagreed with the findings and recommendation for clarifying agency roles and resource allocation. They stated the Postal Service is complying with the PACT Act's unambiguous directive to refuse to accept and transmit nonmailable cigarettes and smokeless tobacco, and that the Postal Service does so in the same manner for domestic and international deliveries—returning the package to its original sender. Management also stated the Postal Service is well within the bound of its enforcement and operational discretion to select the option that is cost-effective and aligns with Postal Service policy priorities.

Management further elaborated their position, stating there is nothing unusual or problematic about the fact that the PACT Act “allows for enforcement discretion” by authorizing, but not mandating, seizure and destruction of nonmailable cigarettes and smokeless tobacco,²⁰ as this discretion is well-established in the constitutional system. Management also stated that Congress's deference in this context is particularly unremarkable, as this deference (between Congress and Postal Service decision making) was a key motive behind the establishment of the Postal Service in 1970. Management stated that Congress does not prescribe whether, or how, the Postal Service must dispose of a given facility, nor what types of processing a given type of mail must receive. Management also stated that by the same token, it would be anomalous for Congress to prescribe how to dispose of nonmailable matter, and that Congress has generally recognized the Postal Service's discretion to select the best approach in a given situation.²¹

²⁰ 18 U.S.C. Section 1716E(c).

²¹ 39 U.S.C. Sections 3001(b), 3003, 3005(a), 3007(a), 3011(a), 3017(b)(1)(B)-(C), and 3018(f)-(g).

Management also stated that it would be particularly unwarranted to suggest that Congress override the Postal Service's judgment in this specific context, and that the draft report presents no factual basis to challenge that the Postal Service is faithfully executing the PACT Act's prohibitions in the most cost-effective manner. Management stated there is no basis to suggest that Congress compel the Postal Service to adopt some other, less cost-effective approach.

Regarding recommendation 2, management stated they agreed with the findings and recommendation to the extent that the draft report is related to cigarettes. While management stated they do not agree there is any ambiguity or legal issues with its policies, it will issue standard operating procedures (SOP) for handling the return of cigarettes, and provided a target implementation date of September 30, 2017.

Regarding recommendation 3, management stated this recommendation is unfounded and the draft report incorrectly imputes to Postal Service officials a mere "belie[f] that returning these items is the most cost-effective method of disposal" and, to test that belief, recommends a "formal cost analysis". Management stated the Postal Service provided the audit team with an adequate cost analysis of various disposal options on May 17, 2017, and June 6, 2017, which demonstrated the current approach is the most cost-effective. Management also questioned the accuracy of the report language stating "the Postal Service was unable to prove evidence of a cost analysis." Management also stated the benefit of a "formal cost analysis" to confirm the existing cost analysis would not be worth the related expense.

Regarding recommendation 4, management stated they drafted an MOU at the national level that was provided to CBP in April 2016, and a revision from CBP was received in mid-June 2017. The Postal Service is in the process of reviewing CBP changes and provided a target implementation date of July 31, 2017. Management also stated this MOU would be followed by local MOUs with each ISC and CBP facility.

Regarding recommendation 5, management stated that when significant amounts of prohibited items were identified in the past, the Postal Service reached out directly to the foreign postal operator and/or coordinated with the U.S. Department of State (DOS) to assist in resolving the issue. Management stated the Postal Service will continue to review its processes and will develop SOPs as recommended. Management also stated the Postal Service is currently reviewing various platforms to effectuate standardized communication and will finalize a plan in the short term. Management stated that CBP is currently required to input seized items into the Postal Service mail receiving system, and that the Postal Service is working on additional functionality that will enable a bulk upload of data (such as in cases where significant amounts of prohibited items are identified). The Postal Service will continue analyzing an appropriate solution and provided a target implementation date of October 30, 2017.

Regarding recommendation 6, management stated they are coordinating with the FDA and the DOS on this matter, and that they are seeking to arrive at a common interpretation of the term "illicit drug" and whether that term applies to unapproved pharmaceuticals. The target implementation date is September 30, 2017.

Management also raised specific comments about two other report segments. First, management questioned the draft report's inclusion of the sidebar titled "Example of Prohibited Mailings Forwarded to the Postal Inspection Service", as it (1) only deals with letters and (2) is unclear whether the purported cost includes the cost of administering due process to senders, or whether it is merely the cost of shredding the mailings. Management asked why the draft report highlighted this cost figure, alleging that it was irrelevant and highly misleading, particularly considering other cost data at the audit team's disposal. Second, management raised concerns about the product and service names used in the report. They specifically questioned the use of "██████████" and "██████████" stating those are the names of domestic mail products and have certain analogs for outbound international mail, but

they are not categories of inbound international mail. Management also stated the repeated references to “only barcoded items such as” for these two categories, and no other, may obscure the fact that many letter post packages are also included in the data that the Postal Service provided the audit team.

See [Appendix B](#) for management’s comments in their entirety.

Evaluation of Management’s Comments

The OIG considers management’s comments responsive for recommendations 2, 4, 5, and 6 and unresponsive for recommendations 1 and 3.

Regarding recommendation 1, we acknowledge management’s statements that Congress has accorded the Postal Service with enforcement and disposal discretion in this area and that the Postal Service is operating well-within that authority to handle prohibited items, and doing so in a relatively cost-effective manner. However, we disagree with management’s assertion that there is no basis to suggest that Congress may be interested in some other approach, particularly considering the specific information we raised in our report related to (b) (2) ongoing Congressional interest raised in the pending STOP Act legislation about inbound international mail operations. Based on the potential political, financial, and operational sensitivities associated with these inbound operations, we continue to believe that such coordination with Congress would be warranted related to how prohibited items should be handled, agency responsibilities, and cost allocation.

Regarding recommendation 3, we disagree with the Postal Service’s position that the recommendation is unfounded. The May 17, 2017, information provided by the Inspection Service represented costs for providing due process on seized mailings, and the June 6, 2017, information provided cost information for returning prohibited mailings. While these are useful pieces of information by themselves, they do not encompass a more formalized cost analysis comparing various disposal options that we advocated in our work. For example, neither of this information includes any costs for destruction or storage or related security, safety, or brand threats that could result from returned prohibited items continually being remailed back to the U.S. We continue to believe that conducting a formal cost analysis would be beneficial to the Postal Service.

Regarding management’s other comments, we included the “Example of Prohibited Mailings Forwarded to the Postal Inspection Service” to illustrate that certain prohibited mailings could be destroyed and included the costs as provided to us from Postal Service staff. Furthermore, the information management referenced in its response (a) did include letter class mail, but (b) did not include any destruction costs; as such we continue to believe that this example is relevant and appropriate. Next, in regard to management’s concerns about the product and service names used in the report, we have updated the report accordingly to reflect the name of the products as outlined in the Postal Service’s Annual Compliance Report to the Postal Regulatory Commission.

We view the disagreements on recommendations 1 and 3 as unresolved until we coordinate a resolution with management. All recommendations require OIG concurrence before closure. Consequently, the OIG requests written confirmation when corrective actions are completed. These recommendations should not be closed in the Postal Service’s follow-up tracking system until the OIG provides written confirmation that the recommendation can be closed.

Appendices

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Appendix A: Additional Information

Background

Inbound international mail originates in foreign countries for delivery in the U.S. This mail typically arrives at one of the five Postal Service ISCs, the Honolulu P&DC, or the New Jersey International NDC via air carriers and related operations. The Postal Service recorded about [REDACTED] million inbound international packages in FY 2016.

Inbound international mail must comply with applicable federal laws and regulations, international rules, and Postal Service policies governing mailability and shipment of the particular matter. The Postal Service provides guidance on mailing standards through publications such as the *Domestic Mail Manual* and *International Mail Manual*. The burden rests with the mailer to ensure compliance with domestic, international, and individual country rules and regulations for mailability.²² Items that do not comply with these standards are considered prohibited and, therefore, nonmailable.

With limited exceptions, [REDACTED]. CBP inspects these mailings to help ensure they comply with federal laws and related federal regulations and policies. For mailings that fall under CBP's jurisdiction – such as threats to national security, illegal narcotics, or synthetic drugs – CBP manages the handling of these items. This handling could entail seizure, destruction, or holding items for prosecution.

For suspicious mailings that would fall under the jurisdiction of other federal agencies – such as the FDA or the Postal Service – CBP may detain these items pending review by the respective agency, which may then advise, as appropriate, if the items should be removed from the domestic mailstream and how they should be handled.

Objective, Scope, and Methodology

Our objective was to evaluate the Postal Service's processes for handling prohibited inbound international mailings such as cigarettes and prescription drugs.

To accomplish our objective, we:

- Reviewed Postal Service policies and processes for all types of inbound international mail.
- Visited and observed operations at six Postal Service facilities that process inbound international mail – [REDACTED]
- Interviewed CBP officials at the [REDACTED] and Postal Inspection Service staff about their concerns relating to inbound international mail.
- Interviewed managers and staff about the processing of inbound international mail procedures including the handling of prohibited international inbound mailings at the ISC.
- Reviewed inbound international mail data for FY 2014 through FY 2016.

²² *International Mail Manual*, Section 112 (Mailer Responsibility), April 3, 2017.

- Reviewed past audit work on other publicly available research pertaining to the handling of inbound international mail.
- Compared Postal Service actions to prescribed policies and procedures relating to the handling of inbound international mail.

We conducted this performance audit from April 2016 through July 2017 in accordance with generally accepted government auditing standards and included such tests of internal controls as we considered necessary under the circumstances. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. We discussed our observations and conclusions with management on May 15, 2017, and included their comments where appropriate.

We assessed the reliability of inbound international mail volume generated from EDW and volume and weight data for prohibited items returned to international senders generated from the GBS. We verified the data for reasonableness by reviewing prior OIG work and discussing it with knowledgeable Postal Service staff.

Prior Audit Coverage

Report Title	Objective	Report Number	Final Report Date	Monetary Impact
<i>Inbound International Mail Operations – [REDACTED] International Service Center</i>	Assess inbound international mail operations and safety and security concerns with inbound mail at the [REDACTED] ISC.	MS-AR-17-003	12/30/2016	None
<i>Inbound International Mail Operations – [REDACTED] International Service Center</i>	Highlight significant safety and security weaknesses at the [REDACTED] ISC.	MS-MT-16-004	9/28/2016	\$1,050,530
<i>Inbound International Mail Operations – [REDACTED] International Service Center</i>	Highlight significant inbound international mail security weaknesses at the [REDACTED] ISC.	MS-MT-16-003	9/21/2016	None
<i>International Inbound Mail Verification</i>	Highlight significant international inbound mail verification weaknesses at the [REDACTED] and [REDACTED] International Airport ISCs.	MR-MT-16-001	1/28/2016	None
<i>U.S. Postal Service Handling of Inbound International Mail at the [REDACTED] International Service Center in [REDACTED]</i>	Determine whether the Postal Service is complying with established inbound international mail policies and procedures.	NO-MA-15-006	9/3/2015	None

Appendix B: Management's Comments

ROBERT CINTRON
VICE PRESIDENT, NETWORK OPERATIONS



June 23, 2017

LORI LAU DILLARD
DIRECTOR, AUDIT OPERATIONS

SUBJECT: Audit Report – Prohibited Inbound Mailings OIG Recommendations
Project Number 16RG016MS000

Thank you for providing the Postal Service with the opportunity to review and comment on the subject draft Audit Report.

General Comments

We appreciate the audit team's efforts to understand some of the challenges in dealing with prohibited content in inbound international mail and to recommend possibilities for ameliorating some of those challenges. However, there is no legal or factual basis for the draft report's recommendation that Congress prescribe Postal Service operational and enforcement decisions. In addition, the recommendation of a "formal cost analysis" does not reflect the fact that the Postal Service provided detailed cost analyses in the course of the audit, which demonstrate that its current approach is the most cost-effective one.

First, the draft report (at pages ii, 3, 7, and 11) asserts that the Postal Service returns items "because related laws, regulations, and policies are ambiguous and open to interpretation" and recommends that Congress "clarify" those supposedly ambiguous provisions. The implication is that the Postal Service's current return-based approach is a problem; otherwise, it is difficult to imagine why Congress would be called upon to intervene and potentially mandate a different approach. This proposition is unnecessary for multiple reasons.

- The Prevent All Cigarette Trafficking Act of 2009 (PACT Act) – the only law actually discussed in the draft report – is not ambiguous. That law forbids the Postal Service to "accept for delivery or transmit through the mails any package that it knows or has reasonable cause to believe contains any cigarettes or smokeless tobacco made nonmailable" under the law. 18 U.S.C. § 1716E(a)(1). Hence, when the Postal Service identifies such items at or near the point of induction, they are refused.

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For domestic mail, this may mean handing a package back to the would-be sender. For inbound international mail, this means effectively the same thing: returning the package to its source. In either case, the Postal Service complies with the prohibition by not accepting the package for transmission and delivery through its network. (The draft report also misstates the Postal Service's position: the issue is not whether the packages are "mail," but whether the Postal Service "accept[s them] for delivery or transmit[s]" them.)

- Nor is there anything unusual or problematic about the fact that the PACT Act "allows for enforcement discretion" by authorizing, but not mandating, seizure and destruction of nonmailable cigarettes and smokeless tobacco. See 18 U.S.C. § 1716E(c). Well-established in our constitutional system is the discretion accorded to the Executive Branch in enforcing laws, owing to how an Executive Branch entity must engage in a "complicated balancing of a number of factors which are peculiarly within its expertise," such as resource allocation, the Executive Branch entity's overall policies, and the likelihood of effectiveness. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). In recognition of this practical reality, it is common for Congress to authorize, but not require, law enforcement actions such as seizure of property. *E.g.*, 17 U.S.C. § 1328(b); 19 U.S.C. § 1526(b); 50 U.S.C. §§ 192(a), 4614(a)(2).
- Congress's deference to the Executive Branch's enforcement discretion is particularly unremarkable in the context of Postal Service operations. A key motive behind the establishment of the Postal Service in 1970 was to disengage Congress from postal decision-making and instead to empower postal management to manage operations in an efficient manner. Congress does not prescribe whether or how the Postal Service must dispose of a given facility, nor what type of processing a given type of mail must receive. By the same token, it would be anomalous for Congress to prescribe how to dispose of nonmailable matter. Indeed, we are unable to identify any other type of nonmailable matter for which Congress has "clarified" that a particular disposition (e.g., seizure and destruction) is required. Where Congress has provided for the disposition of nonmailable items, it has authorized various options without requiring them, just as it did in the PACT Act, and it has generally recognized the Postal Service's discretion to select the best approach in a given situation. See 39 U.S.C. §§ 3001(b), 3003, 3005(a), 3007(a), 3011(a), 3017(b)(1)(B)-(C), 3018(f)-(g).¹

¹ The sole instance of a legislatively mandated outcome related to nonmailable matter is not relevant here. When an addressee notifies the Postal Service of "pandering advertisements" (as determined by the addressee "in his sole discretion"), the Postal Service must order the sender to stop mailing such items to that addressee. 39 U.S.C. § 3008. That provision effectively enlists the Postal Service as an intercessor on behalf of addressee-consumers, a role that is nowhere near as intrusive or expensive as a hypothetical mandate to seize and destroy mail.

- It is particularly unwarranted to suggest that Congress override the Postal Service's judgment in this specific context. As discussed below, the Postal Service has documented that it is faithfully executing the PACT Act's prohibitions in the most cost-effective manner. The draft report presents no factual basis to challenge this conclusion.

In short, there is nothing remarkable about Congress giving the Postal Service discretion to execute the laws in a manner that best allocates that the Postal Service's limited resources, in light of its superior knowledge of its operations and the enforcement environment. In fact, the Postal Service is executing the law in a cost-effective manner. Hence, there is no basis to suggest that Congress ought to compel the Postal Service to adopt some other, less cost-effective approach.

Second, the draft report (at pages ii, 3, and 11) incorrectly imputes to Postal Service officials a mere "belief" that returning these items is the most cost effective method of disposal" and, to test that belief, recommends a "formal cost analysis." The draft report also claims that "the Postal Service was unable to provide evidence of a cost analysis" to support its current approach. These claims are inaccurate. On June 6, 2017, the Postal Service provided the audit team with a lengthy and detailed spreadsheet analyzing costs and revenues from international mailpiece returns. That spreadsheet showed that, at worst, any net cost from the returns would have been negligible. If the Postal Service availed itself of opportunities to exempt and recoup various expenses (in accordance with international postal treaties), then the returns might even produce a net financial benefit. As for the costs of the alternative option (seizing items to destroy them), on May 17, 2017, the Postal Inspection Service (IS) provided the audit team with the results of its analysis of the cost of providing the requisite level of due process. Even without assessing the cost of storage and destruction, the IS estimate shows that the per-piece costs of a seizure-based approach exceed the worst-case net cost of the current return-based approach by several orders of magnitude. In light of these stark findings, it is highly questionable whether conducting a more thorough "formal cost analysis," as the draft report recommends, would truly be the best use of the resources that that exercise would require.

As a side point, we question the draft report's inclusion (at page 2) of a sidebar purporting to offer a representative "Example of Prohibited Mailings Forwarded to the Postal Inspection Service." That sidebar discusses 1.2 million pieces of nonmailable lottery materials that Customs and Border Protection (CBP) forwarded to the Inspection Service, which the Inspection Service reportedly destroyed at a total cost of \$5,000, or approximately \$0.004 per piece. Unlike anything else discussed in the report, however, the anecdote deals with letters. Letters are self-evidently much cheaper to handle and destroy than parcels. Moreover, it is unclear (and doubtful) whether the purported cost includes the costs of administering due process to senders, or whether it is merely the cost of

shredding the paper in the mailings. Without the appropriate context, the reader is prone to infer that the cost to seize and destroy other prohibited mailings, including the packages that are the focus of the report, must be similarly small. In fact, the Postal Service and Inspection Service furnished the audit team with data that shows the opposite. It is far from clear why the draft report highlights a cost figure that is irrelevant and highly misleading, instead of the directly relevant (and contrary) cost data at the audit team's disposal.

Finally, the draft report (at pages ii, 1 (footnote 6), 3 (footnote 15), and 7) refers to [REDACTED]. These are the names of domestic mail products and have certain analogs for outbound international mail, but they are not categories of inbound international mail. The draft report probably should refer instead to [REDACTED] respectively, for inbound mail. In addition, the draft report repeatedly notes that the surveyed information relates to "only barcoded items such as" these two categories. While we recognize that the phrase "such as" is not exhaustive, the repeated reference to these two categories and no others obscures the fact that many Letter Post packages are also included in the data that the Postal Service provided the audit team, which underlies the draft report's analysis.

Recommendation 1:

Work with Congress and key stakeholders to clarify legal provisions related to handling prohibited mailings, agency responsibilities, and costs allocation.

Management Response/Action Plan:

Management does not agree with the OIG findings and recommendations on clarifying agency roles and resource allocation vis-à-vis CBP, FDA, etc.

As discussed in the "General Comments" section above, the Postal Service is complying with the PACT Act's unambiguous directive to refuse to accept and transmit nonmailable cigarettes and smokeless tobacco. While the PACT Act allows the Postal Service to seize and destroy such items, it – like all other mailability statutes – leaves the disposition of nonmailable items to the Postal Service's discretion. The Postal Service is well within the bounds of its well-established enforcement and operational discretion to select the option that is cost-effective and aligns with Postal Service policy priorities. As shown by the cost analysis that the Postal Service provided to the audit team, the Postal Service's current approach is indeed the most cost-effective one.

Target Implementation Date:

There is no target implementation date, as the Postal Service does not agree with the OIG findings and recommendations.

Recommendation 2:

Clarify policies for handling prohibited items.

Management Response/Action Plan:

Management agrees with the OIG findings and recommendations, in part, related to clarifying policies for handling prohibited items.

To the extent that the draft report is related to cigarettes, the Postal Service has indicated that it uses a return-based solution for handling cigarettes, which is the most cost-effective solution. However, the Postal Service does not agree that there is any ambiguity or legal issues with its policies as set forth.

The Postal Service will issue standard operating procedures by product for handling the return of cigarettes.

Target Implementation Date:

September 30, 2017

Recommendation 3:

Conduct a formal cost analysis comparing various disposal options for the Postal Service's handling of prohibited mailings and determine which is the most cost effective.

Management Response/Action Plan:

Management does not agree with the OIG findings and recommendations concerning conducting a formal cost analysis.

As explained in the "General Comments" section above, this recommendation is unfounded. The Postal Service provided the audit team with an adequate cost analysis of various disposal options, which demonstrated that the current approach is the most cost-effective. It is not apparent that the benefit of a so-called "formal cost analysis" to confirm the existing cost analysis would be worth the related expense.

Target Implementation Date:

There is no target implementation date, as the Postal Service does not agree with the OIG findings and recommendations for reasons stated above.

Recommendation 4:

Coordinate with CBP to establish a memorandum of understanding describing the Postal Service's responsibilities for handling prohibited mailings.

Management Response/Action Plan:

Management agrees with the OIG findings and recommendations related to coordinating with CBP to establish a memorandum of understanding (MOU) describing the Postal Service's responsibilities for handling prohibited mailings.

The Postal Service created a draft MOU at the national level that would be followed by establishing local MOUs with each ISC and CBP facility. A draft national MOU was provided to CBP in April 2016, and a revision from CBP was received in mid-June 2017. We are in the process of reviewing CBP's changes.

Target Implementation Date:

July 2017

Recommendation 5:

Develop procedures for coordinating with foreign postal operators when significant amounts of prohibited inbound mailings from those countries are identified.

Management Response/Action Plan:

Management agrees with the OIG findings and recommendations on developing procedures for coordinating with foreign postal operators when significant amounts of prohibited inbound mailings from those countries are identified.

In the past, when significant amounts of prohibited items had been identified, the Postal Service has reached out directly to the foreign postal operator and/or coordinated with the Department of State to assist in resolving the issue. The Postal Service will continue to review its processes and will develop standard operating procedures as recommended. Additionally, the Postal Service is currently reviewing various platforms in order to effectuate standardized communication and will finalize a plan in the short term. Certain platforms currently considered are as follows:

- UPU IB Circular
- Emergency Information System (EMIS)

Currently, CBP is required to input seized items into the USPS mail receiving system. USPS is working on additional functionality that will enable a bulk upload of data, such as in cases where significant amounts of prohibited items are identified.

Target Implementation Date:

The Postal Service will continue analyzing an appropriate solution and advise on a target implementation date by October 30, 2017.

Recommendation 6:

Coordinate with CBP, FDA, and the Postal Inspection Service to find a permanent resolution for removing the illegal prescription drugs mentioned in the report.

Management Response/Action Plan:

Management agrees with the OIG findings and recommendations. Management is currently coordinating with both the Food & Drug Administration and the State Department on this matter. We are seeking to arrive at a common interpretation of the term "illicit drugs" and whether that term applies to unapproved pharmaceuticals.

Target Implementation Date:

September 2017



Robert Cintron



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