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Use Of Air Taxi Service For Transportation Of Mail B-166772

Post Office Department

*BY THE COMPTROLLER GENERAL
OF THE UNITED STATES*

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OCT. 22, 1970



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-166772

R Dear Senator Allott:

In response to your request of April 21, 1969, and subsequent discussions with members of your staff, we have reviewed the Post Office Department's mail transportation policies and practices for the conversion of surface transportation modes to air transportation modes, with emphasis on air taxi mail service, particularly during the tenure of office of former Assistant Postmaster General William J. Hartigan. The results of our review are presented in detail in the accompanying report and are summarized in the digest of the report. D1739

We have obtained advance comments from the Department on the matters discussed in the report, but we have not obtained comments from either Mr. Hartigan or the air carriers mentioned in the report. The Department's comments are recognized in the report and are included in full as an appendix. The Department is not being furnished with a copy of this report; however, the Postmaster General is being notified of its release date.

We plan to make no further distribution of this report unless copies are specifically requested, and then we shall make distribution only after your agreement has been obtained or public announcement has been made by you concerning the contents of the report.

Sincerely yours,

Comptroller General
of the United States

CI
The Honorable Gordon Allott
United States Senate

D I G E S T

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WHY THE REVIEW WAS MADE

At the request of Senator Gordon Allott, the General Accounting Office (GAO) reviewed the Post Office Department's use of air taxis for the transportation of mail, particularly during the tenure of former Assistant Postmaster General William J. Hartigan. Mr. Hartigan was in charge of the Department's Bureau of Transportation from August 1961 to May 1962 and from March 1963 to February 1968. He was responsible for developing and administering mail transportation policies and programs. Other Department officials were also involved in the formulation of mail transportation policies and operating decisions.

The report highlights the involvement of Mr. Hartigan and the Sedalia-Marshall-Boonville Stage Lines, Inc. (Sedalia), in the Department's air taxi mail service program. The findings, however, are also applicable to other air taxi operators, as indicated in the report. Mr. Hartigan and the companies mentioned were not requested to comment on the report.

FINDINGS AND CONCLUSIONS

Mr. Hartigan's involvement with Sedalia

During the last 6 months of Mr. Hartigan's tenure of office, Sedalia became the operator of the largest number of air taxi mail routes despite having no prior experience in the air taxi business. It did have experience in moving mail by truck. In March 1968, soon after resigning as Assistant Postmaster General, Mr. Hartigan became a transportation consultant to Sedalia. In November 1968 he became a member of Sedalia's board of directors, and on May 1, 1969, became Sedalia's vice president for public affairs. (See p. 8.)

Growth of air taxi mail service

In 1963 the Department began expanding the airlifting of first-class mail by commercial airlines. In 1967, after obtaining authority from the Civil Aeronautics Board, the Department officially announced the air taxi mail service program, a plan to expand the geographic areas of overnight delivery service for first-class and airmail letters. By 1968 more than 500 cities in the United States were connected by a nationwide airlift network for the movement of such mail. (See p. 6.)

Within 7 months after the program started, three air taxi operators-- Sedalia; Ross Aviation, Inc.; and Buker Airways, Inc. (now Cutlass Aviation, Inc.)--were awarded contracts to operate 39 of the 85 air taxi routes in operation. (See p. 10.) These three operators operated 72 of the 135 routes in operation at December 31, 1969. The annual cost of operating these routes amounted to \$4.1 million of the total annual cost of \$8.8 million for the entire air taxi program. (See app. V.)

Sedalia was the major operator, having been awarded contracts to operate 24 routes within the first 4 months of its participation in the program. (See p. 10.) Sedalia operated 40 of the 135 routes in operation at December 31, 1969. The annual cost for these 40 routes amounted to \$2 million--23 percent of the total annual costs of \$8.8 million for the entire program. (See p. 11.)

Weak administrative practices

GAO did not make an overall evaluation of the policy to convert surface mail transportation routes to air routes--particularly air taxi routes--because data was limited in the Department's files concerning such matters as (1) the postal patrons' need for overnight service, (2) service before and after the use of air taxis, (3) quantities of mail moved by various types of transportation, and (4) the reliability of air taxi service. GAO believes, however, that the air taxi mail service program was loosely administered, particularly during the early months of the program. (See p. 5.)

Questionable contracting practices

GAO has determined that the Department exceeded its legal authority in its use of "emergency" contracts for air taxi service for the transport of mail. (See app. XIII.) The use of emergency contracts was started during Mr. Hartigan's tenure of office when 114 emergency contracts, at an annual cost of \$5.9 million, were awarded for air taxi mail service, of which 71 contracts (costing \$3.4 million) were for initiating the service. Sedalia was awarded 35 emergency contracts for air taxi mail service, of which 25 were awarded during Mr. Hartigan's tenure of office. (See p. 13.)

The circumstances that existed at the times the Department entered into emergency contracts did not constitute emergencies caused by fire, flood, major disaster, or any other type of calamitous visitation within the meaning of the Federal Aviation Act--the authority cited for such contracts. Rather, these contracts were awarded, in most instances, to initiate and/or continue service on routes which had been established by the Department to change from railway and highway post-office service to other transportation services or expand the geographic area for overnight delivery of letter mail, or both. (See p. 15.)

Also emergency contracting avoided the review and approval by the Civil Aeronautics Board of contract rates and routes that was required by the Federal Aviation Act. (See p. 15.)

The emergency contract rates per mile for air taxi service differed significantly even though route mileages and/or aircraft capacities were similar. For example, on two routes, each requiring aircraft having a 2,000-pound mail-carrying capacity, the round-trip distances differed by only 12 miles; however, the rate on one route was 35 cents a mile and on the other route was 56.38 cents a mile. (See p. 15.)

During the early months of the program, the Department awarded a number of contracts without obtaining formal competitive bids and without adequate assurance that bidders were qualified. This procedure may have increased costs. (See p. 25.) Except for emergency contracts, the Department now requires the use of competitive-bidding procedures in obtaining air taxi mail service. (See p. 34.)

Questionable rate increases were granted because the Department did not have adequate procedures for evaluating and processing air taxi operators' requests for rate increases until almost 2-1/2 years after the program started. For example, Sedalia was granted 34 questionable rate increases, totaling \$204,100 annually, on 30 of its air taxi mail routes. The Department has since developed procedures for evaluating and processing rate adjustment requests. (See p. 36.)

Transporting first-class mail by air taxis was more costly than it would have been to transport the mail by scheduled commercial airlines or by available surface transportation. For example, GAO estimates that the annual costs of carrying mail on 47 air taxi mail routes were about \$1.2 million more than the costs would have been if the same quantity of mail had been carried by scheduled commercial airlines. Costs would have been much less if surface transportation had been used. Also discontinuance of unneeded Sunday night air taxi mail service would save at least \$569,000 annually. (See p. 42.)

RECOMMENDATIONS OR SUGGESTIONS

GAO suggested that the Department replace emergency contracts for air taxi mail service with contracts awarded under competitive-bidding and Civil Aeronautics Board procedures. In the future, emergency contracts should

- be limited to "calamitous visitation" situations as provided for in the Federal Aviation Act of 1958 and the Comptroller General's decision of October 7, 1970 (B-166772) (see app. XIII), and

- state explicitly the details of the emergency which gave rise to the contract. (See p. 34.)

GAO suggested also that the Civil Aeronautics Board be furnished with copies of all future emergency contracts, in recognition of its responsibility for regulating air transportation. (See p. 34.)

GAO suggested further that the Department limit its use of air taxis to routes where less costly transportation is not available or where mail delivery would be unduly disrupted without their use. (See p. 49.)

AGENCY ACTIONS AND UNRESOLVED ISSUES

The Department agreed with GAO's suggestions regarding the use of emergency contracts for air taxi mail service. In commenting on GAO's suggestion that it limit air taxis to routes where less costly forms of transportation are not available or where the use of slower transportation would unduly disrupt mail-delivery service, however, the Department stated that less costly transportation modes were being used where they met mail-service standards. (See app. XII.)

GAO recognizes the desirability of providing the fastest mail-delivery service possible. Transportation costs, however, should be an important consideration in the establishment of mail-delivery-service standards. The air taxi program has been an integral part of the Department's service improvement program aimed at providing overnight delivery of all letter mail throughout the Nation. This report demonstrates, however, that the Department has not given adequate consideration to the costs of such service.

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ABBREVIATIONS

CAB	Civil Aeronautics Board
FAA	Federal Aviation Administration
GAO	General Accounting Office
SMB	Sedalia-Marshall-Boonville Stage Lines, Inc.

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CHAPTER 1

INTRODUCTION

At the request of Senator Allott and in accordance with arrangements made with members of his staff, the General Accounting Office reviewed the Post Office Department's mail transportation policies and practices related to converting surface transportation routes for first-class mail, primarily railway and highway post-office service, to air transportation routes, particularly air taxi mail routes.

We were specifically requested to examine into the Department's use of air taxis for transporting mail, to ascertain the comparative service achieved and related costs of such service before and after the conversion of specific surface mail transportation routes to air taxi mail routes.

We were requested also to determine to the extent possible the role that former Assistant Postmaster General Hartigan played in (1) the rapid expansion of air taxi mail service, (2) the discontinuance of surface mail transportation modes, including railway and highway-post office service, in favor of air transportation modes--especially air taxi mail service, and (3) the award of contracts to specific air taxi operators for the operation of air taxi mail service routes. We were requested further to determine the extent to which certain air taxi operators had become dominant carriers under the air taxi mail service program. The scope of our review is described in chapter 6.

Because of Senator Allott's request, this report highlights the involvement of Mr. Hartigan and the Sedalia-Marshall-Boonville Stage Lines, Inc. (SMB) in the Department's air taxi mail service program. Our findings, however, are also applicable to other air taxi operators, as indicated in this report. Also other Department officials were involved in the formulation of mail transportation policies and operating decisions.

We did not make an overall evaluation of the policy to convert surface mail transportation routes to air routes,

particularly air taxi mail routes, because of the limited documentation and statistical data in the Department's files concerning such matters as the postal patrons' need for overnight mail delivery service, mail delivery service before and after air taxi service was initiated, mail quantities moved by various transportation modes, and the reliability of air taxi mail service. We noted, however, certain weaknesses in the Department's execution and administration of the air taxi mail service program as shown in chapters 3, 4, and 5.

CHANGES IN MAIL TRANSPORTATION AND DISTRIBUTION SYSTEMS SINCE WORLD WAR II

For many years the Department's mail distribution system was dependent upon the Nation's railroad system. Before World War II, an estimated 10,000 passenger trains were available for moving the mail. The railway post office, in which postal clerks sorted mail as passenger trains moved between cities, was for decades the mainstay of the mail distribution system.

After World War II the gradual discontinuance of mail carrying passenger trains created gaps in the mail transportation network which the Department has filled by increased use of air and highway carriers and by changing its mail distribution system. (See app. II for the specific actions taken.) By April 1, 1970, the number of mail-carrying passenger trains had decreased from an estimated 10,000 to about 430, of which 342 were being used by the Department. (See app. III.)

In February 1963 the Department announced plans for a gradual expansion of its airlift program for first-class mail over a period of 4 to 5 years as a major step for expediting delivery of increased quantities of mail. According to the announcement, the changing patterns of available transportation required flexibility in the use of all existing means of transportation to keep pace with the needs of the postal service. The Department announced also that it planned to use air transportation as a supplementary service between specific locations where postal patrons normally expected overnight delivery which was not obtainable by using exclusively the existing surface transportation.

In September 1965 the Civil Aeronautics Board authorized air taxi operators¹ to engage in the transportation of mail. This authority, which was originally to expire on December 31, 1968, has been extended to June 30, 1974.

In November 1965 the Department instructed each postal region to study its mail traffic patterns and determine (1) where air taxi service would be valuable for postal use, (2) the desired schedules, (3) the available mail volumes desired to be airlifted, (4) the cost of the proposed air taxi service and related mail messenger service, and (5) whether local air taxi operators were interested in providing mail transportation service. Regional plans and recommendations were to be forwarded to Department headquarters for approval.

The Department's records indicated that in 1966 the Department began to withdraw most of the remaining railway and highway post-office service in favor of highway star (truck) routes; air transportation service; and, where possible, closed-pouch railway service (transportation of mail in storage cars), with the objectives of expanding the geographic areas of overnight delivery of letter mail and reducing mail transportation costs. The Department's outline of a study for developing overnight delivery plans is included as appendix IV.

In 1967 the Department announced the creation of the air taxi mail service program having the primary objective of assisting in extending the geographic areas of overnight delivery service for first-class and airmail letters that could not be accomplished by other means. A major expansion of this program occurred in 1968. By the end of fiscal year 1968, more than 500 cities in the United States were interconnected by a nationwide airlift network for first-class mail and airmail.

¹Air taxi operators are a classification of air carriers who provide both scheduled and nonscheduled passenger and/or freight transportation service, using small single-engine and multiengine aircraft each having, with certain exceptions, a gross takeoff weight of 12,500 pounds or less.

A Department report shows that, during the 9-year period July 1, 1959, through June 30, 1968, 177 railway post offices were discontinued (85 after June 30, 1963, when the expanded airlift program was implemented) because of actions taken by the railroad companies and 248 were discontinued (209 after June 30, 1963) because of actions taken by the Department. During this 9-year period, the Department also discontinued 128 highway post offices--89 after June 30, 1963. The Department reported that these actions resulted in net savings totaling about \$92.1 million for the 9-year period.

INVOLVEMENT OF MR. HARTIGAN WITH AN AIR TAXI MAIL SERVICE OPERATOR

In August 1961 Mr. Hartigan, a former official of a commercial airline, was appointed Assistant Postmaster General in charge of the Department's Bureau of Transportation (reorganized as the Logistics Division of the Bureau of Operations on May 9, 1969). Except for an 11-month period May 4, 1962, to March 26, 1963, Mr. Hartigan served continuously in this capacity until February 24, 1968. As Assistant Postmaster General, Mr. Hartigan was responsible for developing and administering the Department's mail transportation policies and programs.

During the last 6 months of Mr. Hartigan's tenure of office, SMB became the operator of the largest number of air taxi mail routes despite having no prior experience in the air taxi business. SMB did have experience in moving mail by truck. In March 1968, soon after resigning as Assistant Postmaster General, Mr. Hartigan became a transportation consultant to SMB. In November 1968 he became a member of SMB's board of directors, and on May 1, 1969, he became a full-time employee of SMB as vice president for public affairs.

COST OF AIRLIFTING FIRST-CLASS MAIL

During fiscal year 1969 the cost of the domestic airlift program, excluding air taxis, for first-class mail amounted to about \$46.4 million compared with about \$6.3 million in fiscal year 1963, the year prior to implementation of the most recent airlift expansion announced in February

1963. The cost of the air taxi mail service program amounted to about \$7.4 million in fiscal year 1969 compared with \$180,000 in fiscal year 1967, the first year of air taxi mail service operations.

As of December 31, 1969, the air taxi mail service program involved 36 carriers, 135 routes in all 15 postal regions, 59,000 daily round-trip miles, and total annualized costs of about \$8.8 million.

CHAPTER 2

GROWTH OF

CERTAIN AIR CARRIERS

IN THE AIR TAXI MAIL SERVICE PROGRAM

Only a handful of air taxi mail routes were in operation before August 1967. The air taxi mail service program expanded rapidly beginning in August 1967, and by February 1968, 85 air taxi mail routes were in operation. More than 75 air taxi operators participated at one time or another in the program. Three operators--SMB; Ross Aviation, Inc.; and Buker Airways, Inc. (now Cutlass Aviation, Inc.)--within the above indicated short period of time--were awarded contracts to operate 39 of the 85 air taxi mail routes.

As of December 31, 1969, SMB and Ross Aviation each had been awarded contracts to operate more air taxi mail routes than any other air taxi operator; SMB operated 40 routes, and Ross Aviation operated 25 routes, for which the annualized costs totaled about \$2 million and \$1.5 million, respectively. The number of air taxi mail routes and the annualized costs by operator are shown in appendix V. Also maps showing the locations of the air taxi mail routes in operation as of December 31, 1969, are included as appendixes VI, VII, and VIII.

GROWTH OF SMB

SMB was awarded its first air taxi mail route contracts on September 5, 1967. Before that date, SMB was not in the air taxi business but had 17 years of surface mail transportation experience as a highway post-office and highway star-route contractor. Within 4 months after obtaining its first air taxi mail route, SMB was awarded contracts for 24 routes--triple the number awarded its nearest competitor at that time. The following table shows SMB's growth as an air taxi mail route operator from September 1967 to December 1969.

<u>Month ended</u>	<u>Number of postal regions</u>	<u>Number of routes</u>	<u>Annualized cost of routes</u>
September 1967	2	4	\$ 284,100
October 1967	5	17	954,300
December 1967	5	24	1,184,300
February 1968	6	26	1,297,400
May 1968	7	32	1,491,500
September 1968	5	36	1,656,300
February 1969	5	38	1,805,900
March 1969	5	39	1,977,800
August 1969	5	40	2,048,600
December 1969	5	40	2,048,600

As of December 31, 1969, SMB's 40 air taxi mail routes, located in 13 States and five postal regions, represented 29.6 percent of the 135 routes in operation and accounted for about \$2 million, or 22.7 percent of the total annualized costs of \$8.8 million for the entire air taxi mail service program. (See apps. V and VII.)

GROWTH OF ROSS AVIATION

Ross Aviation was awarded its first air taxi mail route contract on September 5, 1967, under a joint-venture arrangement with another air carrier. Before that date Ross Aviation was engaged primarily in the operation of a pilot training program for the U.S. Army and a general aviation training program for the public.

After obtaining its first air taxi mail route, Ross Aviation's participation in the air taxi mail program grew rapidly. Since March 1969, Ross has been operating the second largest number of air taxi mail routes. The following table shows Ross Aviation's growth as an air taxi mail route operator from September 1967 to December 1969.

<u>Month ended</u>	<u>Number of postal regions</u>	<u>Number of routes</u>	<u>Annualized cost of routes</u>
September 1967	1	1	\$ 28,200
October 1967	2	2	66,700
December 1967	2	6	156,500
March 1968	2	7	211,400
August 1968	4	11	421,600
November 1968	7	13	720,500
January 1969	7	20	1,097,000
March 1969	7	22	1,276,600
October 1969	8	26	1,572,600
December 1969	8	25	1,494,300

As of December 31, 1969, Ross Aviation's 25 air taxi mail routes, in 18 States and eight postal regions, represented 18.5 percent of the 135 routes in operation and accounted for about \$1.5 million, or 17 percent of the total annualized costs of \$8.8 million for the entire air taxi mail service program. (See apps. V and VIII.)

CHAPTER 3

QUESTIONABLE CONTRACTING PRACTICES

FOR PROCURING AIR TAXI MAIL SERVICE

The Department exceeded its legal authority in awarding a large number of emergency contracts pursuant to section 405(h) of the Federal Aviation Act of 1958 to initiate and/or continue service on air taxi mail routes and thereby avoided obtaining the Civil Aeronautics Board (CAB) approval of the routes and rates before such service was established. Also the Department awarded many contracts for air taxi mail service, particularly during the early months of the program, without obtaining competitive bidding although competitive bidding was the established practice for awarding contracts for other forms of mail transportation services, such as highway and air star routes. In addition, the Department did not adequately determine the qualifications of certain air taxi operators prior to awarding the mail service contracts. In our view, these practices may have resulted in unnecessary increased costs for the air taxi mail service.

These matters are discussed in detail in the following sections of this chapter.

USE OF EMERGENCY CONTRACTS FOR PROCURING AIR TAXI MAIL SERVICE

From August 1, 1967, to December 31, 1969, the Department entered into 211 emergency contracts with 52 air taxi operators to initiate and/or continue service on air taxi mail routes. The use of emergency contracts was started during Mr. Hartigan's tenure of office as Assistant Postmaster General and 114 emergency contracts, at a total annualized cost of \$5.9 million, were awarded while he was in office. Of the 114 contracts, 71, having a total annualized cost of \$3.4 million, initiated service on air taxi mail routes and 43 contracts, at a total annualized cost of \$2.5 million, continued service on existing air taxi mail routes. Of the 52 air taxi operators awarded emergency

contracts, 15 were awarded five or more contracts. During the period August 1967 to December 1969, SMB was awarded 35 emergency contracts, including 25 awarded during Mr. Hartigan's tenure of office as Assistant Postmaster General. The following table shows the 15 air taxi operators who were awarded five or more emergency contracts, the periods during which the contracts were awarded, and the total number of contracts awarded to 37 other operators during the same periods.

	<u>Emergency contracts awarded</u>		
	<u>Number awarded</u>	<u>August 1, 1967 to February 24, 1968 (note a)</u>	<u>February 25, 1968 to December 31, 1969</u>
SMB	35	25	10
Buker Airways	12	8	4
Ross Aviation	12	5	7
Cal-Nat Airways	9	5	4
Jim Hankins Air Service	9	-	9
Priority Air Transport System	9	8	1
Aviation Services	7	7	-
General Design Company	7	6	1
Commuter Airlines	7	6	1
Fontana Aviation	6	3	3
Orion Airways	6	-	6
Sonora Aviation	6	6	-
Combs Airways	5	2	3
Fleet Airways	5	5	-
Skyway Aviation	<u>5</u>	<u>-</u>	<u>5</u>
Total (15 operators)	140	86	54
Other contracts (37 operators)	<u>71</u>	<u>28</u>	<u>43</u>
Total emergency contracts	<u>211</u>	<u>114</u>	<u>97</u>

^a During Mr. Hartigan's tenure of office as Assistant Postmaster General.

The circumstances that existed when the Department entered into emergency contracts for air taxi mail service did not constitute emergencies caused by fire, flood, major disaster, or any other type of calamitous visitation within the meaning of section 405(h) of the Federal Aviation Act of 1958 (49 U.S.C. 1375(h)) which was cited as the authority for awarding such contracts. Rather, these contracts were awarded, in most instances, to initiate and/or continue service on air taxi mail routes which had been established by the Department to either replace railway and highway post-office service or expand the geographic area for the overnight delivery of letter mail, or both.

By following the emergency contracting practice, the Department avoided the review and approval by CAB of contract rates and routes required by title IV, sections 401 and 406, of the Federal Aviation Act of 1958 (49 U.S.C. 1371, 1376). The emergency contract rates per mile for air taxi mail routes differed significantly even though the route mileages and/or mail-carrying aircraft capacities were similar. For example, on two routes, each requiring aircraft with a 2,000-pound mail-carrying capacity, the round-trip distances differed by only 12 miles; however, the contract rate on one route was 35 cents a mile and on the other route was 56.38 cents a mile.

Each of the emergency air taxi mail service contracts was entitled "Contract for the Transportation of Mail by Aircraft During an Emergency" (see app. IX for a copy of a contract) and contained the following statement of authority for entering into the contract.

"WHEREAS, the Postmaster General has found pursuant to Section 405(h) of the Federal Aviation Act of 1958 (72 Stat. 762; 49 U. S. Code 1375), that an emergency situation affecting the transportation of mail exists at *** [identified departure and arrival points along the air taxi route];"

Section 405(h) of the Federal Aviation Act of 1958, as cited in the contracts, is captioned "emergency mail service" and states, in part, that:

"In the event of emergency caused by flood, fire, or other calamitous visitation, the Postmaster General is authorized to contract, without advertising, for the transportation by aircraft of any or all classes of mail to or from localities affected by such calamity, where available facilities of persons authorized to transport mail to or from such localities are inadequate to meet the requirements of the Postal Service during such emergency. Such contracts may be only for such periods as may be necessitated, for the maintenance of mail service, by the inadequacy of such other facilities."

By its terms, the authority granted to the Postmaster General by this section is for application only in the event of an "emergency caused by flood, fire, or other calamitous visitation." Although "calamitous visitation" is not defined in the language of this section or in the related legislative history, it appears to entail some sort of a major disaster--such as would be inflicted by a flood, serious fire, or hurricane--which would disrupt postal transportation service.

Webster's New International Dictionary (second edition, unabridged) defines "calamity" as "any great misfortune or cause of loss or misery; usually an event or disaster that produced extensive harm." Also section 405(h) of the Federal Aviation Act of 1958 limits the use of the authority to instances where other available facilities for transportation of mail to or from the localities affected by the calamity are inadequate to meet the requirements of the postal service during such an emergency. This section specifically limits the duration of emergency contracts to such periods as emergency services may be required to maintain mail service because of the inadequacy of such other transportation facilities.

Part 298 of CAB's Economic Regulations (14 CFR 298) sets forth the procedures and regulations that the Department must follow in entering into regular (as opposed to emergency) contracts with air taxi operators for the operation of air taxi mail routes. Prior to October 1967 a prospective air taxi operator was required to file an

application with CAB for specific authority to carry mail under approved mail rates. This procedure, according to the Department, required about 60 to 130 days to process the application before the air taxi mail service on a route could be started. In August 1967 the Department, rather than follow the required and more time-consuming procedure, began awarding emergency contracts to provide air taxi mail service pursuant to the provisions of section 405(h) of the Federal Aviation Act of 1958.

In October 1967 CAB changed its regulations to permit the Department to obtain CAB authorization for air taxi operators to carry mail. The Department can obtain this authorization by filing with CAB an "expedited" or a "regular" Notice of Intent to Use Air Taxi Mail Service. Prior to the October 1967 change in CAB regulations, the Department's Assistant General Counsel for Transportation made the following statement in a memorandum to an official of the Department's Bureau of Transportation and International Services.

"We believe that the Board [CAB] will shortly publish an amended version of Part 298 of its regulations, which will place the burden on the Department of filing 'Notices of Intent to Use Air Taxi Mail Service.' Since such notices will permit the actual initiation of service almost immediately (5-10 days), there will be few, if any instances in which emergency contracts can be justified. This means that any delay in procuring air taxi service will be caused solely by the Department itself." (Underscoring supplied.)

The amended CAB regulations provide that, in filing an expedited notice of intent, the Department must represent, at the time of filing, that there are no objections from certificated air carriers to the proposed air taxi mail service. Unless an objection is filed or CAB orders a suspension, the notice automatically becomes effective 5 days after filing. The amended regulations provide also that, in filing a regular notice of intent, the Department does not have to represent, at the time of filing, that certificated air carriers have no objections to the air taxi mail

service. A regular notice automatically becomes effective within 10 days after filing. In cases where an objection is filed or CAB orders a suspension, service cannot begin until authorized by CAB.

Between January 1, 1967, and December 31, 1969, the Department awarded 411 contracts for the transportation of mail on 170 air taxi mail routes. Of the 411 contracts, 200 had been approved by CAB and 211 had been awarded by the Department under the emergency provisions of section 405(h) of the Federal Aviation Act of 1958 without CAB review and approval. Of the 211 emergency contracts, 146 were awarded after CAB established the expedited procedures.

Appendix X shows, by postal region, (1) the number of air taxi mail routes operated during the period January 1, 1967, to December 31, 1969, (2) the number of CAB-approved contracts and emergency contracts awarded by the Department on these routes, and (3) the number of routes operating and the number of contracts in effect as of December 31, 1969.

The establishment of air taxi mail routes was part of a Department program to expedite the delivery of mail. Our review of available Department records did not reveal any situations which could be classified as calamitous visitations that would have justified the award of emergency contracts. For an extended period of time, and in some cases for as long as 2 years before the air taxi mail service contracts were awarded, the Department had planned on establishing the air taxi mail routes.

Of the 211 emergency contracts, 130 were awarded to continue and/or amend the service on existing air taxi mail routes and 81 were awarded to initiate new air taxi mail transportation service. Of the 81 contracts, 36 were for air taxi mail routes in the postal regions covered by our field review. The Department's records indicate that the 36 routes were part of the Department's plans for expediting mail delivery in these regions.

The following chronology of events is an example of the Department's actions to establish an air taxi mail

route under the emergency provisions of section 405(h) of the Federal Aviation Act of 1958.

1. In May 1965 the Department's Bureau of Transportation and International Services authorized the Minneapolis Postal Region to make a survey of the Calumet and Chicago railway post-office service.
2. A June 1966 survey report recommended discontinuing the railway post-office service and replacing part of such service with an air taxi mail route from Chicago to Iron Mountain, Michigan, via Green Bay and Milwaukee, Wisconsin.
3. In July 1967, the Department obtained proposals from several air taxi operators for operating an air taxi mail route.
4. In September 1967 the Executive Assistant to Assistant Postmaster General Hartigan requested an opinion of the Department's General Counsel as to whether certain air taxi mail service contracts, including one covering a route between Iron Mountain and Milwaukee via Green Bay, could be awarded under the emergency provision of section 405(h).

An Assistant General Counsel replied:

"Insofar as the existence of an emergency is concerned, the file submitted does not permit such a determination."

Therefore he concluded that:

"*** we are unable to determine whether an emergency exists which would justify execution of these contracts."

We could find nothing in the Department's records showing whether additional information had been provided to the General Counsel justifying the award of an emergency contract for air taxi mail service between Iron Mountain and Milwaukee.

5. Assistant Postmaster General Hartigan awarded an air taxi mail service contract for the route on October 1, 1967, under the emergency provisions of section 405(h). The air taxi mail route continued to be operated under successive emergency contracts until December 26, 1969, when a CAB-approved notice of intent became effective.

Of the 130 contracts awarded under the emergency provision of section 405(h) to continue and/or amend the service on existing air taxi mail routes, 42 replaced existing CAB-approved contracts for air taxi mail service. The emergency contracts were either awarded to different air taxi operators or increased the contract mail rates, or both. Department regulations require a 30-day written notice by either the Department or the operator prior to termination of CAB-approved air taxi mail service, to provide the Department with an opportunity to arrange for replacement service and to file either an expedited or a regular notice of intent with CAB. If replacement service is needed prior to expiration of the 30-day period, the Department can arrange for temporary service by existing commercial air carrier service or existing surface transportation, such as highway star routes. Star routes are often used as backup service for air taxi mail routes in the event of flight cancellations due to such conditions as adverse weather or airplane mechanical failure.

For example, on November 9, 1969, the Department terminated 18 CAB-approved contracts held by one air taxi operator in the St. Louis Postal Region because it had abandoned service on its routes, and existing highway star routes provided replacement service. On December 15, 1969, the Department reestablished 10 of the 18 air taxi mail routes by emergency contracts under section 405(h). The emergency provisions of section 405(h) are not applicable to such cases when there are alternative means readily available to the Department for transporting the mail between the cities served by the air taxi mail routes.

Notwithstanding the provision of section 405(h), which clearly limits the duration of emergency contracts to periods required to maintain mail service because of the

inadequacy of other transportation facilities, the 211 emergency contracts awarded by the Department are, or were, in effect for periods ranging from less than 90 days to over 2 years, as shown by the following table.

<u>Duration of emergency contracts</u>	<u>Number of contracts</u>
Less than 90 days	103
3 to 6 months	47
6 months to 1 year	47
1 to 2 years	11
Over 2 years	<u>3</u>
	<u>211</u>

As of December 31, 1969, the Department was operating 135 air taxi mail routes at an annualized cost of about \$8.8 million. Of these 135 routes, 41 were operating under emergency contracts at an annualized cost of about \$3.1 million. (See app. X.)

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On May 13, 1970, we informed the Department of our findings regarding its use of emergency contracts for air taxi mail service and requested the Department's views as to its legal authority under the emergency provisions of section 405(h) of the Federal Aviation Act of 1958 to enter into emergency contracts to establish, amend, or replace air taxi mail service when there was no discernible emergency which would justify such contracts.

The Department's Deputy General Counsel informed us on July 30, 1970, that:

"While the cited provision does expressly refer to 'flood, fire, and other calamitous visitation,' we do not interpret this phrase so narrowly as to exclude all but natural disasters. ***

"A nationwide rail strike, or a strike affecting a substantial number of domestic air carriers,

such as occurred in the late summer of 1966, is calamitous insofar as the transportation and delivery of mail are concerned. We believe that any unforeseen event, which renders normal mail transportation facilities unavailable for the duration of the emergency, warrants use of this contracting authority to the extent that transportation modes other than aircraft cannot maintain the normally attainable level of service."

The Department's Deputy General Counsel chose not to undertake a defense of the 211 emergency contracts entered into by the Department for air taxi mail service but rather stated the belief that certain events, such as the sudden discontinuance of, or change in schedule of, a railway post-office train or the unexpected closing of an airport runway that causes the temporary suspension of certificated air carrier service, warrant use of the Postmaster General's authority to enter into an emergency contract for air transportation for the emergency period.

Our review of the Department's records did not reveal any situations or events which were so sudden, unforeseen, or unexpected as to justify any of the emergency air taxi mail service contracts awarded by the Department. For example, all railroad train discontinuances and schedule changes must be publicly announced at least 30 days in advance by the railroad companies. Thus the Department, being an interested party when mail-carrying trains are involved, has advance notice of all such actions by the railroads and therefore has sufficient time and opportunity to obtain air taxi mail service, if deemed necessary, within 5 days by using the expedited notice of intent procedures established by CAB. Our review did not reveal any instance where the Department had used these procedures in obtaining air taxi mail service.

Under date of October 7, 1970, the Comptroller General rendered his decision (B-166772) to the Postmaster General concerning the proper use of the authority for emergency contracts provided by section 405(h) of the Federal Aviation Act of 1958 (49 U.S.C. 1375(h)). (See app. XIII.) The Postmaster General was advised that:

"Hence, it is our view that the authority granted in section 405(h) of the Federal Aviation Act of 1958, supra, may not be exercised upon the occurrence of any unforeseen event, which renders normal mail transportation facilities unavailable for the duration of the emergency, sudden loss of an RPO [railway post office] train schedule, an unexpected closing of an airport runway causing certificated air carriers to temporarily suspend service at that airport, as stated in the letter of July 30, 1970. We believe that, as a general rule, the word 'calamity' must be defined along the lines indicated in Jones v. Williams, supra; and that the 'calamitous visitation' must be of the same nature as the flood and fire stipulated in the statute, that is, produced not usually by the direct agency of man, but by natural causes, which would include among other things, tempest, hurricanes, earthquakes, and other major disasters arising generally from natural causes. We agree that there might be a few major occurrences caused by the direct agency of man rendering mail transportation facilities unavailable which would warrant an exception to such general rule on a case by case basis and that a nationwide rail strike might be one. Many of the contracts we reviewed, however, not only would not meet this test, but would not even comply with your extremely broad interpretation of section 405(h)."

* * * * *

"In the future, the authority granted by section 405(h) should be exercised only in circumstances conforming with our interpretation as set out above, and the duration of contracts so executed must be limited to such periods as emergency services may be required to maintain mail service because of the inadequacy of other facilities caused by such emergency. Moreover, any such contracts still in effect which were not executed in circumstances conforming with the above interpretation, as well as any such contracts

which may remain in effect after the emergency has ended, should be terminated as soon as practicable. We recognize that the new Postal Service will be authorized under 39 U.S.C. 5001 as revised by the Postal Reorganization Act, Public Law 91-375, to make arrangements on a temporary basis for the transportation of mail when, as determined by the Postal Service, an emergency arises but such arrangements are also required to be terminated when the emergency ceases. See also 39 U.S.C. 5402(c)."

OTHER QUESTIONABLE CONTRACTING PRACTICES

In procuring air taxi mail service, particularly during the first 6 months of the rapidly expanding program, the Department awarded a number of contracts without formal competitive bidding. In those instances where bidding procedures were followed, some bidders, at the time of bid opening, did not have on hand, nor have a commitment to obtain, the specific aircraft and qualified pilots to perform the required services. In such cases, the successful bidders leased aircraft, and in some instances subcontracted with other air taxi operators, to provide the service. This latter practice was contrary to CAB and Federal Aviation Administration (FAA) regulations which require that only the operator named in the contract may perform the air transportation service for the Department. We believe that, unless a contractor has the necessary equipment and personnel to perform the services required by a proposed contract, a question arises concerning whether it is a qualified bidder and whether it has the ability to effectively carry out its responsibilities under the contract if it is awarded the contract.

When operators terminated service on routes shortly after they were initiated, the Department awarded emergency contracts to other operators to provide replacement air taxi mail service without advertising for competitive bids for the routes. SMB received 11 such contracts for replacement air taxi mail service, and Ross Aviation was awarded five air taxi mail service contracts under similar circumstances.

Examples of these questionable contracting practices follow.

Award of air taxi mail service contracts without effective competitive bidding

Our review showed that, prior to initiating three interregional air taxi mail routes in August 1967 in the Boston and New York Postal Regions, the Department had obtained only oral rate quotations over the telephone from a few air taxi operators on each route. The contracts for these routes were approved by Assistant Postmaster General Hartigan

and were awarded to Buker Airways.¹ In August and November 1967, the Department also awarded contracts to Buker Airways for two routes in the New York Postal Region, again on the basis of oral rate quotations. As of December 31, 1969, all five air taxi mail routes were still being operated by Buker at an annualized cost of about \$352,000.

Only informal over-the-telephone rate quotations were solicited by the Minneapolis Postal Region for contracts awarded for two of three air taxi mail routes initiated in September and October 1967. Eight informal quotations were solicited on one route, four were solicited on the second route, and none were solicited on the third route. The Department awarded contracts to SMB at an annual rate of \$155,200 for all three routes although the regional office had not solicited or received bids from SMB.

Available records at the Minneapolis Regional Office and at Department headquarters showed that Assistant Postmaster General Hartigan had signed the three contracts which were awarded to SMB on the basis of rate quotations obtained by Department headquarters. For the two routes on which informal rate quotations had been solicited by the region, SMB's quoted rates to the Department were higher than the quoted rates of some of the other bidders on both routes.

The three air taxi mail routes provided replacement mail transportation service for three highway post-office routes operated by SMB. Available records indicated that contracts for these air taxi mail routes had been awarded to SMB as a concession for waiving all rights to indemnity payments which might have been due SMB as a result of early termination of its three highway post-office contracts with the Department.

¹The president of Buker Airways informed us that Mr. Hartigan, upon resigning as Assistant Postmaster General in February 1968, was employed on a per diem basis as a transportation consultant to Buker Airways.

A fourth contract in the Minneapolis Postal Region for a route, initiated in October 1968 between Minneapolis, Minnesota, and Des Moines, Iowa, was also awarded to SMB without any competitive bids' being solicited by the Department. This air taxi mail route, which cost the Department \$70,100 on an annual basis, also provided replacement service for an SMB highway post-office route between the same two cities. The Minneapolis Regional Office had been directed by the then Assistant Postmaster General to negotiate a contract with SMB rather than advertise for competitive bids.

We could not determine whether less costly service could have been obtained through formal advertising, because this procedure was not followed and therefore no comparative data was available. We believe, however, that, whenever contracts are awarded on the basis of competitive bidding, better prices can usually be obtained.

In several postal regions we found that, when certain air taxi operators terminated service on their air taxi mail routes or defaulted on their contracts, the Department awarded emergency contracts to other operators, rather than advertising for bids on the air taxi mail routes, and in so doing may not have obtained the most favorable contract prices for operation of the routes. Following are two examples of this contracting practice.

Indianapolis, Indiana-Columbus, Ohio
air taxi mail route

In September 1967, when the Department discontinued all but one daily round trip of its railway post-office service between Indianapolis and Columbus, an air taxi mail route was established between these cities as a replacement service.

In October 1967, after operating the air taxi mail route for about a month, the original air taxi operator discontinued service on the route and the Department awarded a contract, without advertising, to SMB to operate the route--using a Piper Aztec C aircraft--at a rate higher than that paid to the original operator.

The Department's files showed that, when the route initially was established in September 1967, another operator--Aero Tech Enterprises, Inc.--was disqualified by the Department as a potential operator on the route because it proposed to operate the route using a Piper Aztec C aircraft which, according to an official of the Cincinnati Postal Region, would not meet the Department's aircraft specifications for the route.

We were unable to determine why SMB, rather than Aero Tech--which in September 1967 had offered a rate lower than SMB's rate--had been selected to operate the route. A Cincinnati regional official informed us that Aero Tech was not contacted in October 1967 to determine its willingness to operate the route. We estimate that, if Aero Tech had been able and willing to operate the route with its Piper Aztec C aircraft at its originally proposed rate, the Department, by awarding the contract to SMB, may have unnecessarily increased the cost of the service by about \$6,500 annually.

Omaha-Grand Island, Nebraska
air taxi mail route

On October 17, 1967, the Department discontinued the railway post-office service between Omaha and Grand Island and initiated an air taxi mail route between these cities as part of its plan to provide overnight delivery service for letter mail in Nebraska.

Trojan Airways, Inc., was awarded a contract to operate this route in December 1967 at a rate of 35 cents a mile. On March 6, 1969, after operating the route for almost 15 months, Trojan Airways asked to be relieved from its air taxi mail service contract. The Department terminated Trojan Airway's contract on March 10, 1969, and, without advertising, awarded SMB a contract to operate this route at a rate of 56.5 cents a mile, or 21.5 cents a mile higher than Trojan Airway's rate. The Department's records do not indicate the reason the contract for operation of this route was awarded to SMB or whether other operators were interested in operating the route. We estimate that the contract awarded to SMB at 56.5 cents a mile increased the annual

cost of operating this route from \$54,700 to \$88,300, or by about 61 percent.

SMB was still operating this route under an emergency contract at December 31, 1969.

Questionable qualifications of bidders
on air taxi mail service contracts

The Department generally did not require assurances from bidders on air taxi mail routes, at the time of bid openings, that they had on hand, or had a commitment to obtain, the specific aircraft and qualified pilots needed to provide the air taxi mail service. We noted that a number of air taxi operators selected by the Department had to terminate or default on their contracts soon after they had initiated service on their routes or had to decline the contracts just prior to the dates the Department had planned to inaugurate the air taxi mail routes. These selected operators did not have the specific aircraft or the trained pilots to perform the service.

Some operators, in their efforts to perform under their air taxi mail service contracts, leased airplanes from other air carriers or subcontracted with other air taxi operators to provide the service. This latter practice was a violation of CAB and FAA regulations which require that only the operator of record--namely, the operator named in the contract or notice of intent--perform air transportation service for the Department. In our view, all air taxi operators should be required to demonstrate their ability to operate the air taxi routes before the Department awards contracts.

Qualifications of SMB

Prior to being awarded its first air taxi mail service contract in September 1967, SMB had no experience as an air taxi operator, and at the time SMB accepted its first air taxi mail service contracts, it had neither sufficient pilots nor the specific airplanes to provide the services required by its contracts.

Between May 1 and October 31, 1967, SMB submitted bids on at least 43 air taxi routes in six postal regions. A special report dated August 9, 1967, on the results of an investigation by the Bureau of the Chief Postal Inspector of SMB's qualifications to operate air taxi service for the transportation of mail stated, however, that SMB had only two qualified pilots and that:

"The firm [SMB] now has one aircraft certificated which is a Piper Twin Comanche. The president of the firm advised that negotiations have been made with an aircraft company for the purchase of aircraft to meet the requirements of the contract. It is now contemplated by *** [officers of SMB] to begin the operations with leased aircraft if the firm is the successful bidder." (Underscoring supplied.)

The special report concluded that SMB, despite its lack of a sufficient number of qualified pilots and certificated airplanes, was a fully qualified air taxi operator. Consequently the Department awarded contracts to SMB for 17 air taxi mail routes during September and October 1967. The Department's files indicated that, on at least one, and possibly four, of the 17 routes, SMB had subcontracted with Mid-Continent Airlines to provide the air taxi service.

On September 29, 1969, the president of SMB informed us that, at the time SMB first became involved in the Department's air taxi mail service program in September 1967, he planned to subcontract for the operation of the route and thus avoid investing in aviation equipment. He stated, however, that, within a short time after SMB's air taxi mail service began, the Department learned of SMB's subcontract and informed SMB that it must operate its own equipment. Department records indicate, however, that, as late as June 1968--9 months after SMB was awarded its first contract--SMB was still subcontracting for the operation of at least one air taxi mail route in the Cincinnati Postal Region to Mid-Continent Airlines. The Department's records did not show what actions, if any, the Department took subsequent to June 1968 to ensure that SMB discontinued its practice of subcontracting for the operation of air taxi mail routes by other operators after being directed by the

Department to do so. A Department official, however, has assured us that action had been taken to stop SMB's subcontracting practice.

Qualifications of other bidders
on air taxi mail service contracts

The Cincinnati Postal Regional Office solicited bids for the operation of five of its air taxi mail routes in August 1967, and Wings Aviation submitted the lowest bids for all five routes. A Department investigation of Wings Aviation's qualifications as an air taxi operator was not made. On August 30, 1967, however, Assistant Postmaster General Hartigan authorized the award to Wings Aviation as low bidder of emergency contracts for the five routes with service to begin on September 5, 1967.

The five routes required the use of seven airplanes; however, Wings Aviation did not have its own airplanes. According to an official of the Cincinnati Postal Regional Office, Wings Aviation attempted to lease airplanes from other operators but was not successful in obtaining all the needed airplanes. As a result, Wings Aviation was unable to start service on two of the five routes and the Department awarded emergency contracts for both routes to SMB. Wings Aviation was able to initiate service with leased airplanes on the other three routes; but, after a few weeks of operations, Wings Aviation requested permission to terminate service on two routes and defaulted on the third. Without advertising for bids, the Department awarded emergency contracts to SMB to provide service on two of the routes and to another operator to provide service on the third route.

In our view, the circumstances described above could have been avoided had the Department determined Wings Aviation's qualifications as an air taxi mail service operator prior to awarding it contracts for the five air taxi routes in August 1967. Late in September 1967 the Department instructed its regional offices to make inquiries through FAA as to the qualifications of all low bidders on air taxi mail routes and, beginning in January 1968, to request the Bureau of the Chief Postal Inspector to investigate the qualifications of all low bidders.

When Ross Aviation bid on its first air taxi mail service contracts in August and September 1967, it did so as a joint venture with Upper Valley Flying Service, Inc. The joint-venture arrangement was necessary because Ross Aviation did not at that time have its own Air Taxi Commercial Operator Certificate issued by FAA. The Department required, among other things, that, to qualify for a contract to provide air taxi mail service, a prospective bidder (1) have a valid Air Taxi Commercial Operator Certificate issued by FAA at least 6 months prior to the bid-closing date and (2) be authorized by FAA to operate aircraft under its Instrument Flight Rules.

Officials of FAA's General Aviation District Office in San Antonio, Texas, and Tulsa, Oklahoma, informed us that, at the time of the bid closings in August and September 1967 for contracts for the operation of air taxi mail routes in the San Francisco and Wichita Postal Regions, Upper Valley's Air Taxi Commercial Operator Certificate did not include the required authorization to operate under the Instrument Flight Rules. Also Ross Aviation did not obtain an Air Taxi Commercial Operator Certificate until October 3, 1967, and therefore could not qualify on its own as a bidder until 6 months later, April 1968. We believe, therefore, that Ross Aviation and Upper Valley were not qualified bidders for contracts for the operation of air taxi mail routes in August and September 1967 and should have been disqualified by the Department.

The Department had disqualified two other bidders on air taxi mail routes in the Wichita Postal Region because of their failure to meet the Instrument Flight Rules requirement. We were unable to determine why Ross Aviation and Upper Valley had not been similarly disqualified. Despite being unqualified bidders, Ross Aviation and Upper Valley were jointly awarded two air taxi mail service contracts by Assistant Postmaster General Hartigan--one for a route in the Wichita Region on September 5, 1967, and the other for a route in the San Francisco Region on October 29, 1967.

We noted that, although Ross Aviation would not have been a qualified bidder for contracts for the operation of air taxi mail routes until April 1968, Ross Aviation, as sole operator, nevertheless had been awarded contracts by

Assistant Postmaster General Hartigan in December 1967 for the operation of five routes in the Wichita Region. The Department's files did not contain any explanation as to why the 6-month waiting period had been waived in making these awards to Ross Aviation. The files indicate, however, that the Department had disqualified an air taxi operator who had bid for contracts for operating two of the five routes on the basis that its Air Taxi Commercial Operator Certificate issued on October 2, 1967, had not been in effect for the required 6-month period. The Department awarded the contracts for these routes to Ross Aviation despite the fact that its certificate had been issued 1 day later than the other bidder's certificate.

CONCLUSIONS, AGENCY COMMENTS
AND OUR EVALUATION

The Department exceeded its legal authority under section 405(h) of the Federal Aviation Act of 1958 in its use of emergency contracts for air taxi service for the transport of mail.

The awards of contracts for air taxi mail service without the use of competitive-bidding procedures and the award, in some instances, of contracts to air taxi operators having questionable qualifications may have resulted in unnecessary increased costs for air taxi mail service, as indicated in some of the examples presented.

The Department now requires that competitive-bidding procedures be followed in the award of contracts for air taxi mail service, except for emergency service, and requests the Bureau of the Chief Postal Inspector to investigate the qualifications of low bidders for air taxi mail service contracts.

In a draft of this report sent to the Department on July 20, 1970, we suggested that the Postmaster General take action to replace existing emergency contracts for air taxi mail service with contracts awarded under competitive bidding and CAB procedures and in the future confine the use of similar contracts for the transportation of mail by aircraft to calamitous visitation situations, as provided for in section 405(h) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1375(h)). We further suggested that the Postmaster General ensure that

--CAB, in recognition of its responsibility for air transportation, is furnished with copies of all future emergency contracts entered into pursuant to 49 U.S.C. 1375(h) and

--each such contract state explicitly the details of the emergency which gave rise to the contract.

In a letter to us dated August 17, 1970 (app. XII), the Postmaster General stated that:

"We have taken action to reduce the number of emergency contracts, and we are proceeding further in this direction so that the objective of limiting them to actual emergency situations for limited periods of time will be attained."

In an enclosure to the Postmaster General's letter of August 17, 1970, the Department's General Counsel stated that:

"To insure that future contracts of this nature do not come under criticism, no such contracts will be executed without the close scrutiny of the Bureau of Operations and the Office of the General Counsel of this Department, not only as to the substance and form of the contract, but as to the facts which are deemed, by the contracting officer, to constitute an emergency."

We have determined that the Department's emergency contracts should be limited to calamitous visitation situations as provided for in the Federal Aviation Act of 1958 and as interpreted by the Comptroller General's decision of October 7, 1970 (B-166772).

The Postmaster General concurred with our suggestions that each emergency contract state explicitly the details of the emergency which gave rise to the contract and that CAB in recognition of its responsibility for regulating air transportation, be furnished with copies of all future emergency contracts for the transportation of mail by air.

CHAPTER 4

QUESTIONABLE RATE INCREASES FOR

AIR TAXI MAIL SERVICE CONTRACTS

Because the Department did not have fully developed policies and procedures to assist its employees in evaluating requests from air taxi operators for rate adjustments until May 1969, or about 2-1/2 years after the air taxi mail service program started, we believe that many of the contract rate increases granted by the Department are questionable.

We identified 105 rate increases, amounting to an annualized cost of about \$1.2 million, that had been granted to 14 air taxi operators on 75 routes from the start of air taxi mail service through May 1970. These rate increases raised the rates per mile paid to the operators by 1.2 percent to 147.7 percent and raised the total annualized cost from \$3,376,300 to \$4,529,200. The following table summarizes the air taxi mail service contract rate increases which we identified from available Department records.

Air taxi operator	Number of routes	Number of rate adjustments	Range of increases in rates (percent)		Average increases in rates (percent)	Annualized cost (note a)		
			Low	High		Original	Adjusted	Increase
SMB (note b)	40	65	1.2	81.9	12.4	\$1,838,600	\$2,132,900	\$ 294,300
Ross Aviation	13	17	4.4	56.7	19.9	630,200	753,300	123,100
Other operators	<u>22</u>	<u>23</u>	13.3	147.7	76.9	<u>907,500</u>	<u>1,643,000</u>	<u>735,500</u>
Total	<u>75</u>	<u>105</u>				<u>\$3,376,300</u>	<u>\$4,529,200</u>	<u>\$1,152,900</u>

^aAnnualized cost is that cost which the Department would incur provided that the same rate was applicable during an entire year.

^bThe rate adjustments granted to SMB from December 1967 to May 1970 are shown in app. XI.

RATE ADJUSTMENT PROCEDURES

Prior to May 1969 air taxi operators were not required to support all of their requests for rate adjustments by documented cost information. Contract rate increases, however, were granted as early as November 1967. The Department's

files indicate that during this period the primary burden was on the Department, rather than the operators, to demonstrate that requested rate adjustments were reasonable and justified.

In reviewing requests for rate adjustments, the Department estimated the various air taxi operating costs from available general data about the air transportation industry but not necessarily applicable to the specific air taxi mail routes. Such data included "manufacturer's economic performance estimates" of different model aircraft, "customary business practices," and national average costs. Although Department officials recognized that this review technique could not provide definite assurance that the requested rate adjustments were fair, just, or reasonable, we noted that, of the 72 rate increases requested prior to May 1969, 65 were approved and that, of the 65 approved, 47 were for the amounts requested by the operators.

Beginning in May 1969, the Department took steps to improve its rate adjustment procedures. (See p. 41.)

RATE INCREASES GRANTED TO SMB

As indicated in the table on page 36, between December 1967 and May 1970, the Department granted SMB 65 rate increases amounting to \$294,300 on 40 air taxi mail routes. Between December 1967 and May 1969, however, the Department granted SMB 34 rate increases on 30 air taxi mail routes. The rate increases per mile averaged about 18 percent and resulted in raising the costs from \$1,304,000 to \$1,508,100, or by \$204,100. Information in the Department's files relating to these rate increases indicated that they may not have been justified, because the rate increases either had not been supported by adequate documentation or had been based on items of cost which SMB should have anticipated and included in its original rate quotations.

For example, in November 1967 SMB requested a rate increase of 7-1/2 cents a mile for each of three air taxi mail routes it was operating in the Chicago Postal Region. SMB justified the rate increases on the basis that it was incurring costs that it had not considered in its original

rate quotations. Some of the unanticipated costs were explained by SMB as follows:

"We had anticipated the normal amount of IFR [Instrument Flight Rules] approaches, which take 10 to 15 minutes each. This of course adds to your cost of operation. However, we have been advised that we will have IFR approaches regularly for the next six months."

* * * * *

"As there is approximately 200 to 250 inches of snow per year at Ironwood [Michigan] and no hanger space available of any type, we estimate we will have to de-ice our equipment about 100 days per year at a cost of \$25.00 to \$50.00 per day. So far we have been unable to hire any crew members at Iron Mountain [Michigan] or Ironwood, and additionally, we are required to replace our crews about every four days and pay additional expenses. We are unable to estimate this amount at the present time."

* * * * *

"We assumed we would be able to obtain hanger space for a reasonable amount, but now find there is no hanger space available at Ironwood, and at Iron Mountain we must pay \$225.00 per month per aircraft. This is far in excess of what we estimated. We also find it necessary for us to hire an accredited weather observer whenever we are landing at Iron Mountain under IFR conditions. We estimate this annual cost to be \$3,000.00 as we must additionally purchase the necessary weather observation equipment."

* * * * *

"Prior to beginning the route, we checked to see if there were any landing fees charged at various airports for aircraft coming within the 12,500 lb.

capacity. Very few had any landing fee charges. However, after the first flight we discovered that we were immediately placed on the same basis as regularly scheduled airlines using all the ground facilities, terminal buildings, etc. Of course, we get no advantage from any of these supporting facilities, but we still have to pay the landing fees which amount to \$4,448.00 per year."

The Department did not require prospective air taxi operators to submit cost statements with their rate quotations, and the contract files did not show whether SMB or the Department had considered the above items prior to the award of the contracts. SMB estimated that the cost increases for these items would amount to about \$15,000 annually. On the basis of the mileage for the three routes involved, however, we estimate that the rate increase of 7-1/2 cents a mile requested by SMB for each of the three routes would increase SMB's revenues by \$35,000 annually. SMB cited other unforeseen items which, it believed, had resulted in cost increases, such as a reduction in route mileages and schedule changes after the contracts were awarded, but SMB did not provide any estimates of the related cost increases.

Despite the lack of adequate documentation for the rate increases requested by SMB, Assistant Postmaster General Hartigan, in December 1967, informed SMB that:

"Your justification to increase the rate is convincing and the rate will be increased as of this date provided you agree to operate the route until new proposals are solicited for this service, an operator selected, and notices of intent to use air taxi service have been processed by the Civil Aeronautics Board. This should be accomplished by February 15, 1968."

The Department granted rate increases to air taxi operators, after the original contract rates were agreed upon, on the basis of unanticipated cost increases due to changes in Department or FAA requirements, such as installation of autopilots, pilot training programs, and aircraft inspections. The Department granted SMB rate increases totaling

about \$80,000 annually for such items on 15 air taxi mail routes on the basis that the requirements were imposed after the contract rates had been agreed upon. We noted that these rate increases may not have been justified, however, because the requirements for the items had been imposed before, rather than after, SMB's contract rates had been agreed upon and that therefore the rates should have included allowances for these items.

RATE INCREASES GRANTED TO OTHER OPERATORS

In addition to identifying the 65 rate increases granted to SMB, we identified 40 rate increases which had been granted to 13 other air taxi operators on 35 routes from the start of air taxi mail service through May 1970. These rate increases resulted in raising the total annualized costs on the 35 routes from \$1,537,700 to \$2,396,300, or by \$858,600. Because our review was directed primarily toward rate increases granted to SMB, we did not make a detailed review of the 40 rate increases granted to other operators. We noted, however, that the Department's postal inspectors and internal auditors had questioned the adequacy of documentation in the Department's files in support of requests for rate increases in general.

In June 1969 reports, the Department's internal auditors and postal inspectors criticized the Department's processing of the air taxi mail service contract rate adjustments. The internal audit report stated that, for those adjustments reviewed, documentation had not been obtained by the Department to verify the operators' statements on increased costs and that in each instance the Department had accepted the operator's word without question. The postal inspectors stated:

- That it was evident that no one had assumed the responsibility for making certain that rate adjustment requests were supported by proper documentation.
- That there was almost a complete lack of documentation as to the validity of cost factors submitted by operators and that there appeared to have been little attempt made to investigate the validity of the cost factors.

- - - -

In May 1969 the Department issued instructions to regional offices requiring air taxi operators to submit cost data with their requests for rate adjustments and emphasizing the need for regional offices' obtaining sufficient documentation to ensure accuracy and applicability of the cost data submitted. In addition, the May 1969 instructions indicated that the Department reserved the option of readvertising any route rather than grant a rate adjustment.

During June and July 1969, the Department issued several supplementary instructions to its regions clarifying its instructions for processing air taxi rate adjustment applications. In December 1969 the air taxi rate adjustment policies and procedures that had been under development since August 1968 were consolidated into formal regional instructions, and in March 1970 these policies and procedures were incorporated in the Postal Manual. The current instructions state, in part, that:

"no air taxi [rate] adjustment is mandatory. Submission of a Rate Adjustment Request *** does not imply any obligation on the part of the Postmaster General to either consider the request or to allow any specific adjustment."

The instructions state the bases for considering rate adjustments and prescribe the documentation necessary for supporting the amount of the adjustments. It appears to us that, if these instructions are properly implemented by the Department, improvement in the evaluation of rate adjustment requests should result.

CHAPTER 5

COSTLY AIR TAXI MAIL TRANSPORTATION

The air taxi mail service program in the seven postal regions included in our review was generally more costly than commercial air service. Also in many cases the quantities of mail carried by air taxis, especially on Sunday night flights, were substantially below their mail-carrying capacities. For 47 of the 81 air taxi mail routes included in our review, commercial airlines had scheduled routes paralleling the air taxi mail routes between the same cities. Although we did not determine whether the specific commercial airline flights could have carried all the mail transported by air taxi, the Department has indicated that commercial airlines have a significant amount of unused cargo space.

We estimated that, if commercial airlines had been used in lieu of air taxis for transporting mail on these 47 routes, the annual costs would have been \$1.2 million less than the \$2.6 million incurred under the air taxi mail service program. For the remaining 34 air taxi mail routes, no parallel commercial airline routes were available for comparison.

A majority of the mail transported by air taxis was first-class mail. Regularly scheduled surface truck transportation (star routes) was generally available between the same locations and could have provided a reasonable level of service for this mail at no additional cost, and therefore most of the cost, if not the entire cost, of air taxi mail service could have been avoided.

The Department's objective of providing overnight delivery service for first-class mail to postal patrons within a State and between contiguous States might not have been met, in most instances, if commercial air service had been used, since most airlines did not have scheduled flights corresponding to the mail dispatch and arrival times established for overnight delivery. Also surface transportation, such as highway star routes, in most instances may not have provided the same service because of different dispatch and

arrival times scheduled between locations and because of the distances involved on most routes. We found, however, that delivery to patrons generally would not have been delayed more than 1 day if these alternate means of transportation were used in lieu of air taxis.

These matters are discussed more fully below.

COMPARATIVE COSTS OF AIR TAXIS
AND COMMERCIAL AIRLINES

Air taxi operators are paid at a rate per mile for the route miles flown without regard to the quantity of mail transported. Conversely, commercial air carriers are paid at CAB-approved rates for the quantity of mail actually transported.

We computed the annual costs for the 47 air taxi mail routes that paralleled commercial air carrier routes and compared these costs with the equivalent costs based on the CAB-approved rates for transporting the same quantity of mail by commercial air carriers. On the basis of a 2-week test of these routes, we estimated that the annual costs of air taxi mail service would exceed the annual cost of commercial air service by about \$1.2 million, as follows:

<u>Postal region</u>	Estimated cost of air taxi <u>service</u>	Estimated cost of commercial <u>air service</u>	<u>Difference</u>
Boston	\$ 79,400	\$ 51,800	\$ 27,600
Chicago	57,400	30,600	26,800
Cincinnati	445,400	234,200	211,200
Dallas	318,200	237,300	80,900
Minneapolis	359,800	197,900	161,900
St. Louis	790,800	372,500	418,300
Wichita	<u>559,100</u>	<u>239,800</u>	<u>319,300</u>
Total	<u>\$2,610,100</u>	<u>\$1,364,100</u>	<u>\$1,246,000</u>

COSTS OF AIR TAXIS AND STAR ROUTES

On the basis of our review of mail volumes carried on highway star routes within the regions included in our review and our discussions with regional transportation officials, we believe that existing highway star-route carriers have sufficient unused space to transport the majority of the mail currently transported by air taxis. Such mail would not, in all cases, be delivered as timely; however, the delivery delay in most instances would not be more than 1 day.

Regional postal officials informed us that existing star routes were generally capable of absorbing, at no additional cost, mail being transported by air taxis. This might require some adjustment in current schedules or the temporary delaying of nonpreferential mail (generally bulk second-, third-, and fourth-class mail) so that the preferential mail (mail receiving first-class-mail handling) could be forwarded first.

UTILIZATION OF AIR TAXI CAPACITY

For most routes in the regions included in our review, the air taxis were operating at less than 65 percent of the mail-carrying capacity contracted for. Our statistics were based on a comparison of the air taxi capacities contracted for with the average quantity of mail carried by the air taxis on the highest volume segments of the routes during a 2-week test period in 1969. Examples of low volume routes follow.

<u>Postal region</u>	<u>Air taxi mail route</u>	<u>Air taxi contract capacity</u>	<u>Average carried on highest volume segment</u>	<u>Percent of capacity used</u>
(pounds)				
Chicago	Iron Mountain, Mich., to Green Bay--Milwaukee, Wis.	2,500	1,062	42
Cincinnati	Indianapolis, Ind., to Columbus, Ohio (note a)	1,800	952	53
Dallas	Bryan to Houston, Tex.	1,500	231	15
Minneapolis	Bemidji--Brainerd to Minneapolis, Minn.	2,000	911	46
St. Louis	Fort Smith to Little Rock, Ark.	2,000	587	29
Wichita	Oklahoma City, Okla., to Wichita, Kan.	2,000	997	50

^a Although the contract for this route called for an 1,800-pound-capacity aircraft, the operator (SMB) was required to transport only a maximum of 1,400 pounds of mail due to the capacity limitations of the aircraft it was permitted to use on this route. (See p.27.) No rate adjustment was made to reflect the lower weight capacity provided by the operator.

On route segments other than the highest volume segments, the quantity of mail transported was considerably less than that on the highest volume segments. In fact we noted that on many of the other segments the average quantity of mail carried was less than 50 percent of the average quantity carried on the high-volume segment used in our comparisons shown in the preceding table.

Regarding the six low-volume routes included in the table, the Department reported (see app. XII, pp. 5 and 6) that two of the routes had been discontinued and that

recent volume checks on the other four routes had shown improved capacity utilization on particular flights.

A St. Louis regional official told us that the quantity of mail being carried on one air taxi mail route was quite low and that the need for the route would be an area for review to determine whether it would be continued. On November 9, 1969, the region terminated this route along with 17 other routes. (See p. 20.)

The Postmaster General advised us on August 17, 1970 (see app. XII, p. 5), that factors other than mail-carrying capacity, such as speed capability, were considered in selecting the type of aircraft on a particular route.

We recognize that such factors as speed capability must be considered in selecting aircraft for air taxi mail routes; however, such selection is made by the air taxi operator in submitting its bid proposal to the Department. The contract capacity, that is, the maximum daily mail volume to be transported on a route, is determined by the Department on the basis of volume data from the dispatching and receiving post offices. Therefore we believe that, if the contract capacity is not being fully utilized, the air taxi mail route should be evaluated to determine whether the capacity requirement needs to be lowered. If this is not economically feasible, the route should be changed to obtain more efficient utilization of existing capacity or be discontinued and replaced by a more economical transportation mode. In our view, costly unused capacity being paid for by the Department on air taxi mail routes can and should be avoided.

In addition, we found that mail volume on Sunday night air taxi operations was considerably less than volumes carried on other days of the week, as discussed in the next section of this chapter.

Costly Sunday night air taxi mail service

The use of air taxi mail service on Sunday nights usually involves the transport of small quantities of mail and as a result the cost of such service was significantly

higher than that for weekdays. We estimated that, if the Department eliminated Sunday night service, the annual savings on the 47 routes in the regions included in our review would be \$169,000. Examples of low mail quantities and high cost route segments are as follows:

<u>Air taxi segments</u>	<u>Sunday nights</u>		<u>Weekdays</u>		<u>Difference per ton mile</u>
	<u>Pounds</u>	<u>Cost per ton mile</u>	<u>Pounds</u>	<u>Cost per ton mile</u>	
Enid, Okla. to Oklahoma City, Okla.	62	\$13.28	629	\$1.31	\$11.97
Tulsa, Okla. to Oklahoma City, Okla.	168	7.06	1,818	.65	6.41
Kansas City, Mo. to Tulsa, Okla.	122	6.48	1,658	.48	6.00
Fort Smith, Ark. to Little Rock, Ark.	88	7.95	686	1.02	6.93
Oklahoma City, Okla. to Little Rock, Ark.	62	11.71	841	.86	10.85

As early as March 1968, the Department requested that all postal regions, except Memphis, submit data to it on mail quantities carried on Sunday night air taxi service, because the Department intended to evaluate the Sunday night air taxi operations. According to available information, however, only the Wichita Region submitted data, and a Department official advised us that the request had been rescinded.

The Wichita Region's report showed that Sunday night mail quantities were very low and recommended that Sunday night air taxi mail service be discontinued. Our review of Sunday night mail quantities showed that, in the Wichita Region, Sunday night mail averaged about 22 percent of the quantity carried on weekdays. The Department's files did not show why it had rescinded its request for data to be submitted so that it could evaluate the Sunday night air taxi operations or why it did not act on Wichita's recommendation.

The Department issued instructions on July 23, 1969, which provided some guidance for evaluating Sunday night air taxi operations. These instructions, however, applied only to the establishment of new routes. The instruction stated that the cost per ton mile, rather than cost per

mile, was a better indicator of the value of service received and could increase substantially with low utilization. The instruction stated also that the weekend service by commercial air carriers, if available, or by surface means should be evaluated as alternatives from both the service and the cost standpoints.

A regional official informed us that in January 1970 a meeting was held at Department headquarters with representatives of all regional offices for developing new policies for establishing and maintaining air taxi mail routes. The new criteria established at the meeting provided that:

- Emphasis be placed on overnight regional delivery rather than interregional delivery.
- Five-day-a-week service (Monday through Friday) be mandatory, unless a critical need existed for 6-day-a-week service.
- Cost be an important factor in establishing and maintaining any air taxi mail route.

A Department transportation official informed us in June 1970 that the new criteria established in the January 1970 meeting had not been formalized as a policy and that regional instructions had not been issued.

On the basis of the contracts in effect at December 31, 1969, we estimated that the Department would save at least \$569,000 annually if all Sunday night air taxi mail service were discontinued.

CONCLUSIONS, AGENCY COMMENTS
AND OUR EVALUATION

We believe that the Department's use of air taxis may not be justified where parallel commercial air service and/or existing star routes are available to provide adequate mail transportation service at reduced costs.

We believe also that the Department's use of air taxi mail service on Sunday nights may not be justified due to the small quantity of mail being transported and the resulting high cost for such service.

In our draft report, we suggested that the Department limit the use of air taxis to those routes where other, less costly, modes of transportation are not available or where the use of slower transportation services would unduly disrupt delivery of mail. The Postmaster General stated in his letter of August 17, 1970, that the Department did, in fact, limit its use of air taxi mail service to cases where other, less costly, modes of transportation were not available to meet the Department's established mail-service standards.

He stated also that, on typical segments of air taxi mail routes, the certificated carriers either operated schedules that were completely unsuitable for mail transportation or, for economic reasons, engaged in a growing trend to go completely out of the market of serving the smaller communities.

As pointed out in this chapter, we found that, for 47 air taxi routes in the seven postal regions included in our review, commercial airlines had scheduled routes paralleling the air taxi routes. Although the airline schedules may not have been ideally suited to the Department's needs, the delivery of mail transported on such scheduled commercial airlines in most instances would not have been delayed more than 1 day. The use of commercial airlines, rather than air taxis, for transporting mail on the 47 routes would have saved the Department about \$1.2 million annually. Also, since surface transportation was generally available to transport the mail that was transported by air taxi and could have provided a reasonable level of service for this

mail at no additional cost to the Department, most of the cost, if not the entire cost, of air taxi mail service could have been avoided.

We recognize the desirability of providing postal patrons with expeditious mail-delivery service; however, we believe that the cost of transportation should be an important consideration in the Department's establishment of mail-delivery-service standards. The air taxi mail service program has been an integral part of the Department's service improvement program aimed at providing overnight delivery service for all letter mail throughout the Nation. We believe that the results of our review demonstrate, however, that the Department has not given adequate consideration to the cost of such service.

In response to our suggestion that the Department establish specific guidelines for regional use in determining whether Sunday air taxi mail service is necessary and in taking action to cancel unneeded service, the Postmaster General informed us that such guidelines had been established and that, as a result, about 50 percent of the air taxi routes had been converted from 6- to 5-day-a-week operations, which eliminated Sunday service, and that most of the remaining routes were being similarly converted.

CHAPTER 6

SCOPE OF REVIEW

Our review was made at the Department headquarters, Washington, D.C.; at the Dallas Postal Data Center; at the Boston, Chicago, Cincinnati, Dallas, Minneapolis, St. Louis, and Wichita postal regional offices; and at selected sectional center facilities and associate post offices within these regions.

We interviewed officials of SMB; Orion Airways; Ross Aviation; and Buker Airways, which, at the time of our review, were the four major air taxi operators participating in the program.

We interviewed also officials of commercial airlines including Trans World Airlines, North Central Airlines, and Northwest Airlines. In addition, we observed air taxi operations at airports in Chicago, Minneapolis, and St. Louis.

We examined pertinent legislation relating to the Department's authority for utilizing air taxi operators in the transportation of mail. We also reviewed Department policies, procedures, and regulations relating to mail transportation in general and air taxi mail transportation in particular.

We interviewed officials at Department headquarters and at postal regional offices and other postal officials at selected sectional center facilities and post offices. We interviewed also officials of the FAA's General Aviation District Offices in Tulsa and San Antonio.

At Department headquarters we reviewed pertinent files and records relating to 170 air taxi mail routes and 76 air taxi operators. In addition, we reviewed various orders, petitions, and related documents pertaining to 200 CAB-approved contracts for air taxi mail service and appropriate documents relating to 211 emergency contracts.

APPENDIXES

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United States Senate

COMMITTEE ON APPROPRIATIONS

WASHINGTON, D.C. 20510

THOMAS J. SCOTT, CHIEF CLERK
WM. W. WOODRUFF, COUNSEL

April 21, 1969

Honorable Elmer B. Staats
Comptroller General of the United States
General Accounting Office
441 G Street, N. W.
Washington, D. C. 20548

Dear Mr. Comptroller General:

Recently in a speech on the Senate floor I pointed to the possible conflict of interest of former Assistant Postmaster General William J. Hartigan because he presently serves as Vice-President of a firm to which he awarded many contracts while in office.

Since making that statement I have received additional information which causes me no little concern and which would indicate, I believe, that an investigation by the General Accounting Office of mail transportation, and particularly the policies of Mr. Hartigan, is in order.

Accordingly, I respectfully suggest that GAO undertake a thorough review of the policies of Mr. Hartigan's department during his tenure.

Such an investigation by GAO should attempt to determine whether Mr. Hartigan manipulated the regulations of the Post Office so as to enable the rapid and wholesale conversion of surface mail transport routes to air routes, and the extent to which he might personally have benefited from such action. In addition, it should be determined whether any particular carriers benefited from this conversion to a degree that they have now been able to dominate the industry.

Honorable Elmer B. Staats
April 21, 1969
Page Two

In examining Mr. Hartigan's role in the decision making process at the Post Office, GAO should also examine the role played by his relatives and close friends who were postal employees, in this whole picture.

My own information on this matter leads me to believe that such an investigation by GAO might well open up such other avenues of inquiry as:

1) Complete postal service and cost comparison resulting from the changes in ground transportation to the air lift of mail.

2) Evaluate the movement of other preferential mail after the changes were made.

3) Internal processing costs and service standards before and after the air lift changes for principal points only.

4) The impact the changes had on bulk mail service.

5) An evaluation of the distribution in mail transportation. Specifically:

- a. How were the changes to other modes executed?
- b. Were the changes made too quickly?
- c. What control and evaluation procedures were set up to facilitate the changes?
- d. Were all areas of transportation covered uniformly?
- e. Was any contractor favored by retention of service?

6) The criteria used to justify the need for air taxi service. Specifically, were other transportation services considered?

GORDON ALLOTT
COLORADO

Honorable Elmer B. Staats
April 21, 1969
Page Three

7) In consideration of air taxi service, determine the procurement procedures and adjustment of actions during the period of Mr. Hartigan's tenure. In other words, after a contract was awarded, were changes made in service, equipment and rate of compensation?

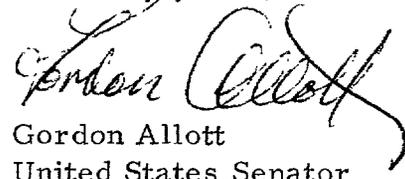
8) Determine what control procedures were set up relative to the oversight of air taxi service, and what service was achieved with air taxi operations versus ground transportation.

9) Determine what organizational changes occurred in the Post Office during the period of the switch from rail to air service, and why?

Any consideration you can give to this request would be most appreciated.

Best regards.

Sincerely yours,



Gordon Allott
United States Senator

GA:mdr

Enclosures

GAO note: Additional information was provided by the Senator by letters dated April 28 and May 8, 1969.

MAJOR CHANGES IN MAIL TRANSPORTATION

AND DISTRIBUTION SINCE THE END OF WORLD WAR II

Following are some of the major changes in mail transportation and distribution that have occurred since the end of World War II.

- The initiation of highway post-office service in 1947 to replace discontinued branch line rail service.
- A gradual but continuous expansion since 1958 of highway star-route mail service.
- The inauguration of an experimental airlift program for first-class mail in 1953.
- Major expansions of first-class-mail airlift in 1960-61 and again beginning in 1963.
- A gradual but continuous withdrawal of railway post-office service from mail-carrying trains between 1953 and 1965 and highway post-office service between 1963 and 1965.
- Establishment in 1959 and 1960 of a Metropolitan Area Service Improvement Program, called the METRO plan, in the Nation's 81 largest metropolitan areas with the objective of delivery, on the business day following deposit, of letters deposited anywhere in these metropolitan areas and having destinations within the same areas.
- Adoption in 1960, after a comprehensive study of the Nation's postal service in 1958 and 1959, of a Nationwide Integrated Postal Service (NIPS) plan which called for the establishing of 71 national transportation centers throughout the Nation and a basic national transportation network to interconnect directly each of the centers with all others, with the principal objectives of providing next-day delivery of first-class letter mail between any two major

metropolitan areas in the Nation and improving service for other classes of mail.

- Establishment, beginning in 1959, of sectional center facilities throughout the Nation, in connection with the METRO and NIPS plans, to serve as focal points for the distribution, dispatch, and delivery of mail to all post offices in the Nation.
- The initiation throughout the Nation in 1963 of the Zone Improvement Plan, commonly referred to as the ZIP code plan, to reduce the mail-sorting and distribution time and speed the dispatching of mail by postal clerks.
- The initiation in 1964 of area bus contract service for delivery of mail.
- A Department-initiated program, beginning about 1966, to withdraw railway and highway post-office service in favor of highway star routes, air transportation service, and, where possible, closed-pouch railway service, with the objectives of expanding the geographic areas of overnight delivery for letter mail and reducing mail transportation costs.
- The initiation in 1967 and the major expansion in 1968 of the air taxi mail service program, with the primary objective of extending the geographic area of overnight delivery service for first-class mail and airmail which could not be accomplished by any other means.

APPENDIX III

REDUCTIONS IN MAIL-CARRYING PASSENGER TRAINS
 BETWEEN 1930 AND APRIL 1, 1970

<u>Date</u>	<u>Number of mail-carrying trains</u>	<u>Cumulative train losses during period</u>
1930 (estimate)	10,000	-
July 1, 1956	2,627	7,373
" " 1961	1,407	8,593
" " 1962	1,360	8,640
" " 1963	1,212	8,788
" " 1964	1,151	8,849
" " 1965	998	9,002
" " 1966	923	9,077
" " 1967	772	9,228
Jan. 1, 1968	630	9,370
June 30, 1968	560	9,440
Apr. 1, 1970	430 ^a	9,570

^aOnly 342 of the remaining 430 trains were actually being used by the Post Office Department as of April 1, 1970.

OVERNIGHT DELIVERY PLANS BY TIME ZONE

- I. Objective: To develop a plan that will assure overnight delivery between any two offices in the United States.
- II. Mail Involved: Airmail and first-class.
- III. Transportation Media: Any mode which will accomplish the objective.
- IV. Criteria for Delivery: Mail throughout any sectional center should be collected, processed and ready for dispatch by 2100. Mail received at any sectional center by 0400 should be distributed, dispatched to associated offices, and delivered throughout the sectional center. If it is possible to achieve the objective with earlier or later departures and arrivals at any sectional center, this is permissible. The Bureau of Operations has concurred.
- V. Responsibility: Each region will appoint a study group and select a chairman to assume responsibility for all coordination and the completion of the study. The Distribution and Routing Division should be furnished the names and titles of those selected.
- VI. Preliminary Study: Initially regions will be paired to develop a joint plan to effect overnight delivery within the two regions.
 - A. Reports Required:
 1. Status Report: About thirty days after receiving authorization to proceed with the preliminary study, a memorandum should be forwarded outlining what has been done, what remains to be done, and when a final report on the preliminary study can be expected.

2. Final Report:

- a. The final report on the preliminary study should follow 585.223, Regional Manual, except for .223g; .223h; and .223j.
- b. Two charts will be required:
 - (1) One showing existing dispatches and receipts from each sectional center to all other sectional centers involved in the study.
 - (2) One showing schedules required to achieve the objective. This chart will show all service required from sectional center of origin through exchange point(s) to sectional center of destination.
- c. Map (.223i): Show by color code the new or revised service only. Pressure sensitive tapes in five color codes are furnished for this purpose:
 - (1) Commercial air carrier--red with white stripes
 - (2) Air taxi--solid blue
 - (3) Highway Post Office--green with white stripes
 - (4) Star route and Government vehicle service--solid green
 - (5) Railway Post Office--solid orange

B. Suggested Preliminary Study Procedure:

1. Identify and chart present service from each sectional center to all other sectional centers.
2. Isolate daily volume from each sectional center to all other sectional centers. Information in O&D study of November, 1965 can be used. It is

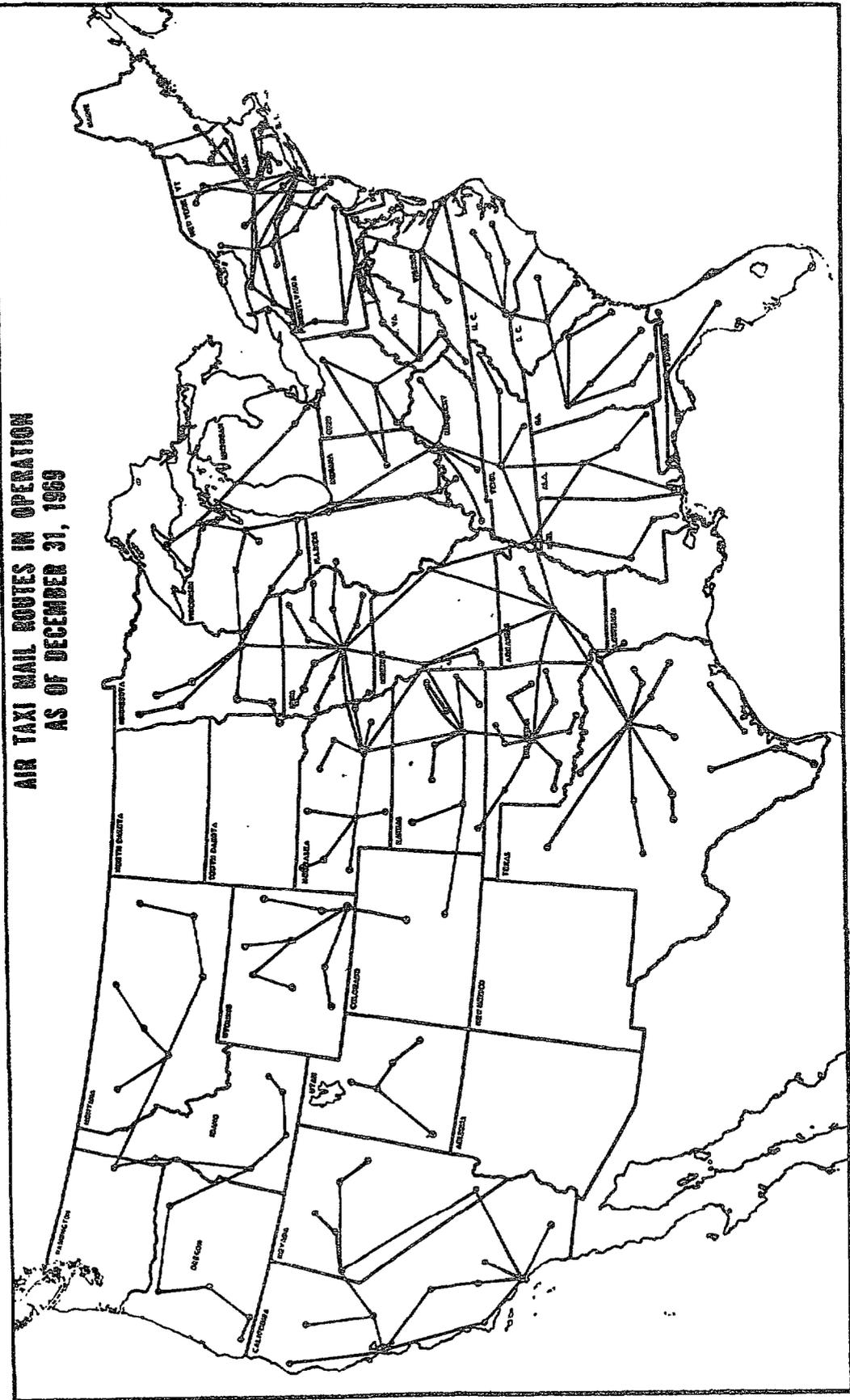
suggested that the Regional Cost Officer is best prepared to isolate this volume, if O&D data is used, and to adjust for normal growth.

3. Request Postal Systems to obtain hourly availability factors at all sectional centers. They have been furnished a Departmental Project Number (49-D-TJ) for this purpose.
 4. Select the last available dispatch with present service which will supply the service required.
 5. Develop schedules that will be required to achieve the desired level of service.
 6. Develop the volume generated at each sectional center to all other sectional centers from the last dispatch of present service (which meets the arrival criteria) to the time of departure of the proposed service.
 7. When air transportation is involved, assemble volume to be transported from stop to stop and select capacity of transportation required.
 8. Identify all present service which would be excess.
 9. Request Regional Cost Officer to prepare before and after cost data.
- VII. Semi-Final Study: The regions involved in each time zone will fuse plans to effect overnight delivery within their respective time zone(s).
- VIII. Final Study: All regions will fuse their plans to effect overnight delivery throughout the continental limits of the United States.
- IX. Departmental Participation: Departmental representatives are available for whatever assistance is required. If there is a need for maps or other material, contact the Distribution and Routing Division.

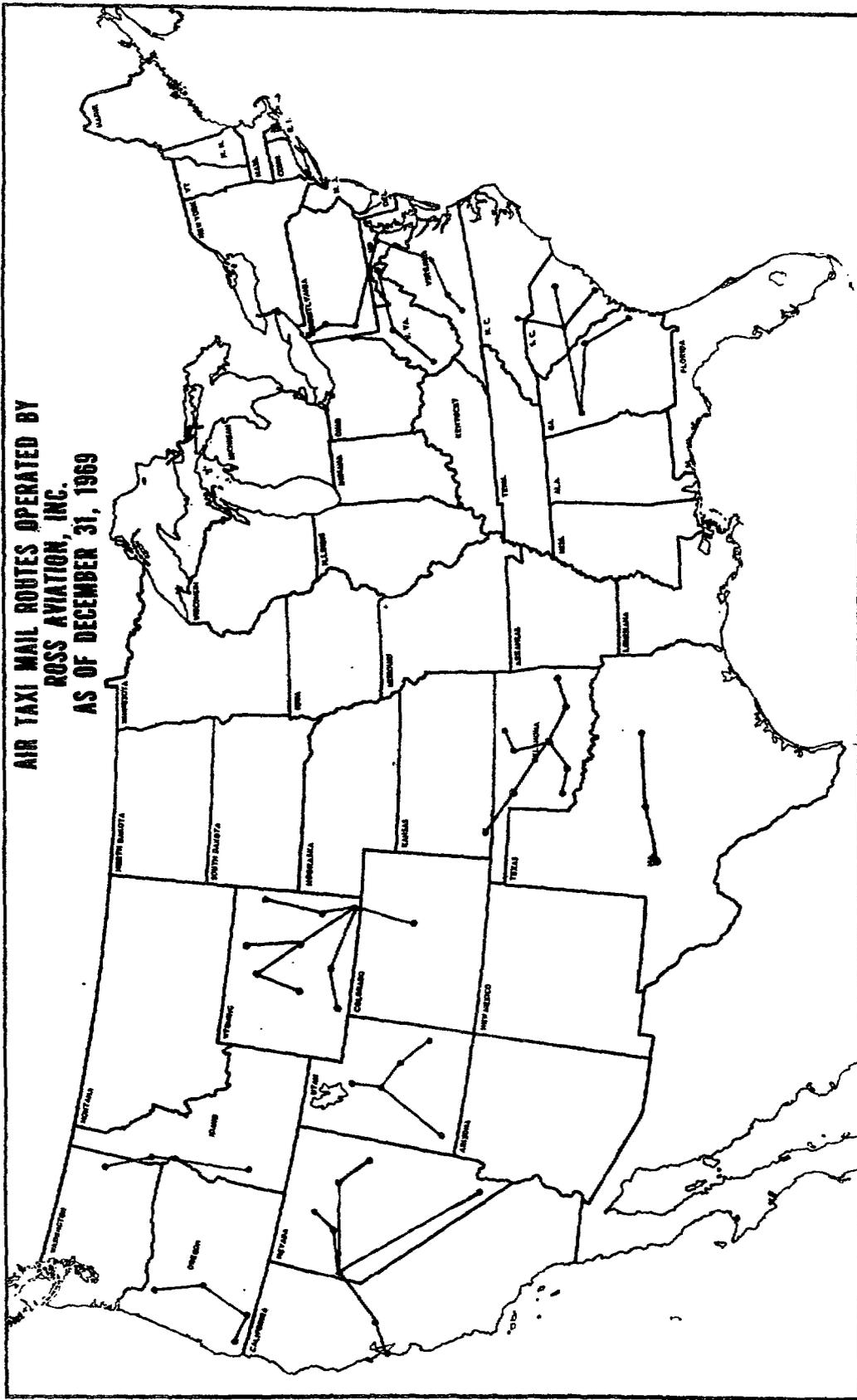
POST OFFICE DEPARTMENT
 AIR TAXI MAIL ROUTES
 BY OPERATOR AND BY POSTAL REGION
 AS OF DECEMBER 31, 1969

64

Air Taxi Operator	Total	Atlanta	Boston	Chicago	Cincinnati	Dallas	Denver	Memphis	Minneapolis	New York	Philadelphia	St. Louis	San Francisco	Seattle	Washington, D.C.	Wichita	Estimated Annualized Cost
1. S-M-B Stage Lines, Inc.	40	-	-	-	8	6	-	-	3	-	-	9	-	-	-	14	\$2,048,625
2. Ross Aviation Inc.	25	3	-	-	-	1	6	-	-	-	1	-	4	2	4	4	1,494,278
3. Baker Airways (Cutlass Aviation)	7	-	3	-	-	-	-	-	-	4	-	-	-	-	-	-	511,561
4. Jim Hankins Air Service	7	-	-	-	1	-	-	4	-	-	-	2	-	-	-	-	603,925
5. Combs Airways	5	-	-	-	-	-	-	-	-	-	-	-	-	5	-	-	330,229
6. Albany Air Service	4	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	237,372
7. Cal-State Airways	3	-	-	-	-	-	-	-	-	-	-	-	3	-	-	-	197,826
8. Commuter Airlines	3	-	-	-	-	-	-	-	-	3	-	-	-	-	-	-	243,873
9. Eureka Aero Industries	3	-	-	-	-	-	-	-	-	-	-	-	3	-	-	-	216,228
10. Fontana Aviation	3	-	-	3	-	-	-	-	-	-	-	-	-	-	-	-	244,582
11. Air Texas	2	-	-	-	-	-	-	-	-	-	-	2	-	-	-	-	154,866
12. Buckeye Air Service	2	-	-	-	-	-	-	-	-	1	1	-	-	-	-	-	176,526
13. Grand Forks Airmotive	2	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	157,006
14. Georgia Air Inc.	2	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	126,260
15. Montgomery Aviation	2	-	-	-	-	-	-	2	-	-	-	-	-	-	-	-	125,317
16. National Aircraft Corporation	2	-	-	-	-	-	-	-	-	-	-	-	2	-	-	-	149,170
17. Pioneer Airlines	2	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	173,492
18. Semo Aviation	2	-	-	-	-	-	-	-	-	-	-	2	-	-	-	-	148,850
19. Skyway Aviation Inc.	2	-	-	-	-	-	-	-	-	-	-	2	-	-	-	-	178,241
20. AAA Aviation Services	1	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	105,237
21. Air Midwest Inc.	1	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	47,210
22. Boise Aviation	1	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	93,885
23. Catlin Aviation	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	30,995
24. Central Flying Service	1	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	124,446
25. Duncan Aviation	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	95,740
26. Eastern Aviation	1	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	112,711
27. Hood Airlines	1	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	37,070
28. Midwest Airways	1	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	70,720
29. Miller Air Craft	1	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	58,925
30. Monmouth Airlines	1	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	150,436
31. Nicholson Air Service	1	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	42,832
32. Owensboro Aviation	1	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	85,424
33. Pilgrim Airlines	1	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	37,865
34. Shasta Flight Service	1	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	47,225
35. Sundorph Aeronautical Corporation	1	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	35,056
36. Honor Valley Aviation	1	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	58,722
Totals	135	9	4	3	11	10	7	6	6	8	3	19	13	8	8	20	\$8,752,726



**AIR TAXI MAIL ROUTES IN OPERATION
AS OF DECEMBER 31, 1969**



Postmaster General, the Contractor shall be paid as follows:

at 46.5¢ per twin aircraft mile based on a round trip
mileage of 396

3. The Contractor promises to comply with the provisions of the attached addenda which are hereby made a party of this Agreement (designated as Addendum No. 1 6/1/67 and Addendum _____).

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

(SEAL)

UNITED STATES OF AMERICA

Martha J. Ryan
Witness

By William J. Hunter
Assistant Postmaster General
Bureau of Transportation and
International Services

(SEAL)

Sedalia, Marshall, Boonville Stage Line, Inc.
Contractor

Betty Wyckoff
Witness

By Small [Signature]

FOD Form 2700

APPENDIX X

AIR TAXI MAIL ROUTES OPERATED
 DURING THE PERIOD JANUARY 1, 1967 TO DECEMBER 31, 1969
 AND THE NUMBERS AND TYPES OF CONTRACTS AWARDED

Postal region	Routes operated during the period			Routes operating and contracts in effect on December 31, 1969			
	Total routes operated	"Emer-gency" contracts awarded	CAB-approved contracts awarded	Total contracts	Total routes and contracts	Under "emer-gency" contracts	Under CAB-approved contracts
Atlanta	9	8	13	21	9	4	5
Boston	6	9	6	15	4	1	3
Chicago	3	15	3	18	3	-	3
Cincinnati	13	20	14	34	11	6	5
Dallas	12	2	19	21	10	-	10
Denver	7	1	19	20	7	-	7
Memphis	9	9	9	18	6	6	-
Minneapolis	7	16	7	23	6	1	5
New York	11	17	6	23	8	3	5
Philadelphia	9	10	2	12	3	2	1
St. Louis	28	17	27	44	19	10	9
San Francisco	13	36	19	55	13	3	10
Seattle	11	22	12	34	8	-	8
Washington	9	4	11	15	8	4	4
Wichita	<u>23</u>	<u>25</u>	<u>33</u>	<u>58</u>	<u>20</u>	<u>1</u>	<u>19</u>
Total	<u>170</u>	<u>211</u>	<u>200</u>	<u>411</u>	<u>135</u>	<u>41</u>	<u>94</u>

RATE INCREASES GRANTED
TO SEDALIA-MARSHALL-BOONVILLE STAGE LINES, INC.
FROM DECEMBER 1967 TO MAY 1970

<u>Route description</u>	<u>Rate adjustment (cents per mile)</u>		<u>Effective date</u>	<u>Percent of increase</u>
	<u>From</u>	<u>To</u>		
CHICAGO REGION:				
1. Chicago, Ill.-Iron Mountain, Mich.	46.50	54.00	12- 4-67	16.1
2. Iron Mountain-Detroit, Mich.	46.50	54.00	12- 4-67	16.1
3. Ironwood-Iron Mountain, Mich.	46.50	54.00	12- 4-67	16.1
CINCINNATI REGION:				
4. Chicago, Ill.-Louisville, Ky.	49.63 56.03	56.03 59.30	9-19-68 1-16-70	12.8 5.8
5. Indianapolis, Ind.-Columbus, Ohio	44.92	48.96	9-30-68	8.9
6. Cleveland, Ohio- Indianapolis, Ind.	51.00 57.65	57.65 60.94	9-19-68 1-16-70	13.0 5.7
7. Cincinnati-Columbus, Ohio	56.00 63.55	63.55 67.21	9-19-68 1-16-70	13.4 5.8
DALLAS REGION:				
8. Bryan-Houston, Tex.	47.40	56.45	9-19-68	19.1
9. Longview-Dallas, Tex.	35.22 42.31	42.31 45.01	9-19-68 2-16-70	20.1 6.4
10. Lufkin-Dallas, Tex.	33.20 38.36	38.36 40.76	9-19-68 2-16-70	15.5 6.3
11. San Angelo-Dallas, Tex.	29.00 33.11	33.11 34.93	9-23-68 2-16-70	14.1 5.5
12. Texarkana-Dallas, Tex.	37.47 43.83	43.83 46.44	9-19-68 2-16-70	16.9 6.0
13. Victoria-Houston, Tex.	40.00 47.81	47.81 49.89	9-19-68 2-16-70	19.5 4.4
14. Wichita Falls-Dallas, Tex.	36.48 43.73	43.73 46.64	9-19-68 2-16-70	19.8 6.7
MINNEAPOLIS REGION:				
15. Oshkosh, Wisc.-Minneapolis, Minn.	54.77	56.15	2- 2-70	2.5
16. Minneapolis, Minn.-Dubuque, Iowa	27.00 36.00	36.00 39.99	12- 5-67 9-30-68	33.3 11.1
17. Minneapolis, Minn.-Green Bay, Wisc.	49.54	54.77	9-19-68	10.5
18. Windom-Minneapolis, Minn.	36.00	40.82	9-30-68	13.4

RATE INCREASES GRANTED
TO SEDALIA-MARSHALL-BOONVILLE STAGE LINES, INC.

FROM DECEMBER 1967 TO May 1970 (continued)

<u>Route description</u>	<u>Rate adjustment (cents per mile)</u>		<u>Effective date</u>	<u>Percent of increase</u>
	<u>From</u>	<u>To</u>		
ST. LOUIS REGION:				
19. Joplin-Kansas City, Mo.	28.50	33.04	4-25-68	15.9
	33.04	38.53	9-19-68	16.6
	38.53	39.95	2- 2-70	3.7
20. Sioux City-Des Moines, Iowa	38.80	42.10	2- 2-70	8.5
21. Des Moines, Iowa-Grand Island, Nebr.	38.80	41.05	2- 2-70	5.8
22. Dubuque-Des Moines, Iowa	38.80	42.35	2- 2-70	9.2
23. Des Moines, Iowa-Kansas City, Mo.	38.80	41.27	2- 2-70	6.4
24. Decorah-Des Moines, Iowa	38.80	42.08	2- 2-70	8.5
25. Sheldon-Des Moines, Iowa	38.80	41.16	2- 2-70	6.1
26. Shenandoah-Des Moines, Iowa	38.80	41.13	2- 2-70	6.0
27. Burlington-Des Moines, Iowa	38.80	41.46	2- 2-70	6.9
WICHITA REGION:				
28. Muskogee-Oklahoma City, Okla.	29.40	53.50	2-25-68	81.9
	53.50	59.14	1-15-69	10.5
	59.14	60.32	1-16-70	2.0
29. Independence-Wichita, Kans.	32.22	36.06	9-19-68	11.9
	36.06	40.47	1-16-70	12.2
30. Hays-Wichita, Kans.	35.22	40.14	9-19-68	13.9
	40.14	43.18	1-16-70	7.6
31. Emporia-Wichita, Kans.	29.10	33.16	9-19-68	13.9
	33.16	35.10	1-16-70	5.9
32. Sidney-Grand Island, Nebr.	35.00	39.83	9-19-68	13.8
	39.83	41.52	1-16-70	4.2
33. Valentine-North Platte, Nebr.	35.15	41.87	9-19-68	19.1
	41.87	45.30	1-16-70	8.2
34. O'Neill-Grand Island, Nebr.	36.00	40.58	9-19-68	12.7
	40.58	45.80	1-16-70	12.9
35. McCook-North Platte, Nebr.	49.00	60.80	9-19-68	24.1
36. Chadron-North Platte, Nebr.	35.00	39.74	9-19-68	13.5
	39.74	43.51	1-16-70	9.5
37. Oklahoma City-Wichita, Kans.	28.40	35.50	7-19-68	25.0
	35.50	41.60	9-19-68	17.1
	41.60	44.00	1-16-70	5.8
38. Colby-Wichita, Kans.	28.90	32.71	9-19-68	13.2
	32.71	34.41	1-16-70	5.2
39. Kansas City, Mo.-Wichita, Kans.	45.00	53.67	9-19-68	19.3
	42.90	43.41	1-16-70	1.2
40. Grand Island, Nebr.-Wichita, Kans.	34.80	35.22	1-16-70	1.2



The Postmaster General
Washington, D.C. 20260

August 17, 1970

Dear Mr. Neuwirth:

We appreciate the opportunity to review your proposed report to Senator Gordon Allott on your review of the mail transportation policies of the Post Office Department and the use of air taxi service for the intercity transportation of mail.

We agree with most of the recommendations listed on page 5 of your report, and, in fact, had already taken action along these lines before receiving your draft report which recognizes at several points the action we have taken to improve administration of the air taxi mail service. Specifically, we have, on the basis of the experience of the first two and one-half years of this new program, issued firm instructions and guidelines for procurement, adjustment, and supervision of the service. We have taken action to reduce the number of emergency contracts, and we are proceeding further in this direction so that the objective of limiting them to actual emergency situations for limited periods of time will be attained. We are concentrating on the improvements that should flow from our corrective actions, rather than on defending the early history of the program.

Our specific comments on each of the five recommendations listed on page 5 follow:

1. Action is underway to replace emergency contracts by application to the Civil Aeronautics Board under Part 298 of that Agency's Economic Regulations. We do not concur, however, in your definition of "Calamitous Visitation," which seems excessively narrow in that it is limited to natural catastrophies. We feel that this is much too restrictive as applied to today's postal service. We consider that circumstances that interfere with the continued normal operations of the postal service may be included under the meaning of this term. More detailed comments by our General Counsel are attached.
2. We concur that each emergency contract should state the details of the emergency which gave rise to the contract.
3. We concur that the CAB should be furnished copies of future emergency contracts.

APPENDIX XII

Page 2

4. The Department does in fact limit its use of air taxi mail service to cases where other less costly transportation modes are not available to meet the standards of service established by the Department.

5. Guidelines have been established for regions to determine whether Sunday air taxi service is necessary. As a result, about 50 percent of the air taxi mail routes have been converted from six- to five-day-a-week operations, and most of the remaining routes are being similarly converted.

Chapter 5 of your draft report, "Costly Air Taxi Mail Transportation," (page 43) opens with the statement that "The air taxi program in the seven postal regions included in our review was generally more costly than commercial air service." This statement implies that the more expensive air taxi service was used in lieu of available certificated air service. In order to place this matter in the proper context, it is important to state that in no case was air taxi mail service established between points where certificated flights were available to provide the same standards of mail delivery. On typical air taxi mail segments, the certificated carriers either operate schedules completely unsuitable for the transportation of mail or are engaged in a growing trend to go completely out of the market of serving the smaller points for economic reasons.

We are attaching statements updating the status of the air taxi segments cited on page 46 of the report. These comments do not relate to Sunday night service which we are eliminating.

Sincerely,



Winton M. Blount

Mr. Max A. Neuwirth
Associate Director, Civil Division
U. S. General Accounting Office
Washington, D. C. 20548

COMMENTS OF THE GENERAL COUNSEL

RE: PROPOSED REPORT OF GAO TO
SENATOR ALLOTT

The provisions of Section 1375(h), Title 49, U.S. Code (Section 405(h), Federal Aviation Act of 1958, as amended), authorize the Postmaster General to contract, without advertising, for the emergency transportation of mail. Admittedly, these provisions refer to "flood, fire, and other calamitous visitation" as the justification for such contracts; but, we do not interpret this phrase so narrowly as to exclude all but natural disasters.

A nationwide rail strike, or a strike affecting a substantial number of domestic air carriers, such as occurred in the late summer of 1966, is calamitous insofar as the transportation and delivery of mail are concerned, and results in inadequacy of mail service just as effectively as does flood or fire. We believe that any unforeseen event, which renders normal mail transportation facilities unavailable for the duration of the emergency, warrants use of this contracting authority to the extent that transportation modes other than aircraft cannot maintain the normally attainable level of service.

While we do not attempt to defend all of the contracts effected under this statute, we believe that events such as the sudden loss of an RPO train schedule, the unexpected closing of an airport runway causing certificated air carriers temporarily to suspend service at that airport, and events of similar impact upon normal mail transportation patterns, warrant use of the Postmaster General's authority to contract for air transportation for the emergency period.

In fact, on October 27, 1967, Mr. Albert Goldstein, then an Assistant General Counsel of the General Accounting Office, forwarded a protest designated as B-162766, with respect to the award of an emergency air service contract to Priority Air Transport, an air taxi operator. In the Department's report to the General Accounting Office it was pointed out that the relevant railroad had summarily discontinued RPO trains which had operated between San Francisco, Salinas, and San Luis Obispo, and that, pending formal proceedings before the Civil Aeronautics Board leading to the fixing of a service mail rate and an authorization for Priority Air Transport to carry mail by air, an emergency air service contract was made for the interim period between loss of train service and completion of the Civil Aeronautics Board proceeding.

On January 29, 1968, the Assistant Comptroller General denied the protest and furnished a copy of his decision to the Postmaster General. In view of the full explanation of the bases, in that instance, for the utilization of the emergency contracting authority of Section 405(h), cited by the Assistant Comptroller General in his denial, we must conclude that

APPENDIX XII

Page 4

contracts executed on such bases, if limited to the duration of the emergency, are within the contemplation of the statute.

To insure that future contracts of this nature do not come under criticism, no such contracts will be executed without the close scrutiny of the Bureau of Operations and the Office of the General Counsel of this Department, not only as to the substance and form of the contract, but as to the facts which are deemed, by the contracting officer, to constitute an emergency.

COMMENTS ON GAO REPORT ON AIR TAXI SERVICEATTACHMENTUTILIZATION OF AIR TAXI CAPACITY - pg. 46

There are factors other than capacity that are considered in the selection of the type of aircraft on a particular route. In many instances, the required schedule dictates the type of aircraft because of speed capability. In some cases, the "cushion" of the next larger aircraft was obtainable for a few cents per mile because the operator's fixed costs were very much the same for either type of aircraft and experience has shown that our additional cost is minimal.

Our comment on the specific routes mentioned follows:

Iron Mountain - Green Bay - Milwaukee

During the 1969 test period, this route was flying on an emergency basis with a 2,500 pound capacity aircraft. The route is now flying under CAB exemption using a 2,000 pound aircraft and while the northbound trip is not fully utilized, the southbound trip must refuse mail out of Iron Mountain and Green Bay nearly every night.

Indianapolis - Columbus

The emergency contract for this route was terminated June 27, 1970, and the capacity requirements had been 1,400 pounds. Service is now covered by new route, Cleveland - Columbus - Indianapolis - South Bend using a 2,000 pound aircraft and showing good utilization.

Bryan - Houston

Route discontinued July 3, 1969.

Bemidji - Brainerd - Minneapolis

A recent check showed a high volume of 1,450 pounds in one direction and 1,200 pounds in the other. The region reports that a reduction in the size of the plane used on this route would not result in any economy. At one time, we specified a 1,500 pound capacity and the rate was 55¢ per mile. The present rate for 2,000 pounds is 54¢ per mile.

Ft. Smith - Little Rock

Route discontinued November 8, 1969, when Orion Airways, Inc., defaulted. This had been part of a combination route for equipment

purposes. The same plane flew from Little Rock to Oklahoma City and return and was fully loaded virtually every trip. While the 2,000 pound capacity was not needed, Ft. Smith to Little Rock and return, the rate of 35¢ per mile was only possible through good plane and pilot utilization. The route is about to be re-established as Fayetteville - Ft. Smith - Little Rock - Oklahoma City, which should provide even better utilization.

Oklahoma City - Wichita

The contractor flies this route as part of a longer route Muskogee - Tulsa - Oklahoma City - Wichita - Kansas City, Missouri. Recent records show a high volume night of 1,951 pounds, Wichita to Oklahoma City and 1,999 pounds in the other direction.

CONCLUSIONS AND RECOMMENDATIONS - pg. 49

In many instances, the Department cannot rely on the stability of certificated airline schedules. For example, when the Missouri air taxi plan was implemented in 1968, certificated air schedules were utilized between St. Louis and Kansas City to connect eastern Missouri air taxis and western Missouri air taxis for statewide overnight exchange of first-class and airmail. In early 1969, the certificated carriers changed schedules and the Department procured air taxi service from St. Louis to Kansas City. In December 1969 satisfactory certificated schedules were again available, and the air taxi was discontinued. In April 1970 the certificated schedules were no longer available and the region has again recommended air taxi service from St. Louis to Kansas City which the Department is in the process of procuring. The region recommends that the air taxi be established as a permanent contract remaining in effect for postal needs regardless of temporary changes by certificated carriers. The certificated carriers have indicated an inability to provide regular schedules on a reliable basis.



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-166772

October 7, 1970

Dear Mr. Postmaster General:

By our letter of May 13, 1970, B-166772, we advised you that it had come to our attention that the Post Office Department had awarded many emergency contracts for air taxi service for the transport of mail, purportedly under the authority of section 405(h) of the Federal Aviation Act of 1958, approved August 23, 1958, Pub. L. 85-726, 72 Stat. 762, 49 U.S.C. 1375(h), in cases where it did not appear to us that such authority was properly applicable; expressed our view that said provision of law required some sort of a major disaster which would disrupt regular postal transportation service before the authority granted thereby could be exercised; and requested your views upon several questions.

In response to our inquiry, the letter dated July 30, 1970, signed by Mr. Louis A. Cox, your Deputy General Counsel, advised that you do not interpret the cited statute so narrowly as to exclude all but natural disasters, and stated as follows:

"A nationwide rail strike, or a strike affecting a substantial number of domestic air carriers, such as occurred in the late summer of 1966, is calamitous insofar as the transportation and delivery of mail are concerned. We believe that any unforeseen event, which renders normal mail transportation facilities unavailable for the duration of the emergency, warrants use of this contracting authority to the extent that transportation modes other than aircraft cannot maintain the normally attainable level of service.

"Without undertaking a defense of every emergency contract entered into, we continue to believe that such events as the sudden loss of an RPO train schedule, the unexpected closing of an airport runway, causing certificated air carriers to temporarily suspend service at that airport, and events of similar impact upon normal mail transportation patterns, warrant use of the Postmaster General's authority to contract for air transportation for the emergency period."

The letter did not answer the specific questions presented, but stated that, in view of the legal questions raised concerning the use of

B-166772

emergency contracts for air taxi mail service, it had been arranged that no such contracts will be executed without the approval of the General Counsel's office, not only as to the substance and form of the contract, but as to the facts which are deemed by the contracting officer to constitute an emergency.

We are pleased to note that greater care will be used in the future in entering into such "emergency" contracts. However, while we agree that the incidents cited in the two paragraphs of the letter of July 30, 1970, quoted above, may constitute "emergencies," we cannot concur in your contention that all of them warrant the exercise of the authority granted by 49 U.S.C. 1375(h).

Section 405(h) of the Federal Aviation Act of 1958, supra, 49 U.S.C. 1375(h), provides in part here pertinent as follows:

"In the event of emergency caused by flood, fire, or other calamitous visitation, the Postmaster General is authorized to contract * * *."
(Underscoring supplied.)

Obviously, this provision contemplates not merely an "emergency," but a particular type or kind of emergency--that is, one "caused by flood, fire, or other calamitous visitation" which disrupts regular postal transportation service.

An examination of the legislative history of the Federal Aviation Act of 1958 and its predecessor, the Civil Aeronautics Act of 1938, approved June 23, 1938, ch. 601, 52 Stat. 973 (which contained identical language in section 405(k) at 52 Stat. 997), has failed to disclose any indication of the intent of the Congress in enacting the quoted language. However, in Jones v. Williams, 45 S.W. 2d 130 (1931), the Supreme Court of Texas made the following comments concerning the meaning of the word "calamity":

"* * * The word 'calamity' indicates or supposes a somewhat continuous state, produced not usually by the direct agency of man, 'but by natural causes, such as fire, flood, tempest, disease,' etc. Webster's Revised Unabridged Dictionary, by G. and C. Merriman Co., edited by Dr. Noah Porter, of Yale University.

"Crabb's English Synonymes in part says:

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"The devastation of a country by hurricanes or earthquakes, and the desolation of its inhabitants by famine or plague, are great calamities. * * * A calamity seldom arises from the direct agency of man; the elements or the natural course of things are mostly concerned in producing this source of misery to men."

Moreover, it should be noted that the words "other calamitous visitation" in the quoted portion of the statute are preceded by the words "flood, fire, or * * *." In this connection, it is stated in 82 C.J.S. Statutes 332b as follows:

"Under the rule of construction known as 'ejusdem generis,' where general words follow the enumeration of particular classes of persons or things, the general words will be construed as applicable only to persons or things of the same general nature or class as those enumerated. The rule is based on the obvious reason that if the legislature had intended the general words to be used in their unrestricted sense they would have made no mention of the particular classes. * * *

"Under this rule or doctrine general words do not explain or amplify particular terms preceding them, but are themselves restricted and explained by the particular terms; general terms which follow specific ones are limited or restricted to those specified, and will not include any of the classes superior to that to which the particular words belong. * * *

"The rule finds application and has frequently been applied where such terms as 'other,' 'any other,' 'others,' 'or otherwise,' or 'other thing' follow an enumeration of particular classes, and where this occurs such words are to be read as 'other such like,' and are construed to include only others of like kind or character."

Hence, it is our view that the authority granted in section 405(h) of the Federal Aviation Act of 1958, supra, may not be exercised upon the occurrence of any unforeseen event, which renders normal mail transportation facilities unavailable for the duration of the emergency, sudden loss of an RFO train schedule, an unexpected closing of an airport runway causing certificated air carriers to temporarily suspend service at that airport, as stated in the letter of July 30, 1970.

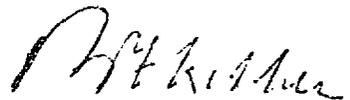
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We believe that, as a general rule, the word "calamity" must be defined along the lines indicated in Jones v. Williams, supra; and that the "calamitous visitation" must be of the same nature as the flood and fire stipulated in the statute, that is, produced not usually by the direct agency of man, but by natural causes, which would include among other things, tempest, hurricanes, earthquakes, and other major disasters arising generally from natural causes. We agree that there might be a few major occurrences caused by the direct agency of man rendering mail transportation facilities unavailable which would warrant an exception to such general rule on a case by case basis and that a nationwide rail strike might be one. Many of the contracts we reviewed, however, not only would not meet this test, but would not even comply with your extremely broad interpretation of section 405(h).

With regard to our decision of January 29, 1968, B-162766, referred to in the letter of July 30, 1970, you are advised that such decision involved a bid protest and only the question of the validity of the protest was decided therein. No question was raised as to the authority of the Post Office Department to execute the contract under the provisions of 49 U.S.C. 1375(h) in the circumstances there existing, and such question was neither considered nor decided. Hence, such decision has no bearing here.

In the future, the authority granted by section 405(h) should be exercised only in circumstances conforming with our interpretation as set out above, and the duration of contracts so executed must be limited to such periods as emergency services may be required to maintain mail service because of the inadequacy of other facilities caused by such emergency. Moreover, any such contracts still in effect which were not executed in circumstances conforming with the above interpretation, as well as any such contracts which may remain in effect after the emergency has ended, should be terminated as soon as practicable. We recognize that the new Postal Service will be authorized under 39 U.S.C. 5001 as revised by the Postal Reorganization Act, Public Law 91-375, to make arrangements on a temporary basis for the transportation of mail when, as determined by the Postal Service, an emergency arises but such arrangements are also required to be terminated when the emergency ceases. See also 39 U.S.C. 5402(c).

Sincerely yours,



Assistant Comptroller General
of the United States

The Honorable
The Postmaster General