

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

COMPLAINT OF CAPITAL ONE SERVICES, INC.

Docket No. C2008-3

**OBJECTION OF THE UNITED STATES POSTAL SERVICE
TO INTERROGATORIES OF CAPITAL ONE SERVICES, INC.
(COS/USPS-30(B-C), 40, AND 41(C))
(March 16, 2009)**

In accordance with Rules 25 and 26 of the Commission's Rules of Practice and Procedure, the United States Postal Service hereby objects to the following interrogatories filed on March 6, 2008, by Capital One Services, Inc. (hereinafter "Capital One"): COS/USPS-30(b-c), 40, and 41(c). The objectionable interrogatories are attached verbatim, and the reasons for objection are stated below.

Interrogatory COS/USPS-30(b-c)

The Postal Service objects to interrogatory COS/USPS-30(b-c) on the grounds of commercial sensitivity. This interrogatory asks the Postal Service to identify the name and function of all vendors involved with the Bank of America NSA, as well as those that may perform similar functions for Capital One. The identity and function of vendors is commercially sensitive information, much of which is likely protected by Non-Disclosure Agreements (NDAs) between the Postal Service and the vendors, as well as between Bank of America (or, similarly, Capital One), the vendors, and the Postal Service. Freely disclosing the identity and functions of the third-party vendors involved in this

NSA would create a serious chilling effect on future partnerships the Postal Service, or its customers, may wish to undertake as part of the implementation of future NSAs. In addition, revealing the functions performed by certain vendors may reveal certain capabilities of those vendors, which may cause competitive harm if publicly disclosed. Therefore, the Postal Service objects to COS/USPS-30(b-c) on the grounds of commercial sensitivity.

Interrogatory COS/USPS-40

The Postal Service objects to interrogatory COS/USPS-40 on the grounds of undue burden, commercial sensitivity, and relevance. This interrogatory asks for all studies or analyses, formal and informal, that relate to the benefits and risks of the adoption of IMB technology, as well as any obstacles in IMB implementation. The Postal Service objects on the grounds of undue burden because it would take extensive work hours to identify all studies or analyses, formal or informal, which may relate to the IMB technology and would be responsive to this interrogatory. Given the scope of the development of IMB, and the implementation of the IMB technology, this request would cover all manner of analyses that may have taken place within numerous departments at Postal Service Headquarters, field offices, and with third-party vendors or consultants.

The Postal Service also objects to this interrogatory on the grounds of commercial sensitivity, as it is likely that a number of the analyses contain commercially sensitive and proprietary information about the development of the IMB technology. Public disclosure of this information would pose a competitive harm to the Postal

Service and any third-party vendors that may be implicated. Finally, the Postal Service objects to this interrogatory on the grounds of relevance. This interrogatory seeks a level of detail beyond the issues in this case. A deep exploration of the technology behind the IMB program is not necessary for the swift resolution of the key issues in this case. This interrogatory is not reasonably calculated to lead to the discovery of admissible evidence in this docket. Therefore, the Postal Service also objects to COS/USPS-40 on the grounds of relevance.

Interrogatory COS/USPS-41(c)

The Postal Service partially objects to interrogatory COS/USPS-41(c) on the grounds of undue burden, relevance, and commercial sensitivity.¹ This subpart seeks, in part, the names, titles, functions, and work hours expended for all postal employees or contractors who worked on the Bank of America NSA implementation. The Postal Service objects to this subpart on the grounds of undue burden because it would take dozens of work hours to identify *all* employees or contractors who were involved in the Bank of America NSA implementation, no matter how minor the role.

In addition, the Postal Service objects on the grounds of relevance because it fails to see how this interrogatory is reasonably calculated to lead to the discovery of admissible evidence. The names, titles, functions, and work hours for several dozen employees and contractors will not shed light on the key issues in this case. Finally, the Postal Service objects to this subpart on the grounds of commercial sensitivity, as disclosing all names, titles, and functions of the individuals involved in the NSA

implementation could reveal proprietary information about the Postal Service's and its vendors' inner workings toward implementing this NSA. Some of this information may also be Privacy Act protected information, which normally businesses would not disclose under good business practice.

Thus, for the aforementioned reasons, the Postal Service objects to COS/USPS-30(b-c), 40, and 41(c).

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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¹ The Postal Service will file an estimate of the implementation costs for the Bank of America NSA, as requested in the first sentence of this subpart.

INTERROGATORY COS/USPS-30

Please refer to your response to PR/USPS-16, which states:

“To the extent that another mailer used the same vendors as Bank of America for preparation and entry of the mail or for software, that mailer could free-ride on Bank of America’s work because those vendors will have in place the capabilities to meet the requirements of the contract, without the mailer having to invest any time, effort, or money. In a similar fashion, that mailer could take advantage of the knowledge gained, process improvements made, and adjustments made by the Postal Service as a result of experience gained in implementing new technologies included in the Bank of America NSA.”

- (a) Please specify each of the “new technologies included in the Bank of America NSA” referred to in your response and provide the date of implementation for each.
- (b) Please provide the total number and identify by name and function the Bank of America vendors that because of “Bank of America’s work [under the NSA] . . . will have in place the capabilities to meet the requirements of the contract.”
- (c) Please provide the number and identify by name and function those vendors in your response to subpart (b) that to your knowledge provide the same services to Capital One.

INTERROGATORY COS/USPS-40

Please provide any studies or analyses, formal or informal, including market studies, focus group reports, or technical papers, upon which the Postal Service has relied, that relate to (a) the benefits and risks to the mailing industry or the pros and cons of adopting and requiring implementation of IMB technology and (b) obstacles to the implementation of IMB technology.

INTERROGATORY COS/USPS-41

- (a) Please provide any pre-April 1, 2008 estimate in the Postal Service records of the cost to Bank of America of implementing the Bank of America NSA and indicate whether that estimate was relied upon in any Postal Service analyses, memoranda, or presentations. If so, please provide those documents.
- (b) Please provide any pre-April 1, 2008 estimate of the cost to the Postal Service of implementing the Bank of America NSA and indicate whether that estimate was relied upon in any Postal Service analyses, memoranda, or presentations. If so, please provide those documents.
- (c) Please provide the actual costs (quarterly for 2008-2009) to the Postal Service of implementing the Bank of America NSA. Please include a breakdown of the names and titles of all USPS employees or contractors who have worked on the NSA implementation, and, for each person, the functions and number of work hours expended on the implementation of the NSA.