Postal Regulatory Commission
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BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268–0001

COMPETITIVE PRODUCT PRICES PRIORITY MAIL EXPRESS, PRIORITY MAIL, FIRST-CLASS PACKAGE SERVICE & PARCEL SELECT PRIORITY MAIL EXPRESS, PRIORITY MAIL, FIRST-CLASS PACKAGE SERVICE & PARCEL SELECT CONTRACT 5	Docket No. MC2020–147
COMPETITIVE PRODUCT PRICES PRIORITY MAIL EXPRESS, PRIORITY MAIL, FIRST-CLASS PACKAGE SERVICE & PARCEL SELECT CONTRACT 5 (MC2020–147) NEGOTIATED SERVICE AGREEMENT	Docket No. CP2020–158

USPS REQUEST TO ADD PRIORITY MAIL EXPRESS, PRIORITY MAIL, FIRST-CLASS PACKAGE SERVICE & PARCEL SELECT CONTRACT 5 TO COMPETITIVE PRODUCT LIST AND NOTICE OF FILING MATERIALS UNDER SEAL
(June 1, 2020)

In accordance with 39 U.S.C. § 3642, 39 C.F.R. § 3020.30 et seq., and 39 C.F.R. § 3015.5, the United States Postal Service requests that Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select Contract 5 be added to the competitive product list within the Mail Classification Schedule. This is a competitive product not of general applicability within the meaning of 39 U.S.C. § 3632(b)(3).

Attachment A is a redacted version of the Governors' Decision, which includes the explanation and justification required by the Commission's rules. Attachment B is a redacted version of the contract. Attachment C shows the requested changes in the Mail Classification Schedule product list, with the additions underlined. Attachment D provides a statement of supporting justification, as required by 39 C.F.R. § 3020.32. Attachment E is a certification of compliance with 39 U.S.C. § 3633(a)(1) and (3).

Unredacted versions of the Governors' Decision, contract, and required cost and revenue data are being filed under seal. Attachment F provides an Application for Nonpublic Treatment of these materials.

As required by 39 U.S.C. § 3642(d)(1), this Request is being published in the Federal Register.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorney:

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June 1, 2020

ATTACHMENT A TO REQUEST

REDACTED GOVERNORS' DECISION

DECISION OF THE GOVERNORS OF THE UNITED STATES POSTAL SERVICE ON THE ESTABLISHMENT OF PRICES AND CLASSIFICATIONS FOR DOMESTIC COMPETITIVE AGREEMENTS, OUTBOUND INTERNATIONAL COMPETITIVE AGREEMENTS, INBOUND INTERNATIONAL COMPETITIVE AGREEMENTS, AND OTHER NON-PUBLISHED COMPETITIVE RATES (GOVERNORS' DECISION NO. 19-1)

February 7, 2019

STATEMENT OF EXPLANATION AND JUSTIFICATION

Pursuant to our authority under section 3632 of title 39, as amended by the Postal Accountability and Enhancement Act of 2006 ("PAEA"), we establish new prices not of general applicability for certain of the Postal Service's competitive service offerings, and such changes in classification as are necessary to implement the new prices.

This decision establishes new prices for Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates. Domestic Competitive Agreements consist of negotiated service agreements with Postal Service customers for domestic services that are categorized as competitive in accordance with 39 U.S.C. § 3642(b)(1)-(2). Outbound International Competitive Agreements consist of negotiated service agreements with Postal Service customers for outbound international services that are categorized as competitive in accordance with 39 U.S.C. § 3642(b)(1)-(2). Inbound International Competitive Agreements consist of negotiated service agreements with foreign postal operators or other entities for inbound international services that are categorized as competitive in accordance with 39 U.S.C. § 3642(b)(1)-(2). Other Non-Published Competitive Rates consist of rates not of general applicability that are not embodied in contractual instruments.

With respect to any product within the above categories, management is hereby authorized to prepare any necessary product description, including text for inclusion in the Mail Classification Schedule, and to make all necessary regulatory filings with the Postal

Regulatory Commission. [redacted]

The Postal Accountability and Enhancement Act (PAEA) requires that prices for competitive products must cover each product's attributable costs, not result in subsidization by market dominant products, and enable all competitive products to contribute an appropriate share to the Postal Service's institutional costs. For agreements subject to this Decision, there are hereby established prices that will enable each agreement to cover [redacted] costs for the relevant product and that conform in all other respects to 39 U.S.C. §§ 3632-3633 and 39 C.F.R. §§ 3015.5 and 3015.7. As discussed in the accompanying management analysis, the Chief Financial Officer (or his delegee(s)) shall certify that all cost inputs have been correctly identified for prices subject to this Decision and that all prices subject to this Decision conform to this Decision and to the requirements of the PAEA.

No agreement, grouping of functionally equivalent agreements, or other classification authorized pursuant to this Decision may go into effect unless it is submitted to the Postal Regulatory Commission with a notice that complies with 39 U.S.C. § 3632(b)(3). On a semi-annual basis, management shall furnish the Governors with a report on all non-published rate and classification initiatives, as specified in the accompanying Management Analysis. Not less than once each year, the Governors shall review the basis for this Decision and make such further determination as they may deem necessary. This Decision does not affect postal management's obligation to furnish to the Board of Governors information regarding any significant new program, policy, major modification, or initiative, or any other matter under 39 C.F.R. § 3.7(d), including where such a matter also falls within the scope of this Decision.

This Decision supersedes previous Governors' Decisions setting classifications and rates not of general applicability for competitive products; however, prices and classifications established under those Decisions may continue to be offered until the expiration of their terms, and contractual option periods and extension provisions that are included in the existing and future agreements can continue to be exercised.

ORDER

In accordance with the foregoing Decision of the Governors, the new prices and terms set forth herein for Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates and the changes in classification necessary to implement those prices, are hereby approved and ordered into effect. An agreement or other nonpublished rate and classification initiative is authorized under this Decision only if the prices fall within this Decision and the certification process specified herein is followed. Prices and classification changes established pursuant to this Decision will take effect after filing with and completion of any necessary review by the Postal Regulatory Commission.

By The Governors:

Robert M. Duncan

Robert M. Duncan
Chairman, Board of Governors

Attachment A

Management Analysis of Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates

This analysis concerns the inbound competitive prices and classifications in the Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates (collectively, "competitive instruments"). Competitive instruments are often negotiated with customers and foreign postal operators for better cost coverage, higher overall contribution, and improved service with respect to postal services classified as competitive. They may also arise from other sources, such as the Universal Postal Convention.

The cost coverage for each competitive agreement or grouping of functionally equivalent instruments (collectively, each "product") will be [redacted]

The cost coverage for a product equals [redacted]

Each competitive instrument may have multiple price categories and negotiated components. Examples of such categories or components would be Priority Mail, Priority Mail Express, Parcel Return Service, Parcel Select, First-Class Package Service, First Class Package International Service, Commercial ePacket Service, Priority Mail International, Priority Mail Express International, International Priority Airmail, International Surface Air Lift, Inbound Parcel Post, Inbound Direct Entry, and Inbound EMS services. These or other categories may include other services that the relevant customer or foreign postal operator offers to its customers under differing terms, but that nevertheless are processed and delivered in the same manner within the United States Postal Service's network. Such instruments may also establish negotiated rates for services ancillary to such items and for customized competitive services developed for application solely in the context of the agreement.

[redacted]

[redacted]

[redacted] Prices established by these formulas should not interfere with competitive products' ability as a whole to comply with 39 U.S.C. §3633(a)(3), which, as implemented by 39 C.F.R.§ 3015.7(c), requires competitive products to contribute a minimum percentage to the Postal Service's total institutional costs. Accordingly, no issue of subsidization of competitive products by market dominant products should arise from 39 U.S.C. §3633(a)(1).

The Postal Service shall submit a semi-annual report to the Governors. The report shall include information on the cost coverage for each agreement or initiative that has been executed under the authority of Governors' Decision 19-1. Agreements classified as non-published rates or rate ranges may be reported as a collective grouping; all other agreements or initiatives are to be reported separately. The report shall also include cost coverage information on any agreements and nonpublished initiatives established under previous numbered Governors' Decisions and Resolutions.

UNITED STATES POSTAL SERVICE
OFFICE OF THE BOARD OF GOVERNORS

CERTIFICATION OF GOVERNORS' VOTE ON
GOVERNORS' DECISION NO. 19-1

Consistent with 39 USC 3632(a), I hereby certify that the following Governors voted in favor of Governors' Decision No. 19-1:

Robert M. Duncan
David C. Williams

7 February 2019

Michael J. Elston
Secretary of the Board of Governors (A)

Date

ATTACHMENT B TO REQUEST

REDACTED SHIPPING SERVICES CONTRACT

SHIPPING SERVICES CONTRACT
BETWEEN
THE UNITED STATES POSTAL SERVICE
AND
[redacted]
REGARDING
PRIORITY MAIL EXPRESS,
PRIORITY MAIL,
FIRST-CLASS PACKAGE SERVICE, AND
PARCEL SELECT SERVICE
FOR RESELLING

This Shipping Services Contract (as it may be amended, restated, supplemented or otherwise modified from time to time, and together with all attachments hereto, "SSC" or "Contract") is made by and between [redacted], a limited liability company organized and existing under the laws of [redacted] with its principal office at [redacted] ("Customer"), and the United States Postal Service, an independent establishment of the Executive Branch of the United States Government established by the Postal Reorganization Act, Public Law 91-375, with its principal office at 475 L'Enfant Plaza, SW, Washington, DC 20260 (the "Postal Service"). The Postal Service and Customer are referred to herein collectively as the "Parties" and each as a "Party".

WHEREAS, it is the intention of the Parties to enter into a Contract that will benefit the Postal Service, the postal system as a whole, and Customer, and that will comply with the requirements of Title 39 United States Code, as amended by the Postal Accountability and Enhancement Act of 2006.

NOW, THEREFORE, the Parties agree as follows:

I. Terms

The following terms apply as of the effective date, as defined below:

A. Except to the extent different terms or prices are specified in this Contract, applicable provisions of the Domestic Mail Manual (as may be regularly updated by the Postal Service and posted at http://pe.usps.com/text/dmm300/dmm300_landing.htm) and of other postal laws and standards, including USPS Publication 52 – *Hazardous, Restricted, and Perishable Mail*, apply to mail tendered under this Contract.

B. This contract applies to Customer's inbound and outbound packages, excluding packages originating from and/or addressed to ZIP Codes listed in Table A below from Customer's clients ("Merchants"), as follows (collectively, "Contract Packages"):

1. Priority Mail Express weight-based packages that do not exceed [redacted];
2. Priority Mail Express Flat Rate Envelopes [redacted];
3. Priority Mail weight-based packages that do not exceed [redacted];
4. Priority Mail cubic packages that do not exceed [redacted]
5. Priority Mail Flat Rate Envelopes [redacted];
6. Priority Mail Flat Rate Boxes [redacted];
7. Priority Mail Regional Rate Boxes [redacted];
8. First-Class Package Service – Commercial packages that do not exceed [redacted]; and
9. Parcel Select Ground weight-based packages, excluding Oversized packages, that do not exceed [redacted].

[redacted]

C. Pay Methods, Qualifying Volume and Data Requirements.

1. The Postal Service shall assign unique mailer identification numbers (MIDs) to Customer for use and designation on Contract Packages. Customer will manifest Contract Packages as specified by the Postal Service, using separate permit numbers and/or PC Postage meter numbers to ship such packages, and will use the Electronic Verification System ("eVS"), other USPS approved manifest systems, or USPS approved PC Postage vendors for payment of such packages. Except for Merchants in Tier 1:

    a. Each Merchant and Platforms will have a unique MID, and if using a PC Postage vendor, each must also have a unique provider customer ID (PCID). Customer must use a separate meter number or permit number for each tier.
    b. Customer shall provide the Postal Service, in writing, a list of its Merchants' and Platform's names, MIDs, tier, permit numbers, payment methods, PC Postage meter numbers and provider customer ID (PCID) number s prior to the effective date, which list will be recorded in the format shown as Attachment A if approved by an authorized representative of the Postal Service in writing (including by email). Attachment A may be modified from time to time if

mutually agreed to by authorized representatives of the Parties in writing (including by email). The aforementioned mutual agreement will not be unreasonably withheld by the Parties so long as each modification to Attachment A complies with the requirements set forth in the Contract. No permit, account or payment method may be used for Contract Packages unless such permit, account or payment method has been approved by the Postal Service and is set forth on Attachment A.

c. Contract pricing for any newly approved permits, payment methods, and/or PC Postage accounts will be effective within fifteen (15) business days after the Parties mutually agree to update Attachment A as described above, and Attachment A will be deemed updated at such time.

d. Only Priority Mail Express, Priority Mail, and Parcel Select Ground Contract Packages, and Customer's other non-discounted Priority Mail Express, Priority Mail, and Parcel Select Ground packages ("Total Packages"), shipped from permits, payment methods, and/or PC Postage accounts set forth in Attachment A shall count toward the Merchant Tier discounts in Sections I.G-K.

2. All discounted prices detailed in this Contract are dependent upon Customer providing a valid provider customer ID (PCID) for each transaction using a shared Postage Evidencing System (PES) meter for PC Postage transactions. A valid PCID will be defined by a numeric code that has a Customer Registration Record (CRR) submitted and successfully processed by the National Meter Accounting & Tracking System (NMATS). A successfully processed CRR requires the current legal name and valid mailing address of the person or entity authorized by the Postal Service as an end customer in accordance with the Code of Federal Regulations (CFR), including Title 39 Part 501 Authorization to Manufacture and Distribute Postage Evidencing Systems. The PCID provided must meet the criteria set forth by the Postal Service, including the following: must represent a unique, numeric identifier for the end user, must be within the assigned range for the model in accordance with the provider's Meter Specification Document (MSD), and must be updated to reflect changes in inactive serial numbers, out-of-date serial numbers, or end user information. Any PCIDs populated in Indicium Creation Record (ICR) files without a successfully processed Customer Registration Record (CRR) install will be deemed invalid.

D. The Postal Service will provide Merchants with packaging for Priority Mail Express and Priority Mail Contract Packages that have been approved by the Postal Service and listed within the US Postal Service catalog. The Postal Service will not provide Merchants with other customized or specialized packaging without prior authorization of the Postal Service. Customer must provide the Merchant's mailer

ID (MID) in the Package Identification Code (PIC) details of shipping data for Merchants in order for the Postal Service to provide customized or specialized packaging.

E. The terms and prices contained herein will take effect on the effective date as defined in Section III below. The Contract Years and Contract Quarters are defined as:

1. Contract Years. The twelve (12) month period commencing on January 1st each year of the Contract.
2. Contract Quarters. "Quarter(s)" or "Contract Quarter(s)", refer to the periods as follow in Table B.

Table B

Period Name	Start of Period	End of Period
Quarter 1	January 1st	March 31st
Quarter 2	April 1st	June 30th
Quarter 3	July 1st	September 30th
Quarter 4	October 1st	December 31st

F. Merchant Tier Discount Setting Priority Mail, Priority Mail Express and Parcel Select.

1. Beginning on the effective date of this Contract, and throughout the term of the Contract, Customer will pay published Priority Mail Express Commercial Plus, Priority Mail Commercial Plus, and Parcel Select Ground prices less the baseline tier discounts in Exhibit 1 for Priority Mail Express, Priority Mail, and Parcel Select Ground Contract Packages shipped using payment systems set forth in Attachment A. Customer shall request, in writing, permission from the Postal Service to access tier discounts for Tiers 2 and 3 Merchants and Platforms. Approvals of discounts for Tier 2 and Tier 3 must be made by the Postal Service in writing for each Merchant. The Postal Service will make commercially reasonable efforts to respond to such tier discount requests in a timely manner. Such tier discount requests for new Merchants will not be approved by the Postal Service if either:

   a. The Merchant has been registered with another authorized reseller of the Postal Service having a current and valid shipping services contract for reselling ("Reseller") and has used such reseller's platform to ship Priority Mail Express, Priority Mail, or Parcel Select Ground packages within the past six (6) months, or

b. The Merchant has shipped at least [redacted] Priority Mail Express, Priority Mail, and Parcel Select Ground packages within the past twelve (12) months.

2. Initial Merchant Tier Assignments. Applicable tier discounts for existing Merchants that were using Customer's platform for shipping prior to the effective date of this Contract will be mutually agreed upon and assigned for each Merchant by the Parties based on each Merchant's annual volume. Customer will provide the Postal Service the projected annual volume segmented by Contract Quarter.
3. New Merchant Tier Assignments. Tier discounts for new Merchants will be determined, approved in writing, and initially assigned by the Postal Service for each Merchant based on each Merchant's estimated annual volume. Customer will provide the Postal Service the projected annual volume segmented by Contract Quarter.
4. Exhibit 1 provides discount percentages for Priority Mail Express, Priority Mail, and Parcel Select Ground Contract Packages for each Merchant discount tier based on the Merchant's annual volume.

G. Merchant Tier Discount Adjustments for Priority Mail, Priority Mail Express and Parcel Select Ground.

1. The Quarterly volumes provided by Customer pursuant to Section I.F.2-3 will be used to evaluate Merchant volume performance. At the close of each Contract Quarter, Customer will provide actual volumes for each Merchant for that Contract Quarter. The Postal Service will validate the actual volume provided by Customer against the volume within Postal systems using the information provided for such Merchants. Volumes provided by Customer for any Merchant that are not associated with such Merchant in Postal data systems will not be counted. Once validated, the Postal Service will compare the actual volume of Total Packages shipped by each Merchant to the volume forecast for that Merchant for such Contract Quarter. The following adjustments apply where applicable:

   a. If the actual volume shipped by Merchant is less than the volume forecast for two consecutive Contract Quarters, the Postal Service reserves the right to adjust the tier for such Merchant to the tier achieved based on the most recent four (4) Contract Quarters' volume. If a Merchant has shipped less than four (4) Contract Quarters, the volume shipped will be annualized based on the number of full Contract Quarters the Merchant has shipped under this Contract.

   b. If the Customer provides an updated annual volume forecast segmented by Contract Quarter for a Merchant that estimates such Merchant's volume will exceed the annual maximum of the current tier, the Postal Service will

review and will not unreasonably deny Customer's request to adjust the tier for such Merchant to the tier based on the updated forecast. Tier adjustments based on updated forecasts must be approved by the Postal Service in writing.

c. If the Customer provides an updated annual volume forecast segmented by Contract Quarter for a Merchant that estimates such Merchant's volume will be less than the annual minimum for the current tier, the Parties agree to adjust the tier for such Merchant to the tier based on the updated forecast.

2. Tier adjustments, where applicable, will be made within thirty (30) days of the close of a Contract Quarter, provided that tier adjustments in Contract Quarter 1 will be made on the 2021 Rate Change Date as defined in Section I.H below and the Rate Change Dates in all subsequent Contract Years.

H. Customer Tier Discount Setting for First-Class Package Service.

1. Beginning on the effective date of this Contract, until the earlier of: (a) the first effective date of any change in rates of general applicability for competitive products in 2021, or (b) February 1, 2021 ("2021 Rate Change Date"), Customer will pay published First-Class Package Service - Commercial prices less the Tier 3 discounts in Exhibit 2 for First-Class Package Service Contract Packages shipped using payment systems set forth in Attachment A.
2. For all subsequent Contract Years, Customer will pay published First-Class Package Service – Commercial prices less the discounts in Exhibit 2 based on the percentage of Customer's First-Class Package Service package spend out of the spend on Total Packages shipped ("FCPS %") during the most recently elapsed twelve (12) months' period ending September 30th the previous year. First-Class Package Service tier discounts for subsequent years will be determined by the Postal Service and made effective on the Rate Change Dates in 2022, 2023, and all subsequent Contract Years.

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

M. Quarterly Business Reviews. The Parties shall jointly conduct a business review of Customer's performance expectations under this Contract either in person, by telecom or by webinar each Contract Quarter in each year of the Contract. If either Party is unable to conduct a business review in any calendar quarter, it shall notify the other Party in writing (i.e. email or mail) of that fact and propose a date as soon as practicable thereafter. On a quarterly basis, Customer shall provide the Postal Service with all Tier 2 Merchants, Tier 3 Merchants, and Platforms along with their associated volumes, spend, MIDs, permits or meters, PCID's where applicable, and all other information the Postal Service determines necessary for purposes of validating Merchant and Platform shipping volume and spend per product. For each year of the Contract, at the close of the twelve (12) months' period ending September 30th, Customer must provide sufficient rate cell level data for the most

recent twelve (12) months' for the Postal Service to validate Customer's calculation of the discount Customer offered to and paid by each Tier 2 Merchant, Tier 3 Merchant, and Platform for each product as well as Merchant and Platform identifiable information to validate the data in Postal data systems. The Postal Service will validate each Merchant's and Platform's overall discount for each product. If the discount for a Merchant or Platform exceeds the respective maximum detailed in Exhibit 1, the Parties will use commercially reasonable efforts to adjust the discounts Customer offers to Merchant or Platform so that the overall maximum discount for each product is not exceeded. In the event that the Postal Service determines that discount adjustments are required for any Merchant or Platform and the Parties are unable to agree to adjustments prior to the next Rate Change Date in any subsequent Contract Year, the Postal Service reserves the right to assign the Merchant or Platform to Tier 1 discounts pursuant to Exhibit 1, and as a result, Customer must remove Merchant's access to discounts pursuant to Section I.K above.

N. Record Keeping and Audit. Customer shall respond to the Postal Service's or its designated auditor's quarterly and/or yearly transaction confirmations related to Postal Service transactions; and such other assistance as commercially reasonably required by the Postal Service or its designated auditors in connection with Customer's performance under this Contract.

II. Regulatory Review and Effective Date

This contract is subject to approval by Postal Service senior management and/or the Governors of the Postal Service, as well as by the Postal Regulatory Commission ("the Commission"). In accordance with Title 39 and the Commission's Rules of Practice and Procedure, and upon approval of the Postal Service Governors, the Postal Service will make required filings with the Commission. The effective date of this Contract shall be three (3) days following the day on which the Commission issues all necessary regulatory approval.

III. Expiration Date, Term and Termination

This Contract shall expire on December 31, 2023 unless:

1. Terminated by the Postal Service with ninety (90) calendar days' notice to Customer in writing;
2. Terminated by the Postal Service pursuant to Section I.M above;
3. Terminated by Customer with ninety (90) calendar days' notice to the Postal Service in writing;
4. Extended for up to two (2) additional one (1) year periods by mutual agreement of the Parties;
5. Superseded by a subsequent contract between the Parties;
6. Ordered by the Commission or a court; or
7. Required to comply with subsequently enacted legislation.

If, at the conclusion of the term of this Contract or any one (1) year extension period, both Parties agree that preparation of a successor SSC is active, the SSC will be extended for up to two (2) ninety (90) calendar day periods with official notification to the Commission at least seven (7) calendar days prior to the Contract's expiration date.

IV. Appeals

Customer may appeal a Postal Service decision regarding the calculation of prices, the amount of postage paid, or other implementation or operational issues under this Contract by submitting a written appeal via email, along with any and all supporting documentation, within thirty (30) calendar days of receipt of notification of the determination giving rise to the appeal to: [redacted]. The appeal is forwarded to the Pricing and Classification Service Center (PCSC). The PCSC manager issues the final agency decision. Any decision that is not appealed as prescribed becomes the final agency decision.

V. Confidentiality; Public Disclosures

Customer acknowledges that as part of securing approval of this Contract, the Contract and supporting documentation will be filed with the Postal Regulatory Commission in a docketed proceeding. The Postal Service shall request from the Commission non-public treatment of information that the Postal Service deems to be eligible for protection from public disclosure when it files such material with the Commission, including Customer's identity, the terms of this Contract, and supporting data relating to postal costs, prices, and Customer's shipping profile. The Postal Service will redact such information from its public filing. Customer authorizes the Postal Service to determine the scope of information that must be made publicly available in the Commission's docketed proceeding. Customer further understands that any unredacted portion of this Contract or supporting information will be available on the Commission's public website, www.prc.gov. At the request of Customer, the Postal Service will notify Customer of the docket number of the Commission proceeding once assigned. Customer has the right, in accordance with the Commission's rules, to address its confidentiality concerns directly with the Commission. Customer agrees to treat as confidential and not disclose to third parties (other than Customer's legal counsel, accountant, and professional advisers) absent express written consent by the Postal Service any information related to this Contract that is determined by the Commission to be non-public. For clarity purposes, Customer may communicate to its end users information relating to the Postal Service's services offered via Customer's platform.

Customer hereby acknowledges and agrees that the form, substance, and timing of any press release or other public disclosure of matters related to the Contract or the relationship between Customer and the Postal Service prepared and/or to be disclosed by Customer shall be subject to the prior review and written approval of the Postal Service. The Postal Service shall endeavor to respond to the Customer with written comments or written approval within five (5) business days of receipt of the proposed disclosure, but failure to approve in writing within that time frame shall be deemed disapproval. This Section does not prohibit either Party from disclosing information that is required to be disclosed by law or that is requested by any

federal, state, or local governmental body in the proper exercise of its oversight or investigatory jurisdiction.

VI. Amendments

Except as provided in Section I.C.1, this Contract shall not be amended except expressly, in writing, by authorized representatives of the Parties.

VII. Assignment

Neither Party may, or shall have the power to, assign its rights under the Contract or, delegate its obligations hereunder, without the prior written consent of the other; such consent is not to be unreasonably withheld. In addition, in the event that Customer is merged with or into or acquires another entity, pricing under this Contract following such merger or acquisition shall apply only to mail sent by the entity existing prior to the merger or acquisition. Following any such merger or acquisition, the Parties may negotiate in good faith to extend, modify, or enter into a new Contract applicable to the merged or acquired entity.

VIII. Waiver

Any waiver by a Party shall not constitute a waiver for any future occurrence. No waiver shall be valid unless set forth in writing executed by the Party waiving such provision.

IX. Representations, Warranties and Covenants

Customer hereby represents, warrants and covenants to the Postal Service as follows:

a. The execution and delivery by Customer of the Contract and the performance by the Customer of its obligations under the Contract (1) are within the Customer's power and authority; (2) have been duly authorized; and (3) do not and will not contravene (i) any law or regulation binding on or affecting Customer, (ii) any contractual restriction binding on Customer, (iii) any order, judgment or decree of any court or other governmental or public body or authority, or subdivision thereof, binding on Customer, or (iv) the organizational documents of Customer; and

b. The individual signing the Contract on behalf of Customer is a duly authorized officer of the Customer with the power and authority to enter into the Contract on behalf of Customer; and

c. The Customer shall comply with all applicable federal, state and local laws, rules and regulations.

X. Sovereign Acts

The Postal Service and Customer acknowledge and agree that the Contract is subject to any legislation that might be enacted by the Congress of the United States or any orders or regulations that might be promulgated by any agency, branch, or independent establishment of the United States Government. Notwithstanding anything to the contrary set forth herein, the Postal Service and Customer further acknowledge and agree that the Contract in no way waives the Postal Service's authority to act in its sovereign capacity and to promulgate and amend from time to time regulations and policies and that, pursuant to the sovereign acts doctrine, the Postal Service shall not be held liable for any acts performed in its sovereign capacity, or for any acts performed by any branch, agency or independent establishment of the United States in their sovereign capacities that may directly or indirectly affect the terms of the Contract. In the event that either Party is required by legislation enacted by the Congress of the United States or any orders or regulations that might be promulgated by any branch, agency, regulatory body, or independent establishment of the United States Government to terminate, or otherwise as a result of such action is unable to perform its obligations under the Contract, either Party may give the other Party a notice of termination of the Contract, which termination shall be effective immediately or on the effective date of such requirement, whichever is later. The Parties agree that in the event that the Contract is terminated as set forth in the preceding two sentences, or in the event that either Party is enjoined from proceeding with the Contract by any court of competent jurisdiction, such Party shall not be subject to any liability by reason of such termination or injunction. To the extent that any applicable law, regulation or policy adopted after the Effective Date expressly supersedes the terms of this Contract, such law, regulation or policy shall control.

XI. Notices

Any notice or other communication to be provided to a Party hereunder shall be in writing and shall be sent via certified mail (with return receipt requested) or by email to the individual and at the address listed below unless otherwise specified by the Party in writing. Notices shall be deemed given when received by the Party.

[redacted]

XII. Governing Law

THE CONTRACT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH PRINCIPLES OF FEDERAL LAW.

XIII. Counterparts

The Contract may be executed in any number of counterparts, all of which taken together shall constitute one (1) single agreement between the Parties. A facsimile or other electronically or digitally transmitted copy of a signature on any counterpart shall be deemed to be an original signature. The Contract constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be duly executed as of the later date below:

UNITED STATES POSTAL SERVICE

Signed by: DocuSigned by: Timothy Costello 9AD5FB40E84B419...

Printed Name: Timothy R. Costello

Title: Vice President Sales

Date: 5/29/2020

[redacted]

ATTACHMENT A

[redacted]

Exhibit 1: [redacted]

[redacted]

Exhibit 2: [redacted]

[redacted]

Exhibit 3: [redacted]

[redacted]

[redacted]

[redacted]

MAIL CLASSIFICATION SCHEDULE

PART B—COMPETITIVE PRODUCTS

2000 COMPETITIVE PRODUCT LIST

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NEGOTIATED SERVICE AGREEMENTS

Domestic

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Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 5

Statement of Supporting Justification

I, Lisa V. Ward, (A) Director, Field Sales Strategy and Contracts, am sponsoring this request that the Commission add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 5 to the list of competitive products. This statement supports the Postal Service's request by providing the information required by each applicable subsection of 39 C.F.R. § 3020.32. I attest to the accuracy of the information contained herein.

(a) Demonstrate why the change is in accordance with the policies and applicable criteria of the Act.

As demonstrated below, the change complies with the applicable statutory provisions.

(b) Explain why, as to the market dominant products, the change is not inconsistent with each requirement of 39 U.S.C.§ 3622(d), and that it advances the objectives of 39 U.S. C. § 3622(b), taking into account the factors of 39 U.S. C. § 3622(c).

Not applicable. The Postal Service is proposing that this Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select contract be added to the competitive products list.

(c) Explain why, as to competitive products, the addition, deletion, or transfer will not result in the violation of any of the standards of 39 U.S.C. 3633.

The service to be provided under the contract will cover its attributable costs and make a positive contribution to coverage of institutional costs. The contract will increase contribution toward the requisite 8.8 percent of the Postal Service's total institutional costs. Accordingly, no issue of subsidization of competitive products by market dominant products arises (39 U.S.C. § 3633(a)(1)).

(d) Verify that the change does not classify as competitive a product over which the Postal Service exercises sufficient market power that it can without risk of losing a significant level of business to other firms offering similar products: (1) set the price of such product substantially above costs, (2) raise prices significantly; (3) decrease quality; or (4) decrease output.

The contract sets specific terms and conditions for providing Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select to the customer. Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select are provided in a highly competitive market. The Postal Service is unable to set prices substantially above costs, raise prices significantly, decrease quality, or decrease output, without losing this business to private competitors in the expedited shipping market.

In negotiating this contract, the Postal Service's bargaining position was constrained by the existence of other providers of services similar to the Postal Service's. As such, the market precludes the Postal Service from taking unilateral action to increase prices or decrease service. As with Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select in general, the Postal Service may not decrease quality or output without risking the loss of business to competitors that offer similar expedited delivery services. The market does not allow the Postal Service to raise prices or offer prices substantially above costs; rather, the contract is premised on prices and terms that provide sufficient incentive for the customer to ship with the Postal Service rather than a competitor.

(e) Explain whether or not each product that is the subject of the request is covered by the postal monopoly as reserved to the Postal Service under 189 U.S.C. 1696, subject to the exceptions set forth in 39 U.S.C. 601.

I am advised that merchandise sent by Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select and this contract are not covered by these provisions. See part (d) above.

(f) Provide a description of the availability and nature of enterprises in the private sector engaged in the delivery of the product.

See part (d) above. Expedited shipping, similar to Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select is widely available from well-known and successful private firms at both published and contract prices.

(g) Provide any available information of the views of those who use the product on the appropriateness of the proposed modification.

Having entered into this contract with the Postal Service, the customer supports the addition of the contract to the product list so that the contractual terms can be effectuated.

(h) Provide a description of the likely impact of the proposed modification on small business concerns.

The market for expedited delivery services is highly competitive and requires a substantial infrastructure to support a national network. Large shipping companies serve this market. The Postal Service is unaware of any small business concerns that could offer comparable service for this customer.

(i) Include such other information, data, and such statements of reasons and bases, as are necessary and appropriate to fully inform the Commission of the nature, scope, significance, and impact of the proposed modification.

Additional details regarding the terms of the contract have been provided to the Commission under seal due to the sensitivity of the contract to both the customer and the Postal Service.

Attachment E

Certification of Prices for Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select Service Contract 5

I, Nan K. McKenzie, Manager, Pricing Innovation, Finance Department, am familiar with the prices and terms for Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select Service Contract 5. The prices and terms contained in this Contract were established by the Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates (Governors' Decision No. 19-1).

I hereby certify, based on the financial analysis provided herewith, that the prices are in compliance with 39 U.S.C § 3633 (a)(1), (2), and (3). They are expected to cover attributable costs. There should therefore be no subsidization of competitive products by market dominant products. This contract should not impair the ability of competitive products on the whole to cover an appropriate share of institutional costs.

Nan K. McKenzie

Digitally signed by Nan K. McKenzie
DN: cn=Nan K. McKenzie, o, ou=Manager, Pricing Innovation, email=nan.k.mckenzie@usps.gov, c=US
Date: 2020.05.29 16:45:24 -04'00'

Nan K. McKenzie

APPLICATION OF THE UNITED STATES POSTAL SERVICE FOR NON-PUBLIC TREATMENT OF MATERIALS

In accordance with 39 C.F.R. Part 3007, the Postal Service hereby applies for non-public treatment of: the unredacted Governors' Decision; the unredacted shipping services contract; and the supporting documents establishing compliance with 39 U.S.C. § 3633 and 39 C.F.R. § 3015.5. The Postal Service hereby furnishes the justification required for this application by each subsection of 39 C.F.R. § 3007.201(b), as enumerated below.

For the reasons discussed, the Postal Service asks that the Commission grant its application for non-public treatment of the identified materials.

(1) The rationale for claiming that the materials are non-public, including the specific statutory provision(s) supporting the claim, and an explanation justifying application of the provision(s) to the materials.

The materials designated as non-public consist of information of a commercial nature, which under good business practice would not be publicly disclosed. In the Postal Service's opinion, this information would be exempt from mandatory disclosure pursuant to 39 U.S.C. § 410(c)(2) and 5 U.S.C. § 552(b)(3), (b)(4).[1] Because the portions of the materials which the Postal Service is applying to file only under seal fall within the scope of information not required to be publicly disclosed, the Postal Service asks the Commission to support its determination that these materials are exempt from public disclosure and grant its application for their non-public treatment.

Information of a commercial nature, which under good business practice would not be publicly disclosed, as well as third party business information, are not required to

[1] In appropriate circumstances, the Commission may determine the appropriate level of confidentiality to be afforded to such information after weighing the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets. 39 U.S.C.§ 504(g)(3)(A). The Commission has indicated that "likely commercial injury" should be construed broadly to encompass other types of injury, such as harms to privacy, deliberative process, or law enforcement interests. PRC Order No. 194, Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1, Mar. 20, 2009, at 11.

be disclosed to the public. 39 U.S.C. § 410(c)(2); 5 U.S.C. § 552(b)(4). The Commission may determine the appropriate level of confidentiality to be afforded to such information after weighing the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets. 39 U.S.C. § 504(g)(3)(A).[2] Because the portions of materials filed non-publicly in this docket fall within the scope of information not required to be publicly disclosed, the Postal Service asks the Commission to support its determination that these materials are exempt from public disclosure and grant its application for their non-public treatment.

(2) A statement of whether the submitter, any person other than the submitter, or both have a proprietary interest in the information contained within the non-public materials, and the identification(s) specified in paragraphs (b)(2)(i) through (iii) of this section (whichever is applicable). For purposes of this paragraph, identification means the name, phone number, and email address of an individual.

The Postal Service believes that the customer with whom the contract is made has a proprietary interest in the non-public materials and that customer-identifying information is sensitive and should be withheld from public disclosure. Therefore, rather than identifying the customer, the Postal Service gives notice that it has already informed the customer, in compliance with 39 C.F.R. § 3007.200(b), of the nature and scope of this filing and its ability to address its confidentiality concerns directly with the Commission. The Postal Service employee responsible for providing notice to the third party with proprietary interest in the materials filed in this docket is Elizabeth A. Reed, Attorney, 475 L'Enfant Plaza SW, Washington, D.C. 20260-1137, whose email address is Elizabeth.A.Reed@usps.gov and whose telephone number is 202-268-3179.

(3) A description of the information contained within the materials claimed to be non-public in a manner that, without revealing the information at issue,

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[2] The Commission has indicated that "likely commercial injury" should be construed broadly to encompass other types of injury, such as harms to privacy, deliberative process, or law enforcement interests. PRC Order No. 194, Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1, Mar. 20, 2009, at 11.

would allow the Commission to thoroughly evaluate the basis for the claim that the information contained within the materials are non-public.

The Governors' Decision establishing Domestic Competitive contracts, including those for Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select, the contract identifying the customer and containing the prices, terms, and conditions of the contract, and the financial workpapers supporting the contract are being filed under seal in this docket. Redacted copies of the Governors' Decision and the contract are being filed publicly in this docket. The Postal Service maintains that the redacted portions of the Governors' Decision, the contract, name of the customer and related financial information should remain confidential.

With regard to the contract, the redactions are of the name, address, signature block, and other information that could identify the customer; such identifying information of a postal patron may be withheld from mandatory public disclosure by virtue of 39 U.S.C. § 504(g)(1) and 39 U.S.C. § 410(c). Also redacted are the negotiated price structure and the terms directly related to implementation of the price structure.

The redacted portions of the Governors' Decision and attached Analysis protect the costs authorizing Domestic Competitive contracts, and the analysis of those costs.

The redactions applied to the financial work papers protect commercially sensitive information such as underlying costs and assumptions, pricing formulas, information relevant to the mailing profile of the customer, and cost coverage projections. To the extent practicable, the Postal Service has limited its redactions in the workpapers to the actual information it determined to be exempt from disclosure under 5 U.S.C. § 552(b). However, in a limited number of cases, narrative passages or notes were redacted in their entirety due to the practical difficulties of redacting particular words or numbers within the text as presented in a spreadsheet format.

(4) Particular identification of the nature and extent of the harm alleged and the likelihood of each harm alleged to result from disclosure.

If the redacted information were to be disclosed publicly, the Postal Service considers that it is quite likely that it and the customer would suffer commercial harm.

The information is commercially sensitive, and the Postal Service does not believe that it would be disclosed under good business practices.

Revealing this information would provide a competitive advantage to competitors of the Postal Service and of the customer. The Postal Service considers that it is highly probable that if this information were made public, such entities would take immediate advantage of it and there is a substantial risk that the Postal Service and the customer would lose business as a result. Additionally, other postal customers could use the information to their advantage in negotiating the terms of their own agreements with the Postal Service and other businesses could use the information to their advantage in negotiating with the customer. The Postal Service considers these to be highly probable outcomes that would result from public disclosure of the redacted material.

Finally, the financial work papers include specific information such as costs, negotiated prices and pricing structure, assumptions used in developing costs and prices, mailer profile information, and projections of variables. All of this information is highly confidential in the business world. If this information were made public, the Postal Service's and the customer's competitors would likely take great advantage of this information. Unlike its competitors, the Postal Service is required to meet the standards of 39 U.S.C. § 3633 with each negotiated service agreement that it asks to have added to the competitive products list. Competitors are not so constrained and could use the redacted information to their advantage in gaining customers. The formulas shown in the spreadsheets in their native format provide additional sensitive information. Revealing the Postal Service's profit margin information could also be used by the customer to attempt to renegotiate its own prices.

(5) At least one specific hypothetical, illustrative example of each alleged harm.

Identified harm: Revealing customer identifying information would enable competitors to target the customers for sales and marketing purposes.

Hypothetical: The identity of the customer in this contract is revealed to the public. A competitor's sales representatives contact the Postal Service's customer and

offer the customer lower prices or other incentives, taking away the business anticipated by the Postal Service.

Identified harm: Public disclosure of negotiated terms of the agreement could be used by competitors and potential customers to the detriment of the Postal Service and its customer.

Hypothetical: A competitor obtains a copy of the unredacted version of Customer A's contract and workpapers to the detriment of the Postal Service's customer. Company B discovers proprietary business strategies and changes its business practices to minimize differentiation, identify their key customer base and cause defection of Customer A's customers. Customer A cancels the contract and withdraws their business from the Postal Service. Other companies would then refuse to share critical details of their business or to participate in negotiated prices with the Postal Service, harming the Postal Service's ability to compete in the marketplace for additional volume and revenue.

Hypothetical: The competitor could leverage multiple services to offer deeper discounts than provided by the Postal Service's contract as a loss leader, using profits on other products profits to make up for the temporary loss.

Identified harm: Public disclosure of the price formula, underlying cost structure, and information in the financial work papers relating to the contract would be used by competitors and customers to the detriment of the Postal Service.

Hypothetical: A competing package delivery service or its representative obtains a copy of the unredacted version of the financial work papers. It analyzes the work papers to determine what the Postal Service would have to charge its customers in order to meet its minimum statutory obligations for cost coverage and contribution to institutional costs. It then sets its own rates for products similar to what the Postal Service offers its customers under that threshold and markets its ability to guarantee to beat the Postal Service on price for similar delivery services.

Hypothetical: Competitors constantly monitor "cost to serve" scenarios to combine and alter facilities to lower costs. A competitor could add satellite pickup stations closer to the Postal Service's customer in order to underbid the Postal Service's prices.

Identified harm: Public disclosure of the prices and related terms would provide potential customers extraordinary negotiating power.

Hypothetical: Customer B obtains the contract showing Customer A's negotiated prices and the underlying workpapers. Customer B can determine that there is additional profit margin between the prices provided to Customer A and the statutory cost coverage that the Postal Service must produce in order for the agreement to be added to the competitive products list. Although Customer B was offered prices identical to Customer A's, Customer B uses the publicly available information to insist that it unless the Postal Service offers it even lower prices than Customer A's, it will not use the Postal Service but will give its business to a competitor of the Postal Service.

Alternatively, Customer B attempts to negotiate lower rates only for those destinations for which it believes the Postal Service is the low-cost provider among all service providers. The Postal Service may agree to this demand in order to keep the customer's business overall, which it believes will still satisfy total cost coverage for the agreement. Then, Customer B uses other providers for destinations other than those for which it negotiated lower rates. This impacts the Postal Service's overall projected cost coverage for the agreement. Although the Postal Service can terminate the contract when it sees that the mailer's practice and projected profile are at variance, the costs associated with establishing the contract, including filing it with the Postal Regulatory Commission, would be sunk costs that would have a negative impact on postal finances.

Harm: Public disclosure of information in the financial work papers would be used by the customer's competitors to its detriment.

Hypothetical: A business in competition with the customer obtains a copy of the unredacted version of the financial work papers. The customer's competitor analyzes the work papers to assess the customer's underlying shipping costs. The customer's competitor uses that information as a baseline to negotiate with shipping companies and other suppliers to develop lower-cost alternatives and thereby to undercut the customer.

(6) The extent of the protection from public disclosure alleged to be necessary.

The Postal Service maintains that the redacted portions of the materials filed non-publicly should be withheld from persons involved in competitive decision-making in the market for domestic parcel shipping products, as well as their consultants and attorneys. Additionally, the Postal Service believes that actual or potential customers of the Postal Service for such products should not be provided access to the non-public materials.

(7) The length of time for which non-public treatment is alleged to be necessary with justification thereof.

The Commission's regulations provide that non-public materials shall lose non-public status ten years after the date of filing with the Commission, unless otherwise provided by the Commission. 39 C.F.R. § 3007.401(a). However, because the Postal Service's relationships with customers often continue beyond ten years, the Postal Service intends to oppose requests for disclosure of these materials pursuant to 39 C.F.R. § 3007.401(b-c).

(8) Any other relevant factors or reasons to support the application.

None.