

Before The
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

Review of Nonpostal Services

Docket No. MC2008-1

Statement of Rick Borgers on behalf of DigiStamp Inc.
Has the USPS EPM program shown a public need for the
service and the private sector's inability to meet that need?
(July 30, 2008)

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My Background: DigiStamp has been providing digital timestamps to the public since 1998. I have appeared before the PRC before on the subject USPS Electronic Postmark in Docket No. C2004-2 Complaint on Electronic Postmark. In USPS final brief of Docket C2004-2 on October 20 2006 the USPS described "... issuing an Request for Information (RFI) to the public concerning future configuration of the USPS EPM"¹. I have been an active participant in the Postal Service's transformation of the old EPM service into a new EPM program and have first-hand knowledge. My testimony will counter what the USPS has offered in their testimony as to the value to the public of the new USPS EPM program.

Congress² directed the Commission to review the USPS EPM program to determine if the program should continue. Specifically, the Commission shall:

"review each nonpostal service offered by the Postal Service [as of January 1, 2006 and] on the date of enactment of that Act and determine whether that nonpostal service shall continue, taking into account—

“(A) the public need for the service; and

“(B) the ability of the private sector to meet the public need for the service.”

It is apparent in the language chosen by Congress, that there are four main elements for the Commission to determine in its review:

- 1) Is the service under review a *nonpostal* service?
- 2) Was the nonpostal service offered on the crucial PAEA date of January 1, 2006?
- 3) Is there a public need for the service?

¹ Docket C2004-2 DigiStamp REPLY BRIEF OF THE UNITED STATES POSTAL SERVICE October 20, 2006

² Title 39 U.S.C. 404(e)(2).Section 404(e)(3) under section 404(e)” as amended by the Postal Accountability and Enhancement Act (PAEA).

- 4) Can the private sector meet the public need for the service?

I will answer each of these questions in my statement, as follows:

- 1) The service under review is, without question, a nonpostal service. This question was answered affirmatively by the Commission in Order No. 74; and the Postal Service no longer appears to be challenging the nonpostal character of the service.
- 2) The service that the Postal Service is offering for Commission review in the current proceeding was *not* offered to the public on January 1, 2006. The Postal Service emphasized repeatedly in its legal filings, and in the sworn statement of Mr. Foti, that the nature of EPM changed fundamentally at the end of July 2007. As of January 1, 2006, EPM was a service owned, operated, and managed by the United States Postal Service. At the end of July 2007, the Postal Service jettisoned the earlier EPM service and decided to assume the role of a federal licensee and regulator of EPM, a role never envisioned nor authorized by Congress. In fact, the Commission has been stripped of the ability to review the nonpostal EPM service that was offered on January 1, 2006. The Postal Service is attempting unlawfully to gain approval of a new nonpostal service created at the end of July 2007, nearly 18 months after the date established by Congress for nonpostal candidates for grandfathering.

Eighteen months after the PAEA date of January 1, 2006, the Postal Service developed a new nonpostal service that is in violation of the PAEA since Congress explicitly prohibited the offering of any new nonpostal after the PAEA enactment. I respectfully ask the Commission to direct the Postal Service to desist immediately from continuing to offer its new nonpostal service.

- 3) As for the third question, I state emphatically that there is a strong public need for time/date stamp products of the type that DigiStamp offers. However, there is an equally strong need on the part of the public for the Postal Service to exit this industry and leave the offering of such products to capable private sector providers. The e-mails that I am filing for the Commission's review show the slow, stumbling, confused, bureaucratic ineptitude of the Postal Service in trying to offer this type of service. The Postal Service has said repeatedly in this proceeding that it intended to offer a new service in which it would act as licensee, certifier, and regulator of private sector companies that offer time/date stamp products.

You will see the great expenditure of energy, time, and money that I invested to become one of these certified licensees. But I was unable to do so because the Postal Service lacks the technical expertise in-house to establish such certifications standards. The Postal Service sets deadlines to establish standards and then fails to meet its own deadlines because of a lack of technical expertise. It appears that the Postal Service wants to farm out the certification process to a technically skilled consultant, but claims it lacks the funds to do so. The Postal Service is such a behemoth in the time/date stamp field that it sucks up all of the oxygen and leaves small time/date stamp companies like DigiStamp barely able to survive. The Postal Service's presence in the time/date stamp industry places a stranglehold on the progress and innovation that is waiting to be unleashed in this field.

- 4) The private sector not only can meet the need of the public for time/date stamp products, but it is the *only* sector that can do so. If the Commission allows the Postal Service to continue its unlawful offering of EPM, the time/date stamp industry will never reach its true potential in the United States. Small, pioneering companies like DigiStamp will either barely survive or will go out of business altogether. Certainly small,

innovating private companies will be unable to accrue the revenues necessary to develop new, beneficial changes. The Postal Service “sucks up” almost all of the revenue in this industry. This is the very kind of harm that Congress sought to avoid by preventing the Postal Service from entering into new nonpostal services. It is evident from GAO reports³ issued over the years that the Postal Service bumbles, stumbles, and generally loses money with its nonpostal forays, while at the same time erecting barriers to entry that small competitors cannot surmount.

I agree with the USPS that there is public need for a secure digital time stamp. The problem is that the public has no need for what the USPS has to offer. Not only will there be no loss to the public if the current EPM program is stopped, the public will gain greatly from the Postal Service’s exit from the field private industry has proven their ability to provide this service. The USPS EPM stifles competition and the innovation that it stimulates.

I begin this statement by copying directly from my testimony in Docket No. C2004-2 on April 17, 2006.

Providing good service in electronic communications requires the ability to innovate, quickly and effectively, as customer needs emerge and as new technologies make new products possible. The fast-moving world of electronic communications depends even more than most industries on the ability to make a better product, or provide better service, when competitors catch up.

In electronic communications, the USPS can only blunt our country by replacing innovative, nimble, competitive businesses like mine with a slow, bloated, bureaucracy-burdened service.

And it has.

³ Office of the Consumer Advocate Motion to Request That the Commission Institute a Proceeding to Consider the Postal/Nonpostal Character of Specified Services and the Establishment of Rules to Require s Full Accounting of the Costs and Revenues of Nonpostal Services, Docket No. R2001-1, March 20, 2002, pp 1-11.

The USPS EPM program has consistently been a mess, first by competing with private industry and in their new EPM program demonstrating ineptitude in taking on the role of regulator of the time/date stamp industry.

Private industry can do this much better. The methods of third-party certification of a vendor service based on a set of defined policies are already practiced in the digital signature industry. Private industry already has certification services, methods, standards and organizations that are similar to what the USPS proposes to create in their new USPS EPM program. For example, for the role of public "Certificate Authorities" was developed by the work of the Internet Engineering Task Force (IETF), National Institute of Standards and Technology (NIST) and private industry.

A government agency like the NIST is in a better position to collaborate with industry in the work of setting technology standards / policy and testing the compliance of electronic security applications. The engineers of NIST have demonstrated repeatedly over the years their thorough understanding of the operations involved in electronic security applications. If Congress chooses to give NIST the role of regulator and certifier, I would endorse such a move. But the USPS has shown time and time again that its EPM staff lacks the technical qualifications to regulate a data security business.

My understanding of the USPS business plan is this: The USPS plans to leverage their nebulous commitment to the customer of "backed by the federal government" into a market advantage entrée into the e-commerce business. Fine, leverage your brand name, but not by implying some federal backing which the USPS has no intention of providing for the benefit of EPM customers.

In my experience, private industry would be subject to greater scrutiny and legal risk than the elusive USPS. Is there Moral Risk in trusting the USPS and its implied government backing in this complicated and evolving field of electronic

communications? Yes. If the USPS has failed so grossly in the past, what has changed to prevent failure in the future? Nothing has changed. Are customer's being lulled into a false sense of security by declarations of the USPS that their service is "backed by the federal government"? Yes.

The USPS EPM service should be terminated immediately because it is clearly not permitted by the PAEA.

The new USPS EPM service should be terminated immediately because it is a nonpostal service that was begun a year and a half after the January 1 2006, PAEA date and is clearly not permitted by the PAEA.

Postal Accountability and Enhancement Act (PAEA) section 404(e), defines "nonpostal service" as "any service that is not a postal service defined under section 102(5) [of title 39]," and states in part: "Nothing in this section shall be considered to permit or require that the Postal Service provide any nonpostal service, except that the Postal Service may provide nonpostal services which were offered as of January 1, 2006, as provided under this subsection.

39 U.S.C. § 102(5) defines "postal service" as "the delivery of letters, printed matter, or mailable packages, including acceptance, collection, sorting, transportation, or other functions ancillary thereto."

In Order 50, the Commission asked the USPS to participate in this Docket to review existing nonpostal services. The USPS at first declined to include the USPS EPM in this review saying that the USPS EPM was not a postal service, nor even a nonpostal service, but was some type of *non, nonpostal service*. The Postal Service argues their current EPM service is "new"; not like the nonpostal service they offered at the time of Docket No. C2004-2.

On October 20, 2006, the Postal Service stated they were beginning this new USPS EPM program⁴ :

The Postal Service also wishes to reiterate its desire for an expeditious resolution of this matter because of the need to make some important business decisions about the USPS EPM program in the near future. To that end, today the Postal Service issued a Request for Information to the public concerning future configuration of the USPS EPM, which has been (or will shortly be) posted at www.fedbizopps.gov (agency: United States Postal Service or USPS).

That announcement was before the passage of PAEA setting the “grandfather” opportunity date of January 1, 2006. In any event, the new EPM service did not come into existence until the end of July 2007.

In July 2007, according to the Postal Service they implemented this new program with the first contract signing. The Postal Service gives the details of this new program in this docket⁵:

For Electronic Postmark (EPM), a non-exclusive licensing agreement was entered into by the Postal Service and Authentidate on July 30, 2007, replacing the Strategic Alliance Agreement, which expired on that date. The new business model for EPM involves a branding and licensing agreement, which allows for continuation of the service without disruption, but also without direct postal management. Unlike the previous Strategic Alliance Agreement, the Postal Service no longer engages in marketing or promotion, does not have a role in setting prices or terms of service, does not engage in direct governance, and does not sign sales agreements with customers. The Postal Service simply licenses its brand and marks, for a flat quarterly fee, and insures quality control over the provision of the service through its ability to conduct audits and security standards in the license agreement.

I agree with the Postal Service that the new EPM service launched at the end of July 2007 is materially different from the original EPM corporate model. Factually, the new USPS EPM service is ... “new”. This new nonpostal service began after the PAEA stated date of January 1 2006. Therefore, the USPS is

⁴ Docket C2004-2 REPLY BRIEF OF THE UNITED STATES POSTAL SERVICE October 20, 2006 at page 10

⁵ FURTHER RESPONSE OF THE UNITED STATES POSTAL SERVICE TO ORDER NO. 74, AND NOTICE OF FILING OF SWORN STATEMENTS March 19, 2008

barred by Congress from continuing this service. I request that the Commission order the Postal Service to terminate the service with due haste and thereby come in compliance with the law.

The USPS EPM program has been hazardous to the public interests

The USPS has had serious quality problems with their EPM program in the past, and problems continue. I would like to bring forward from Docket No. C2004-2 two examples where the USPS failed in their management of the EPM program. Given my more recent experience of the past year of working more closely with the USPS, I see no evidence that the EPM team has improved their technology management skills.

It is critical to consider the customer's perspective: the USPS EPM customers take significant extra effort to digitally sign and timestamp their documents because they are important. These user documents are, for example, patient medical records, pre-patent inventions, etc... Now, let's see how the USPS EPM team has handled its responsibility:

Does the USPS ever take control of the customer correspondence? “No, Yes, Maybe” is the EPM manager's best guess.

As background, in the 2004 EPM Complaint case there was a central, legal question: “Is the USPS EPM ancillary to communications?” From the answer to this particular question we lead to arguments about the PRC's jurisdiction⁶. Therefore, this question had been examined extensively in written testimony.

⁶ PRC jurisdiction was not my concern. My concerns and reason for bringing the complaint before the PRC was the problem of government competing with private industry. The PRC jurisdiction question had been developing over many years and in several cases in an ongoing PRC / USPS debate.

It was not until the oral cross-examination that the USPS, Mr. Foti, finally revealed the truth. From Mr. Foti's cross-examination, I offer this summary from the Initial Brief of the public representative:

Mr. Foti apparently does not understand how EPM functions, because he insists that "USPS never takes control of the document" sent through EPM; and that "the Postal Service never receive[s] [the] document, so therefore could not send it to" the recipient.⁷ Later in Mr. Borgers' cross examination, he establishes that exactly the opposite is true – the encrypted documents go through a postal data center and from there to the recipient,⁸ in other words, a document is submitted to the Postal Service, routed through a postal data center computer, and delivered by the Postal Service to a recipient.⁹

Mr. Foti is the manager in charge of these systems¹⁰. I assume that USPS Information Security Policies would state that the managers of IT systems must, at least, be aware that they contain customer private data. I wonder if Mr. Foti conducted any system policy reviews after realizing the importance of his fiduciary responsibility. I would consider Mr. Foti's lack of understanding to be a failure to complete his most basic responsibilities. Can the privacy of USPS customers be maintained if the managers don't even know they *have* the customer's important private documents? Is the public well served by an organization in which the upper cadres have virtually no understanding of the operations of the organization they lead?

The USPS EPM gives the customer a legally binding receipt that is easily falsified.

⁷ Docket No. C2004-2 OFFICIAL TRANSCRIPT August 15, 2006. at 176 and 182. Mr. Foti repeats his mistake again at 185. It was only after checking with others that Mr. Foti is able to understand that the sender's encrypted document must go to the Postal Service's data center in order to be transmitted by the Postal Service to the recipient. Transcript at 222.

⁸ Id. at 227-28.

⁹ Docket No. C2004-2 OFFICE OF THE CONSUMER ADVOCATE INITIAL BRIEF (October 6, 2006) pg 6.

¹⁰ Id. transcript at 238

In 2006, as part of Docket C2004-2, there were two current events added to that record:

1. Several states had passed or were considering legislation to accept EPM communications as a replacement for certified mail.¹¹
2. DigiStamp had demonstrated a critical EPM flaw that allows the average person to use USPS EPM system to create bogus EPM receipts. Any recipient of a document sent through EPM can insert the e-mail address of another recipient in the receipt form, generating a false notice to the sender that the document has been received and opened.

In March 2006 in Docket C2004-2, DigiStamp adds to the record:

In fact, the USPS EPM does not even work correctly. Far from doing a better job than private business can do, the USPS does a worse job. As DigiStamp will prove, the USPS EPM service allows a person to get a "certified receipt" from the USPS for a document that, in fact, was never received.¹²

In one press publication of the EPM, a media outlet asked USPS EPM program representatives about the flaw, and they responded to the media with misleading answers.

It returns a very nice, albeit totally fake, USPS proof of receipt, according to DigiStamp founder Rick Borgers. USPS EPM program manager Leo Campbell and Authentidate VP, product and technology O'Connell Benjamin and operations manager Hicham Kabbaj deny Borgers' allegations. The USPS says that the anecdotal evidence from early users

¹¹ This is first recorded in Docket No. C2004-2 11/12/2004 Motion to Notify the Postal Rate Commission of A Recent Example Where the Use of USPS EPM Replaces Traditional Mail Service. Several other occurrences including a summary in Responses of DigiStamp Witness Rick Borgers to Interrogatories of the United States Postal Service (USPS/DS-T1-1-10) as: In an investors' conference call by Authentidate on June 2, 2005, Suren Pai, the CEO of Authentidate, identified where legislation was passed or was in-progress: South Carolina, West Virginia, Maryland, Nebraska, Pennsylvania and New Jersey. Recording held at Authentidate web site as Press Release 06-01-05 Authentidate To Hold Conference Call.

¹² Docket No. C2004-2 The flaw was described in detail in DIGISTAMP RESPONSE TO ORDER NO. 1455 (March 20, 2006) and then further in Authentidate's Interrogatories that requested a description of who was impacted AUTH/DS-T1-11 June 9, 2006

of the upgrade is that it's "great" and claims Borgers jiggled the EPM to fail and that he's "setting up a straw man to forward his position." Borgers says of course he jiggled what he's showing the press, that's the whole point, anybody can.¹³

It is responsible and common industry practice to inform your customers of a mistake of this significance. The USPS made no announcement to their users that this flaw existed¹⁴ and made misleading statements about the problem to the press.

After a few months the flaw that I identified and brought to the attention of the USPS was repaired as part of an EPM software update. I venture to say that without the technical expertise I expended in testing the Postal Service's EPM system, this serious flaw would never have come to light.

Did the USPS EPM team investigate and adjust policy based on this experience? No. How did this flaw make it through a quality review process and be released to the public? It should never have happened. Is it acceptable that EPM team members are not forthright in their public statements about the trust of the EPM system, especially when there is a direct impact on their public consumers? No. Did State Legislators do due diligence to question their trust of the USPS in the new electronic communications service? Probably not. Are we as a public too trusting of the USPS and implied "legal authority"? Yes.

In my experience, private industry is subject to greater scrutiny and legal risk than the elusive USPS. Is there Moral Risk in trusting the USPS and its implied government backing in this complicated and evolving field of electronic communications? Yes. If the USPS has failed so grossly in the past, what has changed to prevent failure in the future? Nothing – the Postal Service has failed to present any evidence that it has improved the quality of its EPM system.

¹³ ePostalNews May 23, 2005

¹⁴ I had an account with the EPM service as did other that I knew and no announcement to customers was provided.

Review of the USPS statements about their EPM program

The USPS has failed to demonstrate by their actions and in their short testimony that their EPM program provides value to the public.

There are three areas of Mr. Foti's statement¹⁵ that I want to comment on:

The USPS has not engaged the industry in a type of collaborative effort.

I think that the USPS testimony deliberately creates a false impression that industry is driving or promoting the USPS involvement in this service. Mr. Foti's testimony: "time-date industry was instrumental in providing the Postal Service with guidance and a current customer view of the public need that made a convincing plea for our continued participation in this industry" is misleading.

The new USPS EPM program has not yet developed a "certification process". The truth is that there is no "certification process". Specifically, Foti's testimony: "Electronic Postmarks are produced by companies approved under a certification process, then authorized to use Postal Service licensed technology, intellectual property and patents. ... Postal Service approved time-date stamp providers are required to meet certified standards prior to receiving a USPS license".

My company has been working with the USPS for more than a year towards this "certification." Virtually no progress has been made (see attached e-mail correspondence). Essentially, there is no "certification process", no "licensed technology", no "intellectual property"¹⁶, no "certified standards" ...

¹⁵ Statement of Thomas J. Foti on Behalf of the United States Postal Service 6/23/2008

¹⁶ I did do a patent search and there appear to be patents assigned to the USPS. The subject of patents never arises in discussions with the USPS, customers, or other industry time stamp providers over the past years. The USPS has not demonstrated value of those inventions. How will the USPS use these patents?

Claims of future benefits of UPU support are unclear. This subject I cover first in the next section because it has an important implication about public need that is not clear.

Claims of future benefits of UPU support are unclear

The current USPS EPM program does not currently provide support for the Universal Postal Union (UPU) electronic postmark. Specifically, Foti's testimony: "American public would be at an extreme disadvantage" is a strong statement related to predicting future technology standards. The American public and industry do not currently use the UPU Electronic Postmark.

I feel we are missing a "white paper" from the USPS that demonstrates their reasoning on this subject. Historically, has the USPS developed market analysis that brought them to this conclusion, that there is strong public need for the UPU technical standards?

Given that Congress said that the USPS should not enter into any new nonpostal services, let's look at the expanding scope of this program. The UPU describes their future plans for their digital postmark services at their web site:

There are so many electronic signature and authentication services on the market, how is the digital postmark different? What is the added value of using a digital postmark?

The digital postmark service is an advanced authentication service, providing secure non-repudiation of transactions. Posts have always been trusted third parties for the secure movement of physical items backed by legislation, regulations and operational capability in every country of the world. This same trust is being transposed to the electronic world. In countries that have it, the digital postmark allows e-mail communication to be as legally recognized as the physical letter. And with the non-

repudiation capability of the S43 standard, there is ongoing security of communication well after the message has been received.¹⁷

This is a relatively complex subject that includes “backed by legislation”, “legally recognized”. There are many evolving standards around the technology that is sometimes referred to as the Electronic Courier market segment or what the UPU calls “Secure Document Exchange”. The UPU standard has not been selected by free market systems for use by either private industry or the public in general.

It was not Congress’s wish to grandfather a set of business functions that the USPS does not offer today. How do you grandfather something you don’t do?

In Docket No. C2004-2¹⁸ Mr. Foti was asked about the UPU and private industry roles.

Q Do you know if the UPU ever makes any statements that the service of digital time stamps must or should be provided by government?

A No, but I'm not sure that's the UPU's role.

I’m not sure either. At this stage, it is unclear what role the UPU Electronic Postmark standards will play within the existing data security and communications markets (the Internet). Generally, government has not been the “leader” in the field of bringing new technical services to market. I would prefer that free market systems take a natural course and the USPS not try to influence them (either as its profit motivated personality or as my government representative). I don’t think the USPS has made a reasonable case that the USPS should become a regulator of future UPU public service needs; that is, regulator of “Secure Document Exchange” for the public and industry.

¹⁷ http://www.upu.int/news_centre/documents/en/paper_the_digital_postmark_questions_and_answers_en.pdf

¹⁸ Docket C2004-2 Official Transcript of the Hearing Held on August 15, 2006; cross-examination of Thomas J. Foti, USPS-RT-1 Page 230 lines 19 to page 232 line 16

Also, in the past year and a half working with the USPS to become a certified EPM provider, the UPU requirements were not a subject of conversation. The USPS EPM team has told me in conversations that their primary motive is a profit motive. Is the UPU an argument made by the USPS owing to a real public concern or just a convenient straw man to allow them to expand into nonpostal service areas? I think the latter interpretation is correct.

If Congress decides at some later time to change the law and allow the USPS to enter new nonpostal services based upon a future public need for technology standards like the UPU Electronic Postmarks and an Electronic Courier, then I think we would be wise to consider this approach for government involvement:

A government agency like the National Institute of Standards and Technology (NIST) is in a better position to collaborate with industry in the work of setting technology standards / policy and testing the compliance of electronic security applications. Let the USPS stick to their core-business of delivering the mail; that is a big job.

The USPS had not engaged the industry in a collaborative effort.

Mr. Foti testimony states “[USPS EPM] helped lay the ground work for the evolving time-date stamping industry”¹⁹.

In Docket 2004-2 this question of “has the USPS been a positive influence in the digital time stamp industry” was discussed in several documents, including prior testimony by Mr. Foti that I would like to bring forward to this proceeding.

Consistently, the USPS failed to provide any evidence that USPS “helped lay the ground work for the evolving time-date stamping industry” as Mr. Foti now states. In fact, Mr. Foti has no knowledge about the participation of the USPS in the development of the time/date stamp industry. This was established in Docket C2004-2.

- On August 4, 2006 when Mr. Foti was asked, “Are you claiming that the participation of the USPS somehow benefited industry by precipitating and contributing to standards that otherwise were not under development? If so, how, when, by whom, and by what means? If not, why do you introduce the development of the IETF standards as if the USPS somehow played a central role?” He answered “I have no information or belief about the extent of the Postal Service's direct involvement in IETF discussions because none of the postal employees who were likely to be involved are still employed by the Postal Service.”²⁰

¹⁹ Statement of Thomas J. Foti on Behalf of the United States Postal Service 6/23/2008 Page 2 line 33

²⁰ Docket C2004-2 Response of United States Postal Service Witness Foti to Interrogatories of DigiStamp (DS/USPS-RT1-4) August 4, 2006

- Additional details on this subject in Docket C2004-2 Official Transcript of the Hearing Held on August 15, 2006; cross-examination of Thomas J. Foti, USPS-RT-1 Page 219 line 23 to Page 230 lines 2 – 8.

DigiStamp did offer into evidence their work to search records of the design meetings and forums to reveal involvement of the USPS in the work to develop the digital standards and certification policies; there were no entries in the record of USPS involvement. DigiStamp's failure to uncover any participation by USPS in the IETF development of time/date stamp standards reinforces my recollection that the Postal Service was absent from these important developments.

See:

- RESPONSES OF DIGISTAMP WITNESS RICK BORGERS TO INTERROGATORIES OF THE UNITED STATES POSTAL SERVICE USPS/DS-T1-IO.

Similarly, when Mr. Foti was asked if the USPS was participating in current / ongoing activities to enhance the time stamp standard at the IETF he said "no"²¹. The USPS was given ample opportunity to give evidence in Docket C2004-2 about their collaboration with private industry, how their involvement "helped lay the ground work" – they did not.

It is my testimony that the USPS was not a significant contributor to the development of the methods that define the digital time stamp. The business and technical solutions of digital time stamps and signatures would exist if the USPS had never ventured in these nonpostal e-commerce services.

Moving forward to the past year and a half to the new USPS EPM program: Are conditions different now? DigiStamp has been an active participant in this new

²¹ Docket C2004-2 Official Transcript of the Hearing Held on August 15, 2006; cross-examination of Thomas J. Foti, USPS-RT-1 Page 224 line 21 to Page 225 lines 16.

program. Below I give a description of the last year and a half. I don't believe this more recent program constitutes collaboration with the industry to develop a role for the USPS.

Events under the new USPS EPM program started October 2006

Mr. Foti says the USPS has "a unique role...as a disinterested third party."²² My experience has been they are doing the job poorly.

In the early 2007 USPS presentation to the time-date industry, the USPS described the new program's next steps (Attachment C): to publish new EPM Certification Performance Requirements on March 1, 2007 and to certify new EPM providers by July 15, 2007. As of today, 18 months later, the USPS EPM Certification Requirements have not been developed and there are no new EPM providers.

Here is how this has unfolded:

On October 20 2006 in USPS final brief of Docket C2004-2, the USPS described "... issuing a Request for Information (RFI) to the public concerning future configuration of the USPS EPM²³ ... ". The RFI was an open solicitation for companies to submit a description of their technical capabilities, product line, and revenue. The information that was requested by the USPS in this RFI was generic information of the submitter's current business capabilities²⁴. I participated considering this RFI an invitation by the USPS to express interest in joining the EPM program.

²² Statement of Thomas J. Foti on Behalf of the United States Postal Service 6/23/2008 Page 3 line 29

²³ Docket C2004-2 Reply Brief of the United States Postal Service October 20, 2006

²⁴ Attached in document "RFI EPM Services October2006.doc"

As described in Mr. Foti's testimony, the USPS invited the companies that had responded to the RFI to a meeting in DC on January 26, 2007 to discuss the new EPM program²⁵. DigiStamp attended. At that meeting, the USPS opened with a presentation that described the new EPM licensing / certification / branding program. This description was essentially equivalent to the descriptions that are now being provided by the USPS in these proceedings.

Then they asked for feedback and comments. There were very few comments, and two people who asked questions that I can recall. "Is the USPS going to invest in developing this program?" The USPS answer was "no, little, we have already spent lots of money on this program." A question was asked about the legal standing of the EPM and whether or not the USPS would defend the reliability of an Electronic Postmark in a court of law? The USPS speaker waited an extended time; another USPS representative stood, and then effectively closed the discussion with two sentences that said something like "I won't say no, but no". This subject would arise again in emails after the meeting (those email are in Attachment A with more details discussed below).

In my opinion, the USPS presented their new EPM licensing program before *asking industry* their opinion. The single meeting for "open discussion" did not facilitate getting input and was awkward.

Following the meeting, the same questions that were asked at the meeting about legal standing and supporting the customer if the authenticity of the EPM was disputed in court was asked of the USPS in a series of emails. (see Attachment A, specifically the email dated Feb 22 2007). The USPS would not answer the question and conversation ceased. I learned 6 month later from the USPS EPM Program manager that the this group of time stamp service providers had quit participating in the USPS EPM program and that the USPS had been

²⁵ Referred to in Mr. Foti's statement page 3, line 6-8; and in Attachment A emails Jan - Feb 2007.

disappointed that none of the larger vendors invited to the January meeting had expressed interest in working on the program.

The USPS did publish a document in February 2006 that captured the vague description that been presented at the January 26 meeting²⁶. My understanding is that only 3 companies, including DigiStamp, had given “Letters of Intent” to move forward with this program and these were all relatively small companies. Except for the first meeting in January, there have been no forums of common work among the participants in the EPM program. The USPS failed to earn the support of the industry.

The new USPS EPM program has not developed a “certification process”.

Mr Foti’s testimony makes misleading statements when he says the new program:

- ❑ aids in creating a trusted environment for industry users and consumers of Electronic Postmarks (page 3, line10)
- ❑ enables certified approved EPM providers (page 3, line12)

Mr. Foti cites public need factors to be:

- ❑ the continued existence of a trusted-third party to whom consumers could hold to a higher criterion for legal support against fraud (page 3, line 21)
- ❑ a certification process that places all licensed providers on a higher but equal technology footing (page 3, line 23)

The new USPS EPM program does not do or provide **any** of these things. Given the Postal Service’s demonstrated inability to make progress in these areas, it is doubtful that it will in the future. Today, there is nothing tangible that exists of

²⁶ USPS describes the new EPM Program in their document: EPM Product Certification Criteria 2008-02-12 Attachement F.

this new program that can substantiate the above claims. DigiStamp provides an email record of the last year of our participation in the program. The set of email is in Attachment B.

In summary, DigiStamp has participated in the “certification process” for a year and a half, during which no visible progress has been made. Therefore, Mr. Foti’s description of a currently existing certification process is false.

The emails contain the following information:

By June 19 2007 the program had stalled and eventually the USPS informs DigiStamp, “...I can't say the criteria project is ‘approved’ nor are we prepared to review your documents as of now.”

On July 30 2007, USPS authorized my competitor Authentidate as the first provider of the “new standards-based, EPM(R) model created by the Postal Service”²⁷. It is my testimony and as demonstrated in the attached emails, the new certification process does not exist at this point in time.

Mr. Foti says:

By August 2007, the former model of a postal-supported service was changed to a licensing model...(page 3, line 8)

In contrast, the USPS attorney had previously described²⁸:

A non-exclusive licensing agreement was entered into by the Postal Service and Authentidate on July 30, 2007, replacing the Strategic Alliance Agreement, which expired on that date. The new business model for EPM involves a branding and licensing agreement, which allows for **continuation of the service without disruption**, but also without direct postal management. [bold added]

²⁷ Authentidate’s press release on June 26, 2007. Concurrently an update was made to USPS EPM web site referring to the implementation of this the “new program”.

²⁸ FURTHER RESPONSE OF THE UNITED STATES POSTAL SERVICE TO ORDER NO. 74, AND NOTICE OF FILING OF SWORN STATEMENTS March 19, 2008

I don't think the testimony of Mr. Foti is accurate if it implies that Authentidate successfully completed a new certification process that could now be applied to other companies. The attorney was more accurate in his statements. The truth is the new EPM program had faltered, they failed to meet their January stated schedule objectives, and now they needed to approve Authentidate simply to maintain the service operations.

Mr. Foti says:

“Currently there is one certified provider. The Postal Service is currently considering applications for new providers.”

When it comes down to it, because there is no certification process in place, their one licensee is nothing more than a subcontractor awarded a sole-source contract. This is hardly good for the public.

By early August 2007, the USPS communicated to DigiStamp their intention to now continue the project and begin defining a certification process. The USPS described engaging a contracted service provider that they have used before to help them develop the Certification Process and Testing Criteria. In another revised schedule from the USPS, the documents for the certification process were to be completed in November or December 2007.

On Feb 15 2008, the first draft of an introductory document is published for the new certification process. The single document is only a few pages long and very non-specific.²⁹

²⁹ Audits are preformed to confirm compliance with a set of policies, thus a certification procedure. USPS needs to set policy and controls so that auditors can confirm that participants are complying; maintaining customer commitments. This is the common technology certification approach of setting policy based on customer commitments and risks and developing a specific set of tests for compliance. As further background on this subject, there is a good description here: http://en.wikipedia.org/wiki/Common_Criteria There is additional information in the prior section of this document on how industry and NIST have developed policies and certification criteria for Certificate Authorities. The current USPS EPM plan requires the participant to comply with testing criteria that does not exist and then meet requirements that have not been specified (see emails dated August 06, 2007, April 29, 2008).

On April 29 2008 the USPS arranged for their contractor that was helping to develop the certification process to speak with me. In that phone conversation the contractor clarifies that there is no defined certification process, none of the necessary testing criteria; the documents simply do not exist; have not been developed. The USPS EPM Program Manger describes that the USPS is very disappointed with the results of this contractor's work. (See two emails dated April 29 2008, Attachment C).

On May 15 2008, DigiStamp offers a plan to share the costs of developing the certification process – that plan was rejected by the USPS because it has no remaining budgeted funds to invest in the EPM program.

On May 29 2008 DigiStamp offers another plan that requires no investment but for the USPS provide their licensing terms before further investment by DigiStamp. USPS responds they cannot get approval for the EPM license. Again there is a series of emails attached that record these interactions with a good summary letter dated Mon July 14 2008.

How these 3 areas affect the testimony: fuzzy service descriptions

The Commission asked the USPS to participate in this review by describing the USPS EPM program. The USPS at first declined, saying that the USPS EPM was a *non, nonpostal service*³⁰.

Some time later, we do get a short statement. The statement of the USPS about the EPM program is not informative and, as I will demonstrate below, was misleading.

³⁰ This is an example of how difficult it is for the USPS to work in a collaborative manner. I appreciate that the PRC Commissioners and Public Representative worked to avoid this detour from the work that Congress directed us to perform in this nonpostal review.

The expert proving the USPS statement about the EPM has been before the PRC in Docket C2004-2; in that case his testimony about the EPM was shown to be not accurate. From my experience, the Commission will need to work very hard to get accurate portrayals from the USPS about the EPM program.

The USPS provides a relatively short, inaccurate description of the EPM program. First we see this description from the USPS attorney's on June 9 and then repeated by Mr. Foti in his statement on June 23³¹:

Electronic Postmark (EPM) is a program whereby customers using an authorized EPM provider obtain Postal Service-authorized timestamps for the purpose of substantiating at a later period in time that the original form of the electronic information presented for time-stamping has not been altered. Electronic Postmarks are produced by companies approved under a certification process, then authorized to use Postal Service licensed technology, intellectual property and patents.

But, now read this with the knowledge that the "certification process" does not exist. We do have an email from the USPS of April 29, 2008 email where they again say they intend to do the work, but have not done it yet. Mr. Foti's use of the plural "companies" is false and misleading – only one company has been certified by the USPS – Authentidate.

No, the postal service never supplies the private signing key.

Mr. Foti testifies,

The Postal Service issues a certificate to each licensee which provides a private signing key used in the generation of Electronic Postmarks on each secure server, which also serves to monitor USPS EPM usage.

Or, the same phrase in the attorney's words³²

³¹ Not exactly the same, but very close

³² INITIAL RESPONSE OF THE UNITED STATES POSTAL SERVICE TO ORDER NO. 74

The Postal Service issues to each licensee a private signing key used in the generation of Electronic Postmarks on each secure server, which also serves to monitor USPS EPM usage.

Some of the time stamp methods currently in use by the industry don't use private signing keys. This demonstrates the lack of USPS understanding of both the industry and the technology³³.

The testimony continues:

The Postal Service, through the use of the EPM, provides an important public service as an impartial third-party witness to the event.

Postal Service approved time-date stamp providers are required to meet certified standards prior to receiving a USPS license for creating a secured environment for the auditable time stamps, digital signatures, and hash codes. These encompass the structured transactions for file exchanging and long-term storage of the electronic files.

Again, in the above paragraph, none of this has yet been defined and cannot be implemented.

The Postal Service receives on a regular basis, and maintains, information from any licensee that could be used to build a backup verification service in the event that a licensee no longer performs that service.

Again, in the above paragraph, none of this has yet been defined and cannot be implemented. The "USPS backup verification service" has not yet been defined or constructed for this new EPM service.³⁴

Mr. Foti's testimony:

³³ Similarly, the USPS made inaccurate statements about the workings of this service on several occasions in Docket C2004-2. It seems very difficult to get the USPS to give accurate information about the EPM service in proceedings before the PRC. Similarly, they aren't very clear with the public related to the "backup verifier" role in the new EPM.

³⁴ The extent of the design is a statement from the USPS on May 16, 2007 " At this time, I would model your system architecture with the idea that you may end up being the primary verification service provider for all EPM's that you generate for your customers". That is not an adequate description to build systems that enable the USPS to perform as "backup verifier" to all timestamps ("backup verifier" is how the USPS describe the program at <http://www.usps.com/electronicpostmark/welcome.htm> . I had been told that the USPS could not continue with the method used in the Authentidate solution, but the "new" method was not yet defined.

Currently there is one certified provider. The Postal Service is currently considering applications for new providers.

Or, the same phrase in the attorney's words³⁵

It is contemplated that other companies may also be interested in participating, although none have to date.

"[O]ne certified provider" is not a true description given that the Certification Process does not exist. More accurate is what the USPS said on April 1, 2008:

A non-exclusive licensing agreement was entered into by the Postal Service and Authentidate on July 30, 2007, replacing the Strategic Alliance Agreement, which expired on that date. The new business model for EPM involves a branding and licensing agreement, which allows for continuation of the service without disruption,

A more accurate description is that the USPS has continued the old program with a new method for collecting fees from the EPM user.

"The Postal Service is currently considering applications for new providers." I think "considering applications" is not an accurate description. There is no issue with DigiStamp applying to be certified, the problem is the Postal Service has not defined this new EPM program. There is no certification process for Digistamp to apply to and no licensing agreements to be reviewed. More important is that the consumer has not been given a clear picture of the role of the USPS as "backup verifier" of this whole EPM system and all digital timestamps created.

Mr. Foti says:

[The new USPS EPM program] that enabled the time-date industry to utilize our intellectual property **and aid in creating a trusted environment for industry users and consumers of Electronic Postmarks** – as time-date stamps. The Postal Service now enables certified approved EPM providers to retain customers as their own **with specific limitations to how the EPM may be applied.** [bold added]

Again, in the above paragraph, the bold sections, none of this has yet been defined and cannot be implemented.

³⁵ INITIAL RESPONSE OF THE UNITED STATES POSTAL SERVICE TO ORDER NO. 74

Declaration

I, Rick Borgers, declare under penalty of perjury that this statement is true and correct to the best of my knowledge, information and belief.

Respectfully submitted,

Rick Borgers
Lead Technologist, CEO
DigiStamp, Inc.
<http://www.digistamp.com>

Attachments

Below is a complete set of emails that are very long and too technical for this Commission statement. But, in my statement above I have referenced to specific emails that would be unclear in not in their larger email context. So, I included all the emails and considered it best that I not select portions.

The series of email are in two groups:

Attachment A: This series of emails followed the initial meeting that the USPS convened to invite industry involvement. DigiStamp was neither the author nor addressee of these emails, only a copied recipient. I have removed names of persons and companies, except in the case of DigiStamp or the USPS. The complete version with those names can be supplied to the Commission in confidence.

Attachment B: In 2007, after DigiStamp provided our “Letter of Intent” to become an EPM certified provider, these emails record DigiStamp’s interactions with the USPS.

Attachment A – group distribution emails following the RFI meeting

The emails are in reverse chronological order, the more recent first.

From: [Time Stamp industry competitor A]

Sent: Tuesday, February 27, 2007 2:19 PM

To: [addresses removed for privacy]

Cc: 'Lord, Dan J - USPS Rosslyn, VA'; 'Foti, Thomas J - USPS Washington, DC'; [other USPS Staff names removed]

Subject: RE: RFI EPM - System Submission Procedures and Performance Criteria

[Hi Phil and those as addressed:](#)

[Thank you for identifying and forwarding the existing collateral documents to the currently deployed EPM program. Unfortunately they do not clarify enough regarding the USPS's proposed new program of licensing EMP vendors and are non-specific in terms of the actual questions \[Time Stamp industry competitor B \] transmitted.](#)

We anxiously await your answers to the previously conveyed questions as we consider the impending deadline regarding the USPS's request for Letter(s) of intent.

Very truly yours,

--[Time Stamp industry competitor A]

"A life without integrity is meaningless...
...a record or dataset without integrity is worthless!"

From: Fabrizio, Philip J - USPS Washington, DC
Sent: Tuesday, February 27, 2007 2:23 PM
To: [addresses removed for privacy]
Cc: Lord, Dan J - USPS Rosslyn, VA; Foti, Thomas J - USPS Washington, DC; [other USPS Staff names removed]
Subject: RE: RFI EPM - System Submission Procedures and Performance Criteria

[Time Stamp industry competitor B] and those as addressed:

In response to your questions below I would like to direct you to the following URL's on the public website www.USPSEPM.com

1) <https://www.uspsepm.com/info/about.adate> Legal Strength

2) http://download.uspsepm.com/doc/Legal_Relevance_Data_Sheet.pdf Legal Relevance Whitepaper. This document lists the pertinent sections of the U. S. Code that helps to support the EPM.

Both these public url locations point to existing support for the legality of the EPM.

Hopefully, this will provide sufficient clarity allowing each organization to determine if, or how best, to submit their Letter of Intent.

A copy of each document is attached.

Phil Fabrizio
Alliance Partnership Manager
Strategy and Transition
[USPS]

-----Original Message-----

From: [Time Stamp industry competitor B]
Sent: Thursday, February 22, 2007 5:11 PM
To: [addresses removed for privacy]
Cc: Lord, Dan J - USPS Rosslyn, VA; Foti, Thomas J - USPS Washington, [other USPS Staff names removed]
Subject: RE: RFI EPM - System Submission Procedures and Performance Criteria

Dan, Phil, et al:

Thank you for the work your team has done in compiling the performance criteria for vendors of the United States Postal Service-branded Electronic Postmark service.

After reviewing the document, "EPM criteria v2.0.doc," we at [Time Stamp industry competitor B] have identified a few points for clarification that we believe are pertinent to all respondents. Generally, given the high assurance level that a United States Postal Service issued Electronic Postmark must deliver, are the same enforcement and investigative powers of a USPS postmark going to apply in the electronic version? How will this be articulated contractually in the "licensing package" to providers of the EPM service?

In addition:

1.) What powers of enforcement will the United States Postal Service bring to bear in the event of a disputed Electronic Postmark?

2.) Will the United States Postal Service serve as an "expert witness" to defend the reliability of an Electronic Postmark in a court of law?

3.) What powers of investigation will the United State Postal Service bring to bear on behalf of an EPM provider in the event of a claim of falsified or manipulated information?

Separately, is a "Letter of Intent," as mentioned in the email below, required by February 28, 2007 given the fact that a final version of the Performance Criteria will need to address points of clarification required above?

I have "replied all" so that all respondents can review these questions that we suspect have crossed their minds as well.

Again, thank you for your efforts and we ask your forbearance as we seek clarification on these issues.

Respectfully,

[Time Stamp industry competitor B]

From: Fabrizio, Philip J - USPS Washington, DC
Sent: Friday, February 09, 2007 11:20 AM
To: [addresses removed for privacy]
Cc: Lord, Dan J - USPS Rosslyn, VA; Foti, Thomas J - USPS Washington, DC; [other USPS Staff names removed]
Subject: RFI EPM - System Submission Procedures and Performance Criteria

On behalf of the United States Postal Service, we would like to thank each of you for your interest in the USPS Electronic Postmark[®] and your

continued efforts to help us define the next generation of EPM[®] services. As promised at the January 26th, 2007, meeting hosted by USPS in Washington, DC, attached is a DRAFT document of the System Submission Procedures and Performance Criteria for the USPS Electronic Postmark[®]. We ask that you review the document and provide feedback to USPS no later than February 28th. We want your input and need your help in identifying sections within the document where additional detail is needed. We are continuing to meet with interested EPM[®] Providers during the month of February. Please contact Brad Reck directly at 202-268-7455 or by email at bradley.a.reck@usps.gov with any questions that you may have.

All interested parties should as directed in section E.1 of the attached document forward to a Letter of Intent to the US Postal Service by February 28th, 2007.

Phil Fabrizio
Alliance Partnership Manager
Strategy and Transition
US Postal Service

From: Fabrizio, Philip J - USPS Washington, DC
Sent: Tuesday, January 09, 2007 2:19 PM
To: Rick Borgers
Cc: Lord, Dan J - USPS Rosslyn, VA; Foti, Thomas J - USPS Washington, DC
Subject: USPS EPM - Meeting Invitation (RFI-EPM-0001)
Dear Rick:

Attached is a copy of our invitation to join us in Washington DC on Friday, January 26 on the subject matter of our most recent Request for Information (RFI-EPM-0001). This letter is being sent out to you today. An email RSVP is requested.

An agenda will be provided to those who are planning on attending and will be sent prior to the meeting date. The meeting begins at 9:30 AM and should conclude around 12:30 PM after which a light lunch will be served.

If you have any questions concerning this invitation please feel free to contact either Dan Lord by email at Dan.j.lord@usps.gov or by phone at 202-268-4281 or me at Philip.j.Fabrizio@usps.gov.

Phil Fabrizio
Alliance and Partnerships
Strategic Planning, USPS

Attachment B – emails between DigiStamp and USPS

The emails are in reverse chronological order, the most recent first.

From: Rick Borgers
Sent: Monday, July 07, 2008 1:04 AM
To: Reck, Bradley A - USPS Washington, DC
Cc: 'Dan Lord'; 'Rick Borgers'
Subject: RE: EPM certification proposal

Brad,

Thank you for your June 30 email. After 4 years and much investment on DigiStamp's part, including intervention at the PRC, I find that time is running out to license DigiStamp prior to my July 30 testimony unless we both act with all haste. The USPS needs to demonstrate an ability to participate in this line of business by executing a license agreement with DigiStamp by July 23th. The delays of the USPS in properly managing the EPM project continue to hurt my company and are an affront to fair trade practices. The delays damage this industry.

To that end, I repeat your description of the stepwise process you sent June 12, 2008:

1. DigiStamp and USPS agree on Level 1 certification process
2. DigiStamp submits to USPS a Marketing Plan and Projected Sales Forecast for the EPM
3. DigiStamp completes Level 1 certification
4. Certification report prepared and delivered to USPS
5. If results (Risk) are acceptable to USPS, a draft term sheet will be outlined for a 12-month licensing agreement.
6. If draft terms are acceptable to DigiStamp, USPS internal communication notices will commence
7. After receiving USPS internal approvals to proceed, a formal licensing agreement will be presented to DigiStamp.
8. Upon mutual agreement of licensing terms, DigiStamp will pay USPS \$XXXX (the amount is TBD and will be decided by someone other than me) each quarter (3 months) during the licensing agreement.

The following are my responses to each of your processes above:

1. What have we agreed on? The USPS failed to develop certification criteria that could be applied to potential EPM providers. Therefore, DigiStamp provided a certification process in a document on May 29. DigiStamp has been in this business for many years providing this "EPM" service. DigiStamp has a certification approach and has used third-party auditors in our existing process. Is it true that now the USPS has reviewed and accepted DigiStamp's certification process to become an EPM provider?

The following items were in my May 29 proposal:

- A. A targeted but limited scope of an external audit. That description included the few,

specific functions of digital time-stamping technical security that are to be reviewed by a third-party. Also, the USPS has reviewed and accepted the method by which DigiStamp has already engaged third-party auditors.

B. The scope and form of DigiStamp's "self certification".

C. DigiStamp's public policy statement that makes a commitment to our customer for the qualities of the EPM service. I'm sure you would agree that this is a very important document from the EPM customer's perspective, located here: [DigiStamp Time-Stamping Authority Policy & Practice Statement](#)

Brad, is it true that the above 3 items from DigiStamp are acceptable to USPS? Can the USPS make a commitment to this statement for the purpose of being a certified EPM provider? It was surprising to me that of the some 50 pages of detailed documents describing the qualities of the EPM service that DigiStamp provided that you had no questions. Fine, I'll accept that as a compliment to the quality of DigiStamp's work, but let us be clear about what we have agreed to.

2. DigiStamp did deliver to you a "Marketing Plan" document on April 3rd for which we never got any feedback. This document included product description, sales methods, and future development plans. Is your issue that you want to know "what will be the sales increase after EPM branding?" I am not quite clear on why a US government agency acting as a regulatory authority would be concerned with this, which is needless to say unconventional, but my answer is that we intend to model DigiStamp's sales forecast to that of Authentidate, your only certified licensee. Therefore, our sales would track their sales so you could expect a similar income stream from DigiStamp. This is my formal reply since I have no understanding of your licensing agreement to better judge how my company would leverage it.

3. I have self-certified using the certification criteria based mainly on IETF RFC3628 industry standard. The associated documents are described in my certification proposal of May 29. If the USPS desires an independent audit, then the USPS must provide those audit resources, contract them out, or proactively establish a certification lab. As I see it, I would be incurring costs to do the USPS's work of establishing an independent review. This is the work that the USPS proposed to perform almost 2 years ago and it has still not been accomplished.

4. See #3

5. I am unclear that if I pass all Level 1 certification criteria, what other possible criteria would be used to move forward with licensing and to remain a licensee after 12 months. I find this step unnecessary and would delete it in lieu of the licensing agreement.

6. I am not sure how I can help here. Is the USPS clear on who has contractual authority and oversight? It is commonplace to have this in place prior to embarking on a program.

7. I request again to see the draft of your licensing agreement prior to spending further money and effort on a program with no clear conclusion. A redacted version of Authentidate's license agreement would be a start. The concern is that your internal

process will have much meandering, new requirements, and the costs and outcomes could become difficult / impossible to manage. In short, this means high risk and wasted resources.

8. I am incredulous that the USPS does not know what it wants and that you cannot state what the approval process is. In the absence of any idea, DigiStamp will pay a 5% fee on any DigiStamp revenue derived from customers redirected from the USPS EPM program, which I would report out and pay quarterly. This rate is common for a referral fee. The value I see with the USPS is its brand and any payments to the USPS should be commensurate for its actions, which at present seem to be a listing of and redirection to DigiStamp on its EPM website page (<http://www.usps.com/electronicpostmark/welcome.htm>).

Brad, after the January 2007 meeting facilitated by the USPS, I have acted with diligence while I find the USPS has not achieved any of its program milestones. In short, I would dare say its program is not apparent to me or anyone interested in joining it. In order for me to endorse your program, DigiStamp would have to achieve a license status by July 23. Without that, I don't feel the USPS has and is acting in good faith.

Finally, for the record, DigiStamp remains an injured party due to USPS failure to act on its own commitment and their continued promotion of my competitor at my expense. Instead, I have spent money to do work and think outside the box for the USPS, which has taken little initiative on its own with respect to its own program. I find the process to have been exhausting, highly bureaucratic, non-competitive, and frankly un-American. The bottom line is that I am losing business due to the USPS's failure to act and desire for DigiStamp to commit to an open ended agreement with no future guarantee of acceptable terms. It is as though USPS wants something for nothing, other than the use of their brand name. I don't understand how this could help the public; concurrently, the public has lost the benefits of having a healthy competitive marketplace.

Although blunt above, I remain committed to becoming a licensee, but now require the USPS to act in mutual haste. I will be available at any time before July 23th to submit to your auditors, complete your certification process, and execute a licensing agreement.

Regards,
Rick Borgers

From: Reck, Bradley A - USPS Washington, DC
Sent: Monday, June 30, 2008 9:31 AM
To: Rick Borgers
Subject: RE: EPM certification proposal

Rick – I have received your email. The conclusions that you have drawn from my earlier email are inconsistent with my intentions. Number 3 and 4 were meant to outline that Digistamp would proceed with the “standards based” review of your service offering using IETF time stamp policy standard “RFC3628” as described in your previous submission. A certified lab hired by Digistamp would review your service against the

stated compliance with said standards. A “findings report” would be generated by the certified lab and sent to USPS. USPS would review the findings report to determine if areas of risk required further mitigation prior to completing a licensing agreement with Digistamp. USPS does not intend on conducting the review itself.

Number 2 below, has been requested by my management prior to Digistamp spending any money on the standards review to ensure that a reasonable Marketing Plan and Projected Sales Forecast for the EPM existed before resources were spent on a certified lab to review your service.

The question about the internal review process at USPS is hard to answer at this time. Until the draft term sheet has been developed, I have no way of knowing who (USPS internal offices) will be required to sign off on the proposed licensing agreement. I am sure that there are some standard groups included in these normal reviews, but I generally do not get involved with this process at my level.

You also stated below that it appeared that I had created the EPM program in a way to exclude the smaller technology companies. This is not the case. On the contrary, I have made a direct effort to provide you with information as early as I could. We both wish that events happened faster, but within a large organization such as USPS, change does not occur quickly.

-----Original Message-----

From: Rick Borgers
Sent: Friday, June 27, 2008 2:13 PM
To: Reck, Bradley A - USPS Washington, DC
Subject: RE: EPM certification proposal
Importance: Low

Brad,

The “next steps” that were in my proposal document are vastly different from what you describe below. My thoughts on those differences can be found in the details section below.

There are two primary differences:

I propose that the USPS must set a Policy and Standard before we can conduct an Audit for compliance. You seem to delay all USPS review and direction until after the audit.

I propose that we discuss licensing terms with the decision makers before the final step – more in-line with common business practices.

I interpret your proposed next steps as taking a step backwards after having made little forward progress .

It seems to me that the first step, whereby the USPS develops a “certification process”, has taken more than a year and is floundering.

It seems to me that you have created an EPM Program that excludes the smaller technology companies.

The USPS professes to have experience in this line of business; years of experience and investment. Yet, you seem to have no internal structure to constructively perform your

role in this line of business.

I am frustrated. In the near term, let us plan to talk by phone to better understand our differences. I would appreciate a minimal response that confirms your receipt of this email.

Regards,
Rick Borgers
DigiStamp, Inc.
1-817-428-8872

Details:

You describe:

Step 4. Auditor's report delivered to USPS

Step 5. USPS decides if risks are acceptable

Audits are performed to confirm compliance with a set of policies. The USPS plan asks auditors to gather the information from which the policies will be derived. This plan gives no direction to the auditors regarding what information to gather or what areas may hold risks. The auditors would have to explore the company using their own judgment to determine what parts of the product may introduce risks. USPS needs to be the body that establishes the risks and measures to control them so that the auditor can confirm market participants are satisfactorily complying.

The USPS has tried for the past year to develop a certification process and what you have called "the set of tests" from which policy compliance can be confirmed. You have stated your dissatisfaction that this year's efforts did not get results. We recently talked about this status and you proposed using your internal resources to perform this work with DigiStamp's help.

DigiStamp provided you with a detail proposal and steps to set the audit scope. This proposal includes a detailed "Time Stamp Authority Policy" which would be the basis for your review. Now, you are returning to a more nebulous approach: expecting the USPS to figure out the risks, consumer demands, and auditing requirements after the audit. This method is much like asking for answers before writing the questions.

I encourage that we focus on the IETF time stamp policy standard "RFC3628" (this is the companion to the Time Stamp standard RFC3161 that Authentidate implemented for the EPM). This is a standard that describes and gives structure to the work you must do to be a regulator of a time stamp authority. You started last year to develop a certification process that was sufficiently defined to be executed by any NIST certified labs. This has not been done. You need to be able to tell the auditor, the NIST certified lab, "what to audit" in order to be an EPM provider. NIST will not accept an audit that lacks requirements because such a report is not, in fact, an audit.

The second area is that of the business arrangements.

You describe:

Steps 6 & 7. USPS internal communication notices will commence, USPS internal approvals to proceed...

My logical questions are: Is there a defined “internal approvals process” for the EPM program at the USPS? Who are the approvers and which departments must approve? Are there specific requirements from each of these departments for the participant to comply to? Does the participant communicate with these approval bodies directly? Does the participant get a chance to see the requirements before the external audit is performed? What will be the participant’s expenses for this process and how long will it take?

The USPS internal approvals could potentially be components of the audit. The audit should exist to ensure that the market participant meets all of the USPS’ requirements, so why does the USPS need to internally approve a participant that has passed the audit? The USPS plan requires the participant to comply with standards that do not exist and then meet requirements that have not been specified.

The internal approval process appears to be a mechanism for excluding small technology providers who will be unable to bear the expenses of a lengthy and nebulous approval process. Only a provider with vast capital will be able to sit idly by while criteria are determined and they are forced to comply with them. A small business must have some idea of the investment required for approval instead of being forced to write a blank check to the USPS.

-----Original Message-----

From: Rick Borgers
Sent: Tuesday, June 17, 2008 7:23 PM
To: Reck, Bradley A - USPS Washington, DC
Subject: RE: EPM certification proposal
Importance: Low

Hello Brad, wanted to confirm that I had received this email. I will have a response in the next week. If you need information sooner then let me know and we can talk.

thanks, Rick

From: Reck, Bradley A - USPS Washington, DC
Sent: Thursday, June 12, 2008 8:14 AM
To: Rick Borgers
Cc: Lord, Dan J - USPS Rosslyn, VA
Subject: RE: EPM certification proposal
Importance: High

Rick – I have received your EPM certification proposal dated May 29, 2008. I have reviewed the document and I have some important clarifications regarding the “Next Steps” section of the proposal. It is important to understand the order in which these critical steps must be completed.

Digistamp and USPS agree on Level 1 certification process

Digistamp submits to USPS a Marketing Plan and Projected Sales Forecast for the EPM

Digistamp completes Level 1 certification

Certification report prepared and delivered to USPS

If results (Risk) are acceptable to USPS, a draft term sheet will be outlined for a 12-month licensing agreement.

If draft terms are acceptable to Digistamp, USPS internal communication notices will commence

After receiving USPS internal approvals to proceed, a formal licensing agreement will be presented to Digistamp.

Upon mutual agreement of licensing terms, Digistamp will pay USPS \$XXXX (the amount is TBD and will be decided by someone other than me) each quarter (3 months) during the licensing agreement.

All costs associated with the preparation of receiving Level 1 certification will be paid by Digistamp. These costs will not be reimbursed by USPS.

Please send me any questions that you have regarding clarification of the above information. I look forward to working with you towards completing the certification process.

Brad Reck

EPM Program Manager

United States Postal Service

-----Original Message-----

From: Rick Borgers

Sent: Wednesday, June 11, 2008 8:34 AM

To: Lord, Dan J - USPS Rosslyn, VA

Cc: Reck, Bradley A - USPS Washington, DC

Subject: FW: EPM certification proposal

Importance: Low

Hello Dan,

I have not gotten a response from Brad. Maybe he is on vacation or out of the office? Can you give me an update on our proposal?

Thanks, Rick

From: Rick Borgers

Sent: Thursday, June 05, 2008 8:50 AM

To: 'Reck, Bradley A - USPS Washington, DC'

Subject: RE: EPM certification proposal

Good morning Brad,

Wanted to confirm that you had received the email below. Are there any updates on this subject? Feel free to call if you would like to discuss.

Rick

From: Rick Borgers
Sent: Thursday, May 29, 2008 9:28 AM
To: 'Reck, Bradley A - USPS Washington, DC'
Subject: EPM certification proposal

Hello Brad,

The attached document is a plan for EPM certification. That plan will need your careful review. How should we change this proposal so that an EPM licensing agreement could be executed? Dan will need a copy of this also.

Summary:

A teleconference was held on May 15, 2008 with DigiStamp and the USPS to discuss alternative methods for implementing the USPS EPM Certification Process . During those discussions, all parties tentatively accepted a single alternative as a method for moving forward. This document describes that method. In brief, the USPS will verify that DigiStamp's operations meet quality standards. The verification includes a review by a qualified, external auditor.

PLEASE, let me hear from you in the next few business days with feedback and agreements on next steps.

Thanks,

Rick Borgers
DigiStamp, Inc.
www.DigiStamp.com
1-817-428-8872

This e-mail may contain confidential information. If you are not the addressee you are not authorized to make use of the information contained in this e-mail. Please inform us immediately that you have received it by mistake.

emails December - April 2008

From: Reck, Bradley A - USPS Washington, DC
Sent: Tuesday, April 29, 2008 1:56 PM
To: Rick Borgers
Subject: RE: program update

Rick – I had a good talk with my manager Dan Lord today on the subject of the continued delays both USPS and Digistamp have faced waiting for documents from [vendor name removed] to move forward with the EPM certification process. Dan suggested that it may be more fruitful to have Digistamp explain to USPS what certifications, reviews, evaluations, etc. you either have completed or are in a position to initiate with your “lab of choice”. USPS is willing to evaluate other approaches. It is in our mutual interest to help you move forward with the certification process. I look forward to hearing back from you. We can discuss preliminary ideas over the phone, but please submit your official response in writing so that I can forward it to Dan for review. I am sure that Dan would agree to a telecon to discuss further.

Respectfully,

Brad Reck

Brad Reck
EPM Program Manager
United States Postal Service

-----Original Message-----

From: Rick Borgers
Sent: Tuesday, April 29, 2008 10:51 AM
To: Reck, Bradley A - USPS Washington, DC
Subject: RE: program update
Importance: Low

Hello Brad,

I had hoped to hear back from you on this subject. Please let me know any updates / feedback / questions as they come available.

I did speak with [vendor name removed] as you had offered. A few items from that conversation that I wanted to your thoughts:

1. He was not able to share any additional documents with DigiStamp until the USPS gives a go-ahead.
2. The EPM program documents that would define the scope and methods of the certification are only preliminary. You had advised me of "subject to change based on learnings from the initial efforts". It sounded to me less of "subject to change" and more "does not yet exist". He awaits the "first vendor" to undergo the certification process before doing that work. He expects that "first vendor" to pay the costs of defining that process.
3. The option of using another NIST lab to conduct this certification process is not practical until that process is better defined.

Please get back to me and let me know the status.

Rick Borgers

From: Reck, Bradley A - USPS Washington, DC
Sent: Thursday, April 03, 2008 10:37 AM
To: Rick Borgers
Subject: RE: program update

I will move forward with this ASAP, but I wanted to highlight a few areas that I took notice of that you may wish to correct/amend before I do so.

#1 – “The retention length for EPM receipts and involvement of USPIS will influence cost in the negotiated business model.”

USPIS stands for the US Postal Inspection Service and it appears that you may have originally thought that I had mistyped USPS. An example of an extreme difference could be a) EPM's protecting email messages requiring receipt verification for the first 48 hours from time of sending with no USPIS involvement, to b) EPM's protecting financial transactions requiring 7-year receipt verification with USPIS investigative services required.

#2 – The second item being that you asked if another NIST certified lab could perform the certification process. Yes – this has always been our desired model. You are not required to use [vendor name removed].

Please get back to me and let me know if you wish to take a brief period of time to amend your submission of earlier today (around 11am).

Thanks Rick.

Brad Reck, USPS

EPM Program Manager

-----Original Message-----

From: Rick Borgers
Sent: Thursday, April 03, 2008 10:57 AM
To: Reck, Bradley A - USPS Washington, DC
Subject: RE: program update
Importance: Low

Dear Brad, please share with Mr. Lord,

We are pleased to provide you with the enclosed ConOps materials: an overview, a company business model, and a TSA (Time Stamp Authority) Policy. These documents need to be held confidential as they contain proprietary information about DigiStamp. I used the same confidentiality notes as were prescribed for the RFI process.

As a result of this submission, DigiStamp requests to have a USPS licensing agreement that will establish the company as an EPM Service Provider. We have prepared for external audits and therefore, need the information about the business arrangement by April 15. **Our objective is to execute a licensing agreement before the end of April.**

We will appreciate your timely response. Please let us know if we can answer any questions about the enclosed materials.

Rick Borgers CTO, DigiStamp Inc.

e-TimeStamp | Web based *electronic notary* www.DigiStamp.com

[privacy note removed]

From: Reck, Bradley A - USPS Washington, DC
Sent: Monday, March 24, 2008 8:39 AM
To: Rick Borgers
Subject: RE: program update

Rick – I have been traveling and taking some personal leave the last two weeks. Sorry for the delay in getting back to you.

I have checked with my manager, Dan Lord, and he has given me the green light to have you initiate contact with [vendor name removed] and start discussions. My contact is [vendor name removed] at [vendor name removed] and I will let him know that you may be calling him. Richard's direct phone number is 805-783-0810 and his email is [vendor name removed for privacy]

Since you are on the leading edge of this new process, I expect that we will both find that some pieces of the certification process are ready and others are subject to change based on learnings from the initial efforts.

The business arrangements will be negotiated with USPS based on DigiStamp's proposed business model. Dan Lord would like to see a ConOps from you that highlight's your target business segment for USPS branded EPM's and to understand what you are expecting from USPS to help you be successful in marketing EPM's. The retention length for EPM receipts and involvement of USPIS will influence cost in the negotiated business model.

Keep in touch.

Brad Reck, USPS

EPM Program Manager

-----Original Message-----

From: Rick Borgers
Sent: Thursday, March 13, 2008 10:29 AM

To: Reck, Bradley A - USPS Washington, DC
Subject: RE: program update
Importance: Low

Hello again Brad,

Is there any additional information available?

The "prescribed approach", are there any details that might help us prepare?

Schedule?

The business arrangements, at least an outline?

Give a call if that is more convenient.

Regards,

Rick

817-428-8872

From: Reck, Bradley A - USPS Washington, DC
Sent: Thursday, February 21, 2008 6:42 AM
To: Rick Borgers
Subject: RE: program update

All good questions Rick. There are a few quick answers that I can give you now and the others will take a little more time, but I will get started on pulling together the requested information over the next week. [vendor name removed] has shared with USPS that the prescribed approach would allow a vendor to have a level-1 certification review completed in the 25-30K cost range. You also mentioned the July 31, 2002, agreement with Authentidate. The \$250,000 was actually a purchase of EPM's for internal USPS use. Under the current licensing model, there is no guarantee of such a purchase. USPS continues to explore additional internal business uses for the EPM.

I will check with [vendor name removed] regarding schedule to see how fast they can be ready to both hold a discussion with Digistamp as well as prepare to evaluate your current system. The external audits that you mention may in fact "fast track" your evaluation for level-1 review.

Let me get working on the additional information and as always thanks for your continued patience and interest in the USPS EPM efforts.

Brad Reck, USPS

EPM Program Manager

-----Original Message-----

From: Rick Borgers
Sent: Wednesday, February 20, 2008 3:23 PM
To: Reck, Bradley A - USPS Washington, DC
Subject: RE: program update
Importance: Low

Hello Brad,

Thanks for sending the draft document. From my perspective, I found the content consistent with the prior version *EPM Project Submission Criteria* of February 7, 2007.

I have three questions concerning cost and arranging an external audit, the specific business arrangement with USPS, and when we can expect to offer the EPM service.

In your cover note you say "structure the certification process such that vendors can get started using a USPS branded service model without expending a large amount of money during the certification." I perceive that this has been a consistent objective of yours over the past year. I

need to know more about what you have learned.

As a first priority, I would like to ask your assistance at better understanding the costs of the external audit. Is it possible that you can arrange for your vendor [vendor name removed for privacy] to provide a cost / gap analysis of DigiStamp's system? We have discovered some important, real world details that you may not be aware of and efforts to review your audit process at more depth will help the USPS EPM project. For example, DigiStamp has been designed at a "level 3" methodology for significant components, while others will begin a "level 1." We have already performed some external audits. Understanding the costs and work required for becoming a second vendor, beyond Authentidate, to offer the EPM to the public is valuable to your program and to DigiStamp.

As a second priority, there is the subject of the business arrangements with the USPS, apart from the external audit. In prior emails, we have referred to this as the "business model". Given the objective of managing costs to get started, then it would be helpful to see a summary or term sheet on this cost area. My memory is that you said only (paraphrased): fees paid to USPS are not volume based. I am also interested in the commitments of the USPS to manage and protect the brand name.

At the beginning of the Authentidate agreement entered into on July 31, 2002, the USPS supported the EPM System by paying \$250,000 to Authentidate. Is similar support going to be offered to DigiStamp?

Third, what is your schedule? When are you ready for a "Project Kickoff"? Are there additional documents with more detail that you have developed that are specific to applying FIPS 140 to digital time stamping? It seems like there is a significant amount of work beyond the document you provided to actually begin this process. Do you have additional, more detailed documents in the works? In Section 1.3 of this more recent document, it states "both USPS and FIPS requirements"; is there a cross-reference to USPS AS-805 Internal Standards or have those USPS requirements been subsumed / waived?

Regards,

Rick Borgers
DigiStamp, Inc.
www.DigiStamp.com
1-817-428-8872

[privacy notice removed]

From: Reck, Bradley A - USPS Washington, DC

Sent: Friday, February 15, 2008 9:08 AM

To: Rick Borgers

Subject: RE: program update

This is still a draft document, but I wanted to get something back to you to start looking at. Your comments are welcomed as always. My intent is to structure the certification process such that vendors can get started using a USPS branded service model without expending a large amount of money during the certification. This allows the EPM service provider to begin to generate revenue and decide when and if it is appropriate to "raise the bar" and seek level-2 or level-3 certification at a later time.

Brad Reck

EPM Program Manager

-----Original Message-----

From: Rick Borgers

Sent: Friday, February 15, 2008 7:59 AM

To: Reck, Bradley A - USPS Washington, DC

Subject: RE: program update

Importance: Low

Hello Brad, it has been a few months since our last communication. Can you give me an update? I had hoped to receive more information in the December/January timeframe

Thanks, Rick

From: Reck, Bradley A - USPS Washington, DC
Sent: Thursday, December 06, 2007 8:35 AM
To: Rick Borgers
Subject: RE: program update

Rick – I was in New York on Tuesday and Wednesday on a business trip.

When we last spoke by phone, I told you about the certification process that USPS was establishing for future EPM providers. That certification process is being developed jointly with a NIST certified lab at [vendor name removed]. USPS has a 3 day meeting at [vendor name removed] to review the draft documents next week. We are still on track to share these documents in the December/January timeframe. I will not know the exact date until after our meeting with [vendor name removed] and I determine the number of change requests that result from this meeting. Unfortunately, nothing happens fast at USPS when it comes to change and I ask for your continued patience. I stand committed to working with you to assist DigiStamp through the certification process. You will be given the first opportunity to receive the requested information as soon as it is available.

Brad Reck

EPM Program Manager

-----Original Message-----

From: Rick Borgers
Sent: Tuesday, December 04, 2007 9:53 AM
To: Reck, Bradley A - USPS Washington, DC
Subject: program update
Importance: Low

Hello Brad,

Is there any information available about the progress of the EPM program?

It was on October 19 when we last spoke by phone. Have there been any new documents that describe the business model, intent, schedule or any information that you can share? What is the schedule moving forward?

It is my understanding that since distributing the document file "EPM criteria v2 0.doc" in February 2007 that the Postal Service has not provided additional information to interested EPM® Providers about this program. Is that correct, or did I miss some information from the Postal Service on this subject?

Thanks,

Rick Borgers
DigiStamp, Inc.
www.DigiStamp.com
1-817-428-8872

[privacy notice removed]

emails March - August 2007

From: Lord, Dan J - USPS Rosslyn, VA
Sent: Monday, August 06, 2007 9:11 AM

To: Rick Borgers
Cc: Foti, Thomas J - USPS Washington, DC; Reck, Bradley A - USPS Washington, DC
Subject: RE: EPM Criteria Documentation

Rick,

The license agreement with Authentidate is not an exclusive agreement.

We are in the process of defining the requirements for additional providers to enter into similar agreements with the USPS for EPM services. I expect we may be able to start accepting new providers in the Nov-Dec 2007 timeframe. Our current strategy is to build a certification process and we have begun that process, but we do not believe this will be completely documented until the Nov-Dec timeframe.

Dan

-----Original Message-----

From: Rick Borgers
Sent: Friday, August 03, 2007 4:03 PM
To: Lord, Dan J - USPS Rosslyn, VA
Cc: Foti, Thomas J - USPS Washington, DC; Reck, Bradley A - USPS Washington, DC
Subject: RE: EPM Criteria Documentation

Dan, I received a joint mailing from you and Authentidate dated July 27, encouraging all current USPS EPM customers to transfer their business to my competitor. This reminds me that in a letter I received from Doris Godinez-Phillips, USPS Managing Counsel, dated February 19 2004, she describes the EPM program as being non-exclusive. I tried at that time, but factually it has been exclusive. Given the recent press announcements of my competitor, has DigiStamp been excluded from this program? I'd appreciate hearing from you. Rick Borgers

From: Lord, Dan J - USPS Rosslyn, VA
Sent: Tuesday, June 19, 2007 11:08 AM
To: Rick Borgers
Subject: RE: EPM Criteria Documentation

Rick,

We still have not finalized what our EPM plans will be. As you know, there is some concern on our part with respect to the PRC and what they may decide, so I can't say the proposal we presented in January will be the go forward model.

So I can't say the criteria project is "approved" nor are we prepared to review your documents as of now.

Dan Lord

-----Original Message-----

From: Rick Borgers
Sent: Monday, June 18, 2007 2:42 PM
To: Fabrizio, Philip J - USPS Washington, DC
Cc: Reck, Bradley A - USPS Washington, DC; Lord, Dan J - USPS Rosslyn, VA
Subject: FW: EPM Criteria Documentation

Hello Phil

I am writing to request your assistance in answering questions about the EPM project.

You had previously designated Brad Reck as DigiStamp's contact. Brad has been unable to answer questions and now I turn to you for assistance.

Using the thread of emails attached below, please refer to a summary description I gave dated "May 10, 2007".

My concern is that DigiStamp's investment to-date is significant and growing. I assume you understand that we are a small business that has worked many years to build a time stamp service.

I would like to add two additional questions to those below:

1. Is this USPS EPM Criteria project "approved" within the USPS?
2. Is the USPS prepared to move forward with the staff and procedures to review the DigiStamp documents that you requested in the EPM Criteria Document (related to USPS Handbook AS-805-A)

DigiStamp started this project with a target for completing certification by July (the USPS gave that as a target in their January meeting). In our written response we designated June as when we targeted to submit to for review. We've been working hard and investing. Now I'm worried that the USPS is sending DigiStamp on a virtual snipe hunt – expensive and damaging to DigiStamp.

Phil, the USPS team needs to communicate and be forthright.

Let me know,

Rick Borgers

DigiStamp, Inc

817-428-8872

[Emails from Brad, the most recent is first:](#)

From: Reck, Bradley A - USPS Washington, DC

Sent: Wednesday, May 16, 2007 10:17 AM

To: Rick Borgers

Subject: RE: EPM Criteria Documentation

No, I had not sent an email on Monday. We have been reviewing a standard licensing agreement with our licensing team and legal staff that will be the basic model for use of the USPS brand, patents, and trademarked terms going forward. We still do not have a final position on the long term retention of EPM receipts. At this time, I would model your system architecture with the idea that you may end up being the primary verification service provider for all EPM's that you generate for your customers. It will be your decision as to what type of business model you wish to offer to differentiate yourself from other providers. An example of this may be that you wish to offer higher value EPM's (.05-.80) that include a 5-year (example – your timeframe could be very different) retention of transaction receipts. Or you may decide to offer a low cost EPM (.005-.02 cents each) without verification services for the trusted email community. The unknown position that the PRC will take on the Electronic Postmark service has caused an undesired delay in management decisions.

I am pushing hard on my end and I wish that I had better information for you. I will continue to seek answers to your important questions below and I will share with you at my earliest convenience any new information that will help bring closure to these issues. I will make a strong attempt to provide status updates to you at least once a week.

Thanks for your patience.

-----Original Message-----

From: Rick Borgers
Sent: Wednesday, May 16, 2007 12:01 AM
To: Reck, Bradley A - USPS Washington, DC
Subject: RE: EPM Criteria Documentation
Importance: Low

Brad, here it is Tuesday evening. You had said "no later than Monday". Did you send an email that I did not receive?

From: Reck, Bradley A - USPS Washington, DC
Sent: Friday, May 11, 2007 6:42 AM
To: Rick Borgers
Subject: RE: EPM Criteria Documentation

Rick – I wanted to confirm that I had received your message. There have been a series of meetings this week between USPS management regarding the items outlined in your questions below. The last of these meetings takes place today at 11am. I expect to be able to give you updated information no later than Monday. My position that I have lobbied is to minimize the *bureaucratic* oversight and just give the EPM Providers the chance to engage into new business opportunities and open up new markets for the Electronic Postmark[®].

-----Original Message-----

From: Rick Borgers
Sent: Thursday, May 10, 2007 8:55 AM
To: Reck, Bradley A - USPS Washington, DC
Subject: RE: EPM Criteria Documentation
Importance: Low

Hello Brad,

Do you have time for a phone conversation with me this afternoon or tomorrow morning? Or, please suggest another time more convenient to you.

We are working to meet your requirements to provide the USPS EPM. We need your input to move forward. I would like to review several information items that have been requested by DigiStamp but not yet received. Attached below are those four information requests. Let's discuss these items. Are they valid requests and can you provide the information?

I would also like to discuss the general schedule expectations. Possibly I misunderstood your schedule needs and my options as a submitter. For example, at our January meeting, I thought that the USPS offered July as a target completion date. Within DigiStamp's letter of intent we had proposed to begin the review of documents in a 3-month time, and DigiStamp had been working with that target.

Thanks for helping me to better understand how to participate in the EPM project.

Rick Borgers

DigiStamp, Inc.

1-817-428-8872

DigiStamp's information requests:

1. Handbook AS-805-A “templates”. Brad, I have asked for this information 3 times and you had offered to send. I assumed that these documents would help the process because the review would be in the form that the USPS practices.
2. The interface and testing instructions for accessing the USPS repository of digital time stamps. Completing this technical development will take design and implementation time. The work cannot begin without your input.
3. The financial / licensing arrangements were referred to in the RFI and requested in our letter of intent. We are happy to make an investment in providing this service with the USPS EPM brand – but we need you to describe the financial terms and costs to the consumer.
4. The USPS requested feedback from DigiStamp about potential changes to “System Submission Procedures and Performance Criteria for the USPS Electronic Postmark”. The subject of the change was significant. DigiStamp replied with our feedback. When will you have your decision?

From: Reck, Bradley A - USPS Washington, DC
Sent: Friday, April 06, 2007 10:00 AM
To: Rick Borgers
Subject: RE: EPM Criteria Documentation

Sorry for the confusion. I am sending a communications update to the RFI respondents today that will address the certification procedures and thought process contained in the “draft” Submission Procedures and Performance Criteria document that you are referencing in your request below. Please respond to the memo with your ideas on improving the existing draft document. In the meantime, I will gather the templates requested and get these to you. Thanks.

-----Original Message-----

From: Rick Borgers
Sent: Friday, April 06, 2007 10:44 AM
To: Reck, Bradley A - USPS Washington, DC
Subject: RE: EPM Criteria Documentation
Importance: Low

Hello Brad, thanks for sending the documents. But, a problem: the documents that you sent to me were not what we need. You sent the copies of the 3 USPS ISA documents that had been already supplied (as805,a,b).

Here is a description from a previous email that describes what is needed:

In the USPS ISA documents there are references to additional materials [templates]. Please let me know how I can access these 'templates'.

Example of excerpt from as805a:

Application Risk Assessment and Abbreviated Application Risk Assessment templates and instructions for completing them are available on the IT Web site at <http://cto.usps.gov>; click on Support, then Corporate Information Security, then Information Security Assurance, and then ISA Templates.

Exhibit 4a has a list of these templates.

Let me know.

Thanks, Rick

From: Reck, Bradley A - USPS Washington, DC
Sent: Tuesday, March 27, 2007 8:47 AM
To: Rick Borgers
Subject: RE: EPM Criteria Documentation

The documents are large, so I will send them in separate emails. I will work with my local IT Security resource to identify the exact sections that will apply to your intended licensing relationship as an EPM provider. USPS is working on the details of the interface specification and the business terms of the licensing arrangements. I will get you the information as fast as I can. Thanks for the reminder on sending you the documents. We are scheduled to meet with NIST Labs next week. We are seeking their input on how to identify qualified vendors to conduct the compliance reviews for the EPM providers.

Attachment 1 of 3

-----Original Message-----

From: Rick Borgers
Sent: Tuesday, March 27, 2007 9:16 AM
To: Reck, Bradley A - USPS Washington, DC
Subject: RE: EPM Criteria Documentation
Importance: Low

Hello Brad, have you sent the templates - I did not receive?

Also, we will need the interface for the repository.

I haven't gotten any additional updates about the program. Have there been update and I've missed them? Are there any updates about the business side of the plan?

Let me know,

Rick

From: Rick Borgers
Sent: Tuesday, March 13, 2007 11:30 AM
To: 'Reck, Bradley A - USPS Washington, DC'
Subject: RE: EPM Criteria Documentation

OK Brad. No hurry, at your convenience in the next week or two. I appreciate your thoughts about the context, that they are related to level-2 work. I also appreciate any new information that you think might be helpful.

Thanks, Rick.

From: Reck, Bradley A - USPS Washington, DC
Sent: Tuesday, March 13, 2007 10:48 AM
To: Fabrizio, Philip J - USPS Washington, DC; Rick Borgers
Cc: Lord, Dan J - USPS Rosslyn, VA
Subject: RE: EPM Criteria Documentation

Rick – I will collect the requested documents and get them to you. I believe that the additional requirements that you are referencing will only be required for Level-2 certification. Please get back to me with any additional questions that you may have.

-----Original Message-----

From: Fabrizio, Philip J - USPS Washington, DC
Sent: Tuesday, March 13, 2007 11:41 AM
To: 'Rick Borgers'; Reck, Bradley A - USPS Washington, DC
Cc: Lord, Dan J - USPS Rosslyn, VA
Subject: FW: EPM Criteria Documentation

Rick:

I am forwarding your note to Brad Reck, he has these additional materials and should be able to forward them to you.

Thanks

Phil

-----Original Message-----

From: Rick Borgers
Sent: Tuesday, March 13, 2007 10:33 AM
To: Fabrizio, Philip J - USPS Washington, DC
Subject: RE: EPM Criteria Documentation

Hello Phil,

In the USPS ISA documents there are references to additional materials. Please let me know how I can access these 'templates'.

Example of excerpt from as805a:

Application Risk Assessment and Abbreviated Application Risk Assessment templates and instructions for completing them are available on the IT Web site at <http://cto.usps.gov>; click on Support, then Corporate Information Security, then Information Security Assurance, and then ISA Templates.

Exhibit 4a has a list of these templates.

Generally, any additional information that you can provide about the USPS ISA requirements is helpful.

Thanks, Rick

Attachment C – new EPM project schedule

This is the last slide from the presentation given by the USPS speaker at their industry meeting on Friday, January 26 2007 in Washington DC.

Next Steps

- Objective: Identify USPS EPM base providers to provide service offering by July 31, 2007.
 - Define draft performance criteria for USPS EPM providers – Feb 8
 - Complete RFI Analysis - Consider additional information – Feb15
 - Conduct discussions with interested providers
 - Finalize performance criteria – March 1
 - Identify capable providers – Feb/March
 - Formalize relationship(s) – March/April
- Authorize EPM base providers – prior to July 15