

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Dan G. Blair, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton;
Ruth Y. Goldway; and
Tony L. Hammond

Competitive Product Prices
Global Expedited Package Services 1
(CP2008-4)
Negotiated Service Agreement

Docket No. CP2009-50

NOTICE AND ORDER CONCERNING FILING OF ADDITIONAL
GLOBAL EXPEDITED PACKAGE SERVICES 1
NEGOTIATED SERVICE AGREEMENT

(Issued July 17, 2009)

I. INTRODUCTION

On July 16, 2009, the Postal Service filed a notice announcing that it has entered into an additional Global Expedited Package Services 1 (GEPS 1) contract.¹ GEPS 1 provides volume-based incentives for mailers that send large volumes of Express Mail International (EMI) and/or Priority Mail International (PMI). The Postal Service believes the instant contract is functionally equivalent to previously submitted GEPS 1 contracts, and is supported by the Governors' Decision filed in Docket No. CP2008-4.² Notice at 1. It further notes that in Order No. 86, which established GEPS 1 as a product, the

¹ Notice of United States Postal Service Filing of Functionally Equivalent Global Expedited Package Services 1 Negotiated Service Agreement, July 16, 2009 (Notice).

² See Docket No. CP2008-4, Notice of United States Postal Service of Governors' Decision Establishing Prices and Classifications for Global Expedited Package Services Contents, May 20, 2008. The docket referenced in the caption should be the docket in which the Governors' Decision is filed. In this instance, that was Docket No. CP2008-4. The contract being suspended was filed in Docket No. CP2008-5.

Commission held that additional contracts may be included as part of the GEPS 1 product if they meet the requirements of 39 U.S.C. 3633, and if they are functionally equivalent to the initial GEPS 1 contract filed in Docket No. CP2008-5.³ Notice at 1.

The instant contract. The Postal Service filed the instant contract pursuant to 39 CFR 3015.5. In addition, the Postal Service contends that the contract is in accordance with Order No. 86. The Postal Service states that the instant contract replaces the contract for the customer in Docket No. CP2008-5 which will end on August 1, 2009. *Id. at 2.* It submitted the contract and supporting material under seal, and attached a redacted copy of the contract and certified statement required by 39 CFR 3015.5(c)(2) to the Notice as Attachments 1 and 2, respectively. *Id. at 1-2.* The term of the instant contract is one year from the date the Postal Service notifies the customer that all necessary regulatory approvals have been received.

The Notice advances reasons why the instant GEPS 1 contract fits within the Mail Classification Schedule language for GEPS 1. The Postal Service contends that the instant contract is functionally equivalent to the GEPS 1 contracts filed previously. It states that in Governors' Decision No. 08-7, a pricing formula and classification system were established to ensure that each contract meets the statutory and regulatory requirements of 39 U.S.C. 3633. The Postal Service contends that the instant contract demonstrates its functional equivalence with the previous GEPS 1 contracts because of several factors: the customers are small or medium-sized businesses that mail directly to foreign destinations using EMI and/or PMI, the contract term of one year applies to all GEPS 1 contracts, the contracts have similar cost and market characteristics, and each requires payment through permit imprint. *Id. at 4.* It asserts that even though prices may be different based on volume or postage commitments made by the customers, or updated costing information, these differences do not affect the contracts' functional equivalency because the GEPS 1 contracts share similar cost attributes and methodology. *Id. at 4-5.*

³ See Docket No. CP2008-5, Order Concerning Global Expedited Package Services Contracts, June 27, 2008, at 7 (Order No. 86).

The Postal Service also states the instant contract has minor differences in terms compared to other GEPS 1 contracts based on the individual mailers. These distinctions include provisions clarifying the correlation between regulatory oversight and contract expiration⁴ and the availability of other Postal Service products and services; exclusion of certain flat rate products from the mail qualifying for discounts; a simpler mailing notice requirement along with provisions to meet scheduling needs; mail tender location changes; specific liquidated damages terms; provisions clarifying the mailer's volume and revenue commitment calculation in the event of early termination; and provisions clarifying aspects subject to regulatory oversight or revisions to update terms or references from a prior contract. *Id.* at 5-6.

The Postal Service states that these differences related to a particular mailer are "incidental differences" and do not change the conclusion that these agreements are functionally equivalent in all substantive aspects. *Id.* at 7.

The Postal Service requests that this contract be included within the GEPS 1 product and be considered the baseline contract for determining functional equivalence for additional GEPS 1 contracts. *Id.*

II. NOTICE OF FILING

The Commission establishes Docket No. CP2009-50 for consideration of matters related to the contract identified in the Postal Service's Notice.

Interested persons may submit comments on whether the Postal Service's contract is consistent with the policies of 39 U.S.C. 3632, 3622 or 3642. Comments are due no later than July 27, 2009. The public portions of these filings can be accessed via the Commission's website (www.prc.gov).

The Commission appoints Paul L. Harrington to serve as Public Representative in the captioned filings.

⁴ The Postal Service states that some of the contracts generally provide that if all applicable reviews have not been completed at the time an older contract expires, the mailer must pay published prices until some alternative becomes available. It seeks approval for the instant agreement prior to expiration of the current agreement.

III. ORDERING PARAGRAPHS

It is Ordered:

1. The Commission establishes Docket No. CP2009-50 for consideration of the issues raised in this docket.
2. Comments by interested persons in these proceedings are due no later than July 27, 2009.
3. Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.
4. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Judith M. Grady
Acting Secretary