

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

COMPETITIVE PRODUCT PRICES
GLOBAL EXPEDITED PACKAGE SERVICES 2 (CP2009-50)
NEGOTIATED SERVICES AGREEMENT

Docket No.
CP2010-10

NOTICE OF UNITED STATES POSTAL SERVICE FILING OF ERRATUM
(November 19, 2009)

The Postal Service hereby gives notice of the filing of erratum to its Notice Of United States Postal Service Filing Of Functionally Equivalent Global Expedited Package Services 2 Negotiated Service Agreement And Application For Non-Public Treatment Of Materials Filed Under Seal, filed November 12, 2009. Footnote 4 of that pleading, which concerned further edits to the contract text, was incorrectly carried over from a prior template. A revised pleading is attached to this Notice with former footnote 4 omitted and the remaining footnotes renumbered. The Postal Service regrets any inconvenience.

Respectfully submitted,

UNITED STATES POSTAL SERVICE
By its attorneys:

Anthony F. Alverno
Chief Counsel, Global Business

Arneece Williams
Paralegal Specialist

475 L'Enfant Plaza, S.W.
Washington, D.C. 20260-1137
(202) 268-2997
November 19, 2009

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

COMPETITIVE PRODUCT PRICES
GLOBAL EXPEDITED PACKAGE SERVICES 2 (CP2009-50)
NEGOTIATED SERVICES AGREEMENT

Docket No.
CP2010-10

**NOTICE OF UNITED STATES POSTAL SERVICE FILING OF FUNCTIONALLY
EQUIVALENT GLOBAL EXPEDITED PACKAGE SERVICES 2 NEGOTIATED
SERVICE AGREEMENT AND APPLICATION FOR NON-PUBLIC TREATMENT OF
MATERIALS FILED UNDER SEAL**
(November 12, 2009)

In accordance with 39 C.F.R. § 3015.5 and Order No. 290,¹ the United States Postal Service (Postal Service) hereby gives notice that the Postal Service is entering into an additional Global Expedited Package Services 2 (GEPS 2) contract. Prices and classifications not of general applicability for GEPS contracts were previously established by the Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Global Expedited Package Services Contracts, issued May 6, 2008 (Governors' Decision No. 08-7).² The Postal Regulatory Commission (Commission) has determined that individual GEPS contracts may be included as part of the GEPS 2 product if they meet the requirements of 39 U.S.C. § 3633 and if they are functionally equivalent to the previously submitted GEPS

¹ PRC Order No. 290, Order Granting Clarification and Adding Global Expedited Package Services 2 to the Competitive Products List, Docket No. CP2009-50, August 28, 2009.

² A redacted copy of the Governors' Decision was filed on July 23, 2008, and is filed as Attachment 2 to this Notice. An unredacted copy of this Governors' Decision was filed earlier under seal. Notice of United States Postal Service of Governors' Decision Establishing Prices and Classifications for Global Expedited Package Services Contracts, Docket No. CP2008-4, May 20, 2008. That notice may be accessed at the following link: http://www.prc.gov/Docs/59/59951/Not_Govs_Decn_GEPS_w_att.pdf.

contracts.³ The contract and supporting documents establishing compliance with 39 U.S.C. § 3633 and 39 C.F.R. § 3015.5 are being filed separately under seal with the Commission, although a redacted copy of the contract and certified statement required by 39 C.F.R. § 3015.5(c)(2) are filed as Attachments 3 and 4, respectively.

The first GEPS contract was filed on May 20, 2008.⁴ Subsequently, the Commission reviewed many additional GEPS contracts with minor differences not affecting the similarity of the cost and market characteristics. The Postal Service demonstrates below that this agreement is functionally equivalent to the previously submitted GEPS agreements. Accordingly, this contract should be included within the GEPS 2 product.

Identification of the Additional GEPS 2 Contract

The Postal Service believes that this additional GEPS contract fits within the Mail Classification Schedule (MCS) language included as Attachment A to Governors' Decision No. 08-7, but understands that the Commission considers this language illustrative until the MCS is completed.⁵ This agreement begins after all required review is completed. The Postal Service undertook to secure an extension of the existing GEPS agreement with the customer, which was added to the competitive products list in Docket No. CP2008-23. In Order No. 328, the Commission extended the existing

³ PRC Order No. 86, at 7. Although Order No. 86 explicitly applied to the GEPS 1 agreements, the specific agreement that served as the baseline GEPS 1 agreement expired. Thus, the Commission created the GEPS 2 product, which has as its baseline agreement the contract reviewed in Docket No. CP2009-50, which was found to be functionally equivalent to the GEPS 1 product. PRC Order No. 290, at 1 and 3. Therefore, the Postal Service understands that Order No. 86 applies to the GEPS 2 product and any subsequent GEPS products that the Commission determines to be functionally equivalent to it.

⁴ Notice of United States Postal Service of Filing A Global Expedited Package Services Contract (Accompanying Material Filed Under Seal), Docket No. CP2008-5, May 20, 2008.

⁵ PRC Order No. 86, at 6.

contract until November 30, 2009. By its terms, the agreement will expire one year after its effective date unless termination of the agreement occurs earlier.

Application for Non-public Treatment

The Postal Service maintains that the redacted portions of the contract, related financial information, and identifying information related to GEPS 2 customers should remain confidential. In accordance with Order No. 225, the Postal Service files as Attachment 1 to this Notice its application for non-public treatment of materials filed under seal. A full discussion of the required elements of the application appears in Attachment 1.

Functional Equivalency of GEPS 2 Contracts

The instant GEPS 2 contract is identical to that in Docket No. CP2009-50 in terms of the product being offered under its terms, the market to which it is being offered, and its cost characteristics. Like the baseline contract, this contract also fits within the parameters outlined by the Governors' Decision establishing the rates for GEPS agreements. There are, however, differences of customer-specific information between the two contracts.

The differences between this contract and the baseline GEPS 2 agreement are the following:

- The name and address of the customer in the title and first paragraph of the agreement;
- The negotiated option for tendering the mail in Article 7, paragraph 6;
- The negotiated minimum revenue and/or volume commitment contained in Article 8, paragraph 1;

- The negotiated amount of liquidated damages stipulated in Article 8, paragraph 2;
- And of course, the identification of the customer's representative to receive notices under the agreement and the identity of the signatory to the agreement.⁶

Because both GEPS agreements incorporate the same cost attributes and methodology, the relevant cost and market characteristics are similar, if not the same, for this contract and the baseline GEPS 2 contract. The Postal Service does not consider that the specified differences affect either the fundamental service the Postal Service is offering or the fundamental structure of the contracts. Nothing detracts from the conclusion that these agreements are "functionally equivalent in all pertinent respects."⁷

Conclusion

For the reasons discussed and as demonstrated by the financial data filed under seal, the Postal Service has established that this new GEPS 2 contract is in compliance with the requirements of 39 U.S.C. § 3633 and is functionally equivalent to other GEPS 2 contracts. Accordingly, this contract should be added to the existing GEPS 2 product.

⁶ The contract also contains a few minor additional differences in wording, to include:

- Article 6, paragraph 6: slight changes to advance messaging of customs information for Express Mail International service;
- Article 6, paragraph 8, and Article 7, paragraph 9, and 16: new provisions relating to the Commission's confidentiality rules;
- Article 19, paragraphs 2-4: the terms "missing contents" are used in lieu of "rifling"
- Article 26: new language regarding DMM citations.

⁷ PRC Order No. 85, Order Concerning Global Plus Negotiated Service Agreements, Docket No. CP2008-8, June 27, 2008, at 8.

Respectfully submitted,

UNITED STATES POSTAL SERVICE
By its attorneys:

Anthony F. Alverno
Chief Counsel, Global Business

Arneece Williams
Paralegal Specialist

475 L'Enfant Plaza, S.W.
Washington, D.C. 20260-1137
(202) 268-2997
November 12, 2009