

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Priority Mail
Priority Mail Contract 29

Docket No. MC2011-3

Competitive Product Prices
Priority Mail Contract 29 (MC2011-3)
Negotiated Service Agreement

Docket No. CP2011-4

PUBLIC REPRESENTATIVE COMMENTS IN RESPONSE TO UNITED STATES
POSTAL SERVICE REQUEST TO ADD PRIORITY MAIL CONTRACT 29
NEGOTIATED SERVICE AGREEMENT TO THE COMPETITIVE PRODUCTS LIST

(October 12, 2010)

In response to Order 556,¹ the Public Representative hereby comments on the October 4, 2010 United States Postal Service Request to Add Priority Mail Contract 29 to the Competitive Product List (Request).

This proposed contract's documentation is persuasive. Each pertinent element of 39 U.S.C. 3632, 3622, and 3642 appears to be met by this contract. Furthermore, the contract is consistent with policies in 39 CFR part 3015 and 39 CFR 3020 subpart B.

The Public Representative has accessed and reviewed all materials the United States Postal Service submitted under seal in this matter, documentation in its original (not redacted) version. Because this NSA employs the same underlying Governors' Decision 09-6 costing formula, the analysis is virtually the same.

¹ Commission Order 556, Notice and Order Concerning Priority Mail Contract 28 Negotiated Service Agreement, October 5, 2010

Accountability and Confidentiality

The Notice contains a rationale for maintaining confidentiality concerning pricing, processes which enable discounted pricing, the attendant formulae and other contractual terms which are matters of commercial sensitivity.² Here, it would appear that the Postal Service has concisely justified the extent of confidentiality appropriate in this matter, providing a brief explanation for maintaining the confidentiality of each aspect of the matters remaining under seal.

Discussion

The instant Priority Mail contract classification is based upon a formula approved by the Board of Governors, in which cost coverage is defined by a ratio between total contract revenue and total contract cost. This, in turn, is capped at a percentage demonstrated to comply with title 39 provisions.

Procedural requirements

Likewise, this NSA comports with each of the requirements of 39 C.F.R. 3015.7(c) -- which amplifies 39 USC 3633(a). For a competitive products pricing schedule *not of general applicability*,³ the Postal Service must demonstrate that the contract will be in compliance with 39 USC 3633(a): It will not allow market dominant products to subsidize competitive products, it will ensure that each competitive product

² Attachment F to the Request, Application for Non-Public Treatment of Materials.

³ See 39 CFR 3015.5.

covers its attributable costs; and enable competitive products as a whole to cover their costs (contributing a minimum of 5.5 percent to the Postal Service's total institutional costs).

Conclusion

The Public Representative acknowledges that the pricing in the present Priority Mail Contract 29 comports with provisions of title 39. In addition to requiring the mailer to use PC postage, the contract employs pricing terms favorable to the customer, the Postal Service and thereby, the public.

The Public Representative respectfully submits the preceding Comments for the Commission's consideration.

Paul L. Harrington
Public Representative

901 New York Ave., NW Suite 200
Washington, D.C. 20268-0001
(202) 789-6867; Fax (202) 789-6883
e-mail: paul.harrington@prc.gov