



November 4, 2010

Honorable Shoshana Grove
Secretary
Postal Regulatory Commission
901 New York Avenue, NW, Suite 200
Washington, DC 20268-0001

Dear Ms. Grove:

Pursuant to 39 U.S.C. § 407(d)(2), the U.S. Postal Service (Postal Service) is providing copies of the enclosed letters, which concern EMS Pay-for-Performance agreements for traffic between the Postal Service and the following agencies of foreign governments: Entreprise des Postes Lao (Laos) and Paositra Malagasy (Madagascar). The Postal Service has marked the non-public version of the documents as "Confidential" and "Non-Public" because the documents contain information considered confidential and commercially sensitive by the affected postal operator and the Postal Service.

The Postal Service considers certain portions of the documents to be protected by 39 U.S.C. § 410(c)(2) and thereby not subject to mandatory disclosure under the Freedom of Information Act (FOIA). Further, the documents contain the commercial information of the affected postal operators, and as such, certain portions of the instruments are subject to protection under Exemption 4 of the FOIA. Consequently, we have attached an application for non-public treatment of the document under 39 C.F.R. § 3007.21. In addition, we respectfully request that the Postal Regulatory Commission coordinate with us in the event that any of the documents becomes subject to a FOIA request, so that we can engage in appropriate consultations with the affected postal operator.

Please feel free to contact me if further information would be helpful.

Sincerely,

A handwritten signature in cursive script, appearing to read "Anthony Alverno".

Anthony F. Alverno
Chief Counsel
Global Business

Enclosures

LEA EMERSON
EXECUTIVE DIRECTOR
INTERNATIONAL POSTAL AFFAIRS



April 16, 2010

Mr. Kieng Khamket
Director General
Laos Post
Lane Xang Avenue
01000 Vientiane
LAOS

Dear Mr. Khamket:

We understand that your administration is participating in the EMS Cooperative Pay-for-performance Plan with other partners. We are also very interested in starting this plan with your administration. If you agree, we would like to start the plan with your administration on July 1. We will use the 2010 version of the plan which has a performance threshold of [REDACTED] with a payment of [REDACTED] for those items that fall below this threshold. I would appreciate receiving your formal confirmation by June 1, that your administration agrees to apply the EMS Pay-for-performance Plan reciprocally with the U.S. Postal Service from July 1.

Enclosed is a document that confirms important information related to the settlement of accounts for EMS traffic to be covered under the Pay-for-performance Plan (that is, physical and email addresses as well as telephone and fax numbers of our International Accounts Branch and the bank accounts to be used). Please provide settlement data with your formal confirmation.

The U.S. Postal Service offered a rate of [REDACTED] to EMS Cooperative members for 2010. For our partners who participate in the EMS Pay-for-performance Plan, we have offered a reduced rate of [REDACTED]

In order to settle accounts under the plan, we will need to agree to a flat rate for the delivery of EMS items between our administrations. Using the formula of [REDACTED] and the average weight of [REDACTED] from Laos to the United States, we will offer a flat rate of [REDACTED] for delivery of EMS items. Please confirm your agreement to this rate when accepting this plan.

If you have any questions, please contact Brian Hutchins at Brian.Hutchins@usps.gov.

Sincerely,

A handwritten signature in black ink that reads "Lea Emerson".
Lea Emerson

Enclosure

1735 N. LYNN STREET, ROOM 6043
ARLINGTON, VA 22209-6111
703-292-3574
FAX: 703-292-4030
WWW.USPS.COM

Lao People's Democratic Republic
Peace Independence Democracy Unity Prosperity

RECEIVED JUN 2 2010



Entreprise des Postes Lao

No 1504 /EPL.

Vientiane,

JUN 1 2010

Mrs. Lea Emerson
Executive Director
International Postal Affairs.
1735 N Lynn Street, Room6043
ARLINGTON VA 22209-6111
U S A
Fax: 703 292 4030

Subject : EMS Pay – for- performance Plan

Reference: Your letter dated April 16, 2010.

Dear Mrs. Emerson,

First of all we would like to thank you for your letter expressing to interest in starting the EMS Pay – for- performance Plan with our administration.

We would like to inform you that we have agreed with your proposal to participate in the above-mentioned subject by starting the plan on July 1, 2010

For the delivery of EMS items between our two administrations we accept reciprocally [REDACTED]

We hope our plan will be successful and meet our customers' satisfaction

Looking forward to receiving your positive response.

Thank you for your kind cooperation.

Sincerely yours,


ສິດວິສາຫະກິດ
ໂປສະຕາລ໌
Kiang KHAMKET
Director General

LEA EMERSON
EXECUTIVE DIRECTOR
INTERNATIONAL POSTAL AFFAIRS



April 16, 2010

Mr. Martial Ranaivosoa
Director General
Madagascar Post
101 Antananarivo
MADAGASCAR

Dear Mr. Ranaivosoa:

We understand that your administration is participating in the EMS Cooperative Pay-for-performance Plan with other partners. We are also very interested in starting this plan with your administration. If you agree, we would like to start the plan with your administration on July 1. We will use the 2010 version of the plan which has a performance threshold of [REDACTED] with a payment of [REDACTED] for those items that fall below this threshold. I would appreciate receiving your formal confirmation by June 1, that your administration agrees to apply the EMS Pay-for-performance Plan reciprocally with the U.S. Postal Service from July 1.

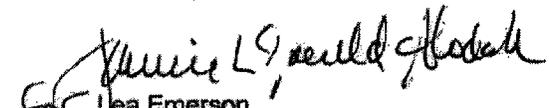
Enclosed is a document that confirms important information related to the settlement of accounts for EMS traffic to be covered under the Pay-for-performance Plan (that is, physical and email addresses as well as telephone and fax numbers of our International Accounts Branch and the bank accounts to be used). Please provide settlement data with your formal confirmation.

The U.S. Postal Service offered a rate of [REDACTED] to EMS Cooperative members for 2010. For our partners who participate in the EMS Pay-for-performance Plan, we have offered a reduced rate of [REDACTED]

In order to settle accounts under the plan, we will need to agree to a flat rate for the delivery of EMS items between our administrations. Using the formula of [REDACTED] and the average weight of [REDACTED] from Madagascar to the United States, we will offer a flat rate of [REDACTED] for delivery of EMS items. Please confirm your agreement to this rate when accepting this plan.

If you have any questions, please contact Brian Hutchins at Brian.Hutchins@usps.gov.

Sincerely,


for Lea Emerson

Enclosure

1735 N. LYNN STREET, ROOM 6043
ARLINGTON, VA 22209-6111
703-292-3574
FAX: 703-292-4030
WWW.USPS.COM



Paositra Malagasy

RECEIVED JUN 03 2010

Antananarivo, le 20 MAY 2010

MANAGEMENT OF POSTAL EXPLOITATION

to

UNITED STATES POSTAL SERVICE
EXECUTIVE DIRECTOR
INTERNATIONAL POSTAL AFFAIRS
1735 N. LYNN STREET, ROOM 6043
ARLINGTON, VA 22209-6111
UNITED STATES OF AMERICA

N°10/ 137 -PAOSITRA/DG/DGA/DEP/DCPA.2/C

SUBJECT : EMS Cooperative Pay-for-performance.

REFERENCE : Your letter of 16/04/2010.

Dear Sirs,

Further to your letter in reference, we have the honour to confirm you that PAOSITRA MALAGASY agrees to apply the EMS Cooperative Pay-for-performance Plan, reciprocally with the U. S. POSTAL SERVICE from July 1st, 2010. But, as our others partners in EMS Pay-for-performance, we shall use the following percentage of delivery charge and threshold :

- % delivery charge paid for penalized items below threshold : [REDACTED]

-Threshold : [REDACTED]

We would like to invite you to inform us if you accept this threshold.

Attached herewith is our information related to the settlement of accounts for EMS traffic to be covered under the Pay-for-performance Plan

Concerning the rate for the delivery of EMS items, we accept the [REDACTED] [REDACTED] from Madagascar to U. S. A., offered by your administration. For the EMS items from U. S. A. to Madagascar, the rate applied by us will be [REDACTED]

We wish good cooperation between our two Administrations.

Faithfully yours.

LE DIRECTEUR DE L'EXPLOITATION
POSTALE

ANDRANAYOLOHAMPTONICIA NISIA JOSEPH



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

In accordance with 39 C.F.R. § 3007.21 and Order No. 225,¹ the United States Postal Service (Postal Service) hereby applies for non-public treatment of the enclosed letters concerning Express Mail Service (EMS) service. The Postal Service is transmitting these letters to the Postal Regulatory Commission (Commission) in accordance with 39 U.S.C. § 407(d). A redacted version of the aforementioned documents are enclosed with the instant transmittal. The Postal Service hereby furnishes the justification required for this application by 39 C.F.R. § 3007.21(c) below.

(1) The rationale for claiming that the materials are non-public, including the specific statutory basis for the claim, and a statement justifying application of the provision(s);

Information of a commercial nature, which under good business practice would not be publicly disclosed, as well as third party business information, is not required to be disclosed to the public. 39 U.S.C. § 410(c)(2); 5 U.S.C. § 552(b)(3) and (4). The Commission may determine the appropriate level of confidentiality to be afforded to such information after weighing the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets. 39 U.S.C. § 504(g)(3)(A).² Because the

¹ PRC Order No. 225, Final Rule Establishing Appropriate Confidentiality Procedures, Docket No. RM2008-1, June 19, 2009.

² The Commission has indicated that “likely commercial injury” should be construed broadly to encompass other types of injury, such as harms to privacy, deliberative process, or law enforcement interests. PRC Order No. 194, Second Notice of Proposed Rulemaking to Establish

portions of materials filed non-publicly fall within the scope of information not required to be publicly disclosed, the Postal Service asks the Commission to support its determination that these materials are exempt from public disclosure and grant its application for their non-public treatment.

(2) Identification, including name, phone number, and e-mail address for any third party who is known to have a proprietary interest in the materials, or if such an identification is sensitive, contact information for a Postal Service employee who shall provide notice to that third party;

In the case of documents such as those transmitted here, the Postal Service believes that the postal operators that are parties to the documents are the only third parties with a proprietary interest in the materials. Due to language differences, cultural sensitivities, and the intricacies of the Postal Service's relationship with the affected foreign postal operators, the Postal Service proposes that a designated Postal Service employee serve as the point of contact for any notices to the relevant postal operators.³ The Postal Service identifies as an appropriate contact person Peter Chandler, Manager (A), International Postal Relations. Mr. Chandler's phone number is (202) 268-5549, and his email address is peter.r.chandler@usps.gov. The Postal Service has already informed each postal operator, in compliance with 39 C.F.R. § 3007.20(b), about the nature and scope of this filing and about the postal

a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1, Mar. 20, 2009, at 11.

³ The Postal Service acknowledges that 39 C.F.R. § 3007.21(c)(2) appears to contemplate only situations where a third party's identification is "sensitive" as permitting the designation of a Postal Service employee who shall act as an intermediary for notice purposes. To the extent that the Postal Service's response might be construed as beyond the scope of this exception, the Postal Service respectfully requests a waiver that would allow it to designate a Postal Service employee as the contact person under these circumstances, in light of the practical considerations outlined herein.

operator's ability to address any confidentiality concerns directly with the Commission.

(3) A description of the materials claimed to be non-public in a manner that, without revealing the materials at issue, would allow a person to thoroughly evaluate the basis for the claim that they are non-public;

As required by 39 U.S.C. § 407(d), the Postal Service is transmitting documents concerning EMS service with foreign postal operators that are agencies of foreign governments. The documents transmitted consist of letters that define the terms on which the Postal Service and the relevant operators exchange Express Mail Service (EMS) items under the EMS Cooperative Pay-for-performance Plan, including delivery performance thresholds and rate information. The Postal Service maintains that the redacted portions of the documents should remain confidential.

(4) Particular identification of the nature and extent of commercial harm alleged and the likelihood of such harm;

If the information that the Postal Service determined to be protected from disclosure due to its commercially sensitive nature were to be disclosed publicly, the Postal Service considers that it is quite likely that it would suffer commercial harm. This information is commercially sensitive, and the Postal Service does not believe that it would be disclosed under good business practices.

Competitors could use the information to assess the offers and representations made to customers by the Postal Service and other EMS providers that partner with the Postal Service for any possible comparative vulnerabilities and to focus sales and marketing efforts on those areas, to the detriment of the Postal Service and other EMS providers. The Postal Service considers these to be highly

probable outcomes that would result from public disclosure of the redacted material.

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

Harm: Competitors could use performance thresholds to assess vulnerabilities and focus sales and marketing efforts to the postal operators' detriment.

Hypothetical: The information about EMS performance thresholds in the document is released to the public. Another expedited delivery service's employee monitors the filing of this information and passes the information along to its sales and marketing functions. The competitor then uses the postal performance level as a concrete comparison point, advertising itself to potential customers as offering performance better than the postal operators engaged in the exchange of EMS.

Harm: Public disclosure of price information in the enclosed documents would provide foreign postal operators or other potential customers extraordinary negotiating power to extract lower rates from the Postal Service and the foreign postal operators who are parties to the instant documents.

Hypothetical: A foreign postal operator's negotiated EMS pricing information is disclosed publicly on the Commission's website. Another postal operator sees the information and uses the publicly available rate information to the Postal Service's detriment in pricing negotiations, as well as to the detriment of foreign postal operators who are parties to the agreements submitted herein.

(6) The extent of protection from public disclosure deemed to be necessary;

The Postal Service maintains that the redacted portions of the materials filed non-publicly should be withheld from persons involved in competitive decision-making in the relevant market for international expedited and parcels products (including private sector integrators), as well as their consultants and attorneys. Additionally, the Postal Service believes that, except for foreign postal operators that already have access to this information, actual or potential customers of the Postal Service for products related to inbound EMS and Outbound Express Mail International, or similar products, should not be provided access to the non-public materials.

(7) The length of time deemed necessary for the non-public materials to be protected from public disclosure with justification thereof; and

The Commission's regulations provide that non-public materials shall lose non-public status ten years after the date of filing with the Commission, unless the Commission or its authorized representative enters an order extending the duration of that status. 39 C.F.R. § 3007.30.

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

None.

Conclusion

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