

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

COMPETITIVE PRODUCT PRICES
PARCEL SELECT
PARCEL SELECT CONTRACT 1

Docket No. MC2011-16

COMPETITIVE PRODUCT PRICES
PARCEL SELECT CONTRACT 1 (MC2011-16)
NEGOTIATED SERVICE AGREEMENT

Docket No. CP2011-53

NOTICE OF THE UNITED STATES POSTAL SERVICE
OF FILING OF USPS-MC2011-16/CP2011-53/NP2
(January 14, 2011)

The Postal Service hereby gives notice of filing of the material indicated below as part of the **Non-Public Annex** in this proceeding:

USPS-MC2011-16/CP2011-53/NP2 **Nonpublic Materials Provided
in Response to CHIR No. 1**

As indicated, USPS-MC2011-16/CP2011-53/NP2 consists of a written response and Excel files that contain nonpublic material filed in response to CHIR No. 1. Specifically, the written response identifies box sizes under Parcel Select Contract 1, the average cube size for Parcel Select parcels and cost coverage information for Parcel Select Contract 1 using Parcel Select and Standard Mail costs. The other part of the response attaches a financial analysis of the contract using FY2010 Parcel Select costs only and an updated financial analysis using FY2010 Standard Mail Parcel costs. Because it includes commercially sensitive information, it is being filed under seal.

UNITED STATES POSTAL SERVICE

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ATTACHMENT 1

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 certain data contained in its written response to CHIR No. 1 related to box sizes and cost coverage under the contract, and a financial analysis of the contract using FY2010 Parcel Select costs and FY2010 Standard Mail costs. It is being provided in response to CHIR No. 1, and is being filed under seal as USPS-MC2011-16/CP2011-53/NP2. The Postal Service hereby furnishes the justification required for this application by each subsection of 39 C.F.R. § 3007.21(c), as enumerated below.

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

(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);

The materials designated as non-public consist of information of a commercial nature that under good business practice would not be publicly disclosed. In the Postal Service's view, this information would be exempt from mandatory disclosure pursuant to 39 U.S.C. § 410(c)(2) and 5 U.S.C. § 552(b)(3) and (4).² Because the portions of the

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

² In appropriate circumstances, 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). The Commission has indicated that "likely commercial injury" should be construed broadly to encompass other types of

materials that the Postal Service is applying to file only under seal 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 email 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;

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(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;

The material sought to be protected consists of a written response which identifies the negotiated box sizes under Parcel Select Contract 1, the average cube size for Parcel Select parcels and cost coverage information for the product under Parcel Select Contract 1 using Parcel Select and Standard Mail costs. It also consists of a financial analysis of the contract using FY2010 Parcel Select costs only and an updated financial analysis of the contract using FY2010 Standard Mail Parcel costs.

To the extent practicable, the Postal Service has limited its redactions in the written response to the actual information it determined to be exempt from disclosure under 5 U.S.C. § 552(b). However, the commercially sensitive information contained in

injury, such as harms to privacy, deliberative process, or law enforcement interests. PRC Order No. 194, Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1, Mar. 20, 2009, at 11.

the financial analysis is so substantial that presenting it in a public, redacted format would have no value to anyone reading the document. The financial work papers protect commercially sensitive information such as underlying costs and assumptions, pricing formulas, information relevant to the mailing profile of the customer, and cost coverage projections.

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

If the redacted information were to be disclosed publicly, the Postal Service considers that it is quite likely that it would suffer commercial harm. Redacted information concerning the prices and related terms of the contract is commercially sensitive, and the Postal Service does not believe that it would be disclosed under good business practices. Revealing such information would provide a competitive advantage to competitors of the Postal Service. The Postal Service considers that it is highly probable that if this information were made public, such entities would take immediate advantage of it and there is a substantial risk that the Postal Service would lose business as a result. Competitors could use the information to assess the offers made by the Postal Service to its customers for any possible comparative vulnerabilities and focus sales and marketing efforts on those areas, to the detriment of the Postal Service. Additionally, other postal customers could use the information to their advantage in negotiating the terms of their own agreements with the Postal Service and other businesses could use the information to their advantage in negotiating with the customer. The Postal Service considers these to be highly probable outcomes that would result from public disclosure of the redacted material.

The financial work papers include specific information such as costs, negotiated prices and pricing structure, assumptions used in developing costs and prices, mailer profile information, and projections of variables. All of this information is highly confidential in the business world. If this information were made public, the Postal Service and the customer's competitors would likely take great advantage of this information. Unlike its competitors, the Postal Service is required to meet the standards of 39 U.S.C. § 3633 with each negotiated service agreement that it asks to have added to the competitive products list. Competitors are not so constrained and could use the redacted information to their advantage in gaining customers. The formulas shown in the spreadsheets in their native format provide additional sensitive information. In addition, revealing the Postal Service's profit margin information could also be used by the customer to attempt to renegotiate its own prices. Finally, public disclosure of the information in the spreadsheets also presents a serious risk of commercial harm to the customer. Disclosure of such information could be used by competitors of the customer to acquire market intelligence about the customer's underlying costs, mailing patterns, and customer base.

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

Identified harm: Public disclosure of information in the financial work papers would be used by competitors and customers to the detriment of the Postal Service.

Hypothetical: A competing package delivery service or its representative obtains a copy of the unredacted version of the financial work papers. It analyzes the work papers to determine what the Postal Service would have to charge its customers in order to meet its minimum statutory obligations for cost coverage and contribution to

institutional costs. It then sets its own rates for products similar to what the Postal Service offers its customers under that threshold and markets its ability to guarantee to beat the Postal Service on price for similar delivery services.

Hypothetical: Competitors constantly monitor “cost to serve” scenarios to combine and alter facilities to lower costs. A competitor could add satellite pickup stations closer to the Postal Service’s customer in order to underbid the Postal Service’s prices.

Identified Harm: Public disclosure of information in the financial work papers would be used by the customer’s competitors to its detriment.

Hypothetical: A business in competition with the customer obtains a copy of the unredacted version of the financial work papers. The customer’s competitor analyzes the work papers to assess the customer’s underlying shipping costs. The customer’s competitor uses that information as a baseline to negotiate with shipping companies and other suppliers to develop lower-cost alternatives and thereby to undercut the customer.

(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 market for domestic parcel shipping products, as well as their consultants and attorneys. Additionally, the Postal Service believes that actual or potential customers of the Postal Service for such products should not be provided access to the non-public materials. This includes all competitors of the relevant customer, whether or not they are currently actual Postal Service customers.

(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. The Postal Service believes that the ten-year period of non-public treatment is sufficient to protect its interests with regard to the information covered by this application.

(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.