

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

Before Commissioners:

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

Competitive Product Prices
International Business Reply Service Competitive
Contract 3
Negotiated Service Agreements

Docket Nos. MC2011-21
CP2011-59

NOTICE AND ORDER CONCERNING FILING OF INTERNATIONAL BUSINESS
REPLY SERVICE COMPETITIVE CONTRACT 3
NEGOTIATED SERVICE AGREEMENT

(Issued February 16, 2011)

I. INTRODUCTION

On February 11, 2011, the Postal Service filed a request pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.* to add International Business Reply Service (IBRS) Competitive Contract 3 to the competitive product list and announcing that it has entered into an additional IBRS contract, which is the successor to an IBRS 2 contract.¹ The Postal Service asserts that the new IBRS Competitive Contract 3 product is a

¹ Request of the United States Postal Service to Add International Business Reply Service Competitive Contract 3 to the Competitive Products List and Notice of Filing of Contract (Under Seal), February 11, 2011 (Request).

competitive product “not of general applicability” within the meaning of 39 U.S.C. 3632(b)(3). Request at 1. The Request has been assigned Docket No. MC2011-21.

The Postal Service contemporaneously filed a redacted contract related to the proposed new product pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* Attachment 2. The contract is assigned Docket No. CP2011-59.

The Postal Service uses IBRS contracts for customers that sell lightweight articles to foreign consumers and desire to offer their customers a way to return the articles to the United States for recycling, refurbishment, repair, or value-added processing. *Id.* at 4-5.

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. 290.² The term of the instant contract is 1 year from the date the Postal Service notifies the customer that all necessary regulatory approvals have been received. The agreement expires 1 year after the effective date unless the parties agree to an earlier termination. The Postal Service states that the instant contract is the successor agreement to the IBRS Competitive Contract 2 contract in Docket No. CP2010-21 for the same mailer.³ Request at 3. The Postal Service notes that the current contract expires on February 28, 2011 and its intent is to have the instant contract begin March 1, 2011. *Id.* at 4.

In support of its Request, the Postal Service filed the following attachments:

- Attachment 1—a Statement of Supporting Justification as required by 39 CFR 3020.32;
- Attachment 2—a redacted copy of the contract;

² See Docket No. CP2009-50, Order Granting Clarification and Adding Global Expedited Package Services 2 to the Competitive Product List, August 28, 2009 (Order No. 290).

³ See Docket Nos. MC2010-18, CP2010-21 and CP2010-22, Notice of the United States Postal Service of Filing Two Functionally Equivalent IBRS Contracts and Request to Establish Successor Instruments as Baseline International Business Reply Service Competitive Contract 2, February 9, 2010.

- Attachment 3—a redacted copy of the certified statement required by 39 CFR 3015.5(c)(2);
- Attachment 4—Governors’ Decision No. 08-24 which establishes prices and classifications for the IBRS Contracts product; and includes Mail Classification Schedule (MCS) language for IBRS contracts, formulas for pricing along with an analysis, certification of the Governors vote, and certification of compliance with 39 U.S.C. 3633 (a); and
- Attachment 5—an application for non-public treatment of materials to maintain the redacted portions of the contract, customer identifying information and related financial information under seal.

In the Statement of Supporting Justification, Jo Ann Miller, former Director, Global Business Development, asserts that the services to be provided under the instant contract will cover its attributable costs, make a positive contribution to institutional costs, and increase contribution toward the requisite 5.5 percent of total institutional costs charged to competitive products.⁴ *Id.* Attachment 1. Thus, Ms. Miller contends there will be no issue of subsidization of competitive products by market dominant products as a result of these contracts. *Id.*

Baseline agreement. The Postal Service requests that the instant contract be deemed the new baseline agreement for functional equivalency analyses of the IBRS product.⁵ *Id.* at 2-4. The Postal Service asserts that the instant contract is essentially the same as the IBRS contracts filed previously. *Id.* at 4. The Postal Service represents that prices and classifications “not of general applicability” for IBRS contracts were established by Governors’ Decision No. 08-24 filed in Docket Nos. MC2009-14 and CP2009-20.⁶ It also identifies the instant contract as fitting within the MCS

⁴ The Postal Service states that the statement provided by Jo Ann Miller, originally filed in Docket No. MC2009-14 is applicable to the instant proceeding and supports the addition of IBRS Competitive Contract 3 to the competitive product list.

⁵ The Postal Service states that it does not intend to remove the IBRS Competitive Contract 2 from the competitive product list at this time.

⁶ See Order No. 178, Order Concerning International Business Reply Service Contract 1 Negotiated Service Agreement, Docket Nos. MC2009-14 and CP2009-14, February 5, 2009.

language for IBRS contracts included as an attachment to Governors' Decision No. 08-24. *Id.* at 2.

The Request advances reasons why IBRS Competitive Contracts 3 should be added to the competitive product list and fits within the MCS language for IBRS contracts. *Id.* at 4-5. The Postal Service also explains that a redacted version of the supporting financial documentation is included with this filing as a separate Excel file. *Id.* at 3.

The Postal Service asserts that the instant contract is in compliance with 39 U.S.C. 3633, is functionally equivalent to other IBRS agreements, fits within the MCS language for IBRS contracts, will serve as the new baseline contract for the proposed product, and should be added to the competitive product list included within the IBRS Competitive Contracts 3 product. *Id.* at 5-6. Accordingly, it urges the Commission to add the proposed IBRS Competitive Contract 3 to the competitive product list along with the instant contract as the baseline agreement within the product. *Id.* at 6.

II. NOTICE OF FILING

The Commission establishes Docket Nos. MC2011-21 and CP2011-59 for consideration of matters identified in the Postal Service's Request.

The Commission appoints Diane K. Monaco to serve as Public Representative in these dockets.

Comments. Interested persons may submit comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633 or 3642 and 39 CFR part 3015 and 39 CFR 3020 subpart B. Comments are due no later than February 22, 2011. The public portions of these filings can be accessed via the Commission's website (www.prc.gov).

III. ORDERING PARAGRAPHS

It is ordered:

1. The Commission establishes Docket Nos. MC2011-21 and CP2011-59 for consideration of the matters raised in these dockets.
2. Pursuant to 39 U.S.C. 505, Diane K. Monaco is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.
3. Comments by interested persons in these proceedings are due no later than February 22, 2011.
4. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Shoshana M. Grove
Secretary