

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 (MC2011-21)
Negotiated Service Agreement

Docket No. CP2011-61

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

(Issued February 24, 2011)

I. INTRODUCTION

On February 18, 2011, the Postal Service filed a notice, pursuant to 39 CFR 3015.5, that it has entered into an additional International Business Reply Service (IBRS) Competitive contract.¹ The instant contract is the successor of the IBRS Competitive contract which is the subject of Docket No. CP2010-22, which is scheduled

¹ Notice of the United States Postal Service Filing of a Functionally Equivalent International Business Reply Service Competitive Contract 3 Negotiated Service Agreement, February 18, 2011 (Notice).

to expire on February 28, 2011.² *Id.* at 3. The Postal Service requests that the instant contract be included within the IBRS Competitive Contract 3 product. *Id.* at 6.³

In Docket Nos. MC2011-21 and CP2011-59, the Postal Service requested that the Commission add IBRS Competitive Contract 3 to the competitive product list, and that the contract filed in Docket No. CP2011-59 serve as the baseline contract for future functional equivalence analyses of the IBRS Competitive Contract 3 product.⁴ Docket Nos. MC2011-21 and CP2011-59 remain pending before the Commission.⁵

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

- Attachment 1—a redacted copy of the contract;
- Attachment 2—a redacted copy of the certified statement required by 39 CFR 3015.5(c)(2);
- Attachment 3—Governors' Decision No. 08-24, which establishes prices and classifications for the IBRS Contracts product, and includes Mail Classification Schedule 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 4—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.

Functional equivalence. The Postal Service asserts that the instant contract is functionally equivalent to the IBRS contracts previously filed. Notice at 4. It also

² The Commission finds that an extension of the current contract is necessary to permit sufficient time for regulatory review of the instant contract. By this Order, the Commission extends the current agreement until March 31, 2011.

³ The Postal Service will notify the mailer of the effective date within 30 days of receiving all necessary regulatory approvals. The contract will remain in effect for 1 year unless terminated earlier by either party. *Id.* Attachment 1 at 4.

⁴ See Docket Nos. MC2011-21 and CP2011-59, 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.

⁵ The Postal Service Notice assumes the existence of the IBRS Competitive Contract 3 product. The Commission will review the instant contract in light of its final order in Docket Nos. MC2011-21 and CP2011-59.

asserts that the “functional terms” of the instant contract and the “functional terms” of the proposed baseline IBRS 3 Competitive Contract “are the same, although other terms that do not directly change the nature of the agreements’ basic obligations may vary.” *Id.* To that end, the Postal Service indicates that prices under IBRS contracts may differ based on volume or postage commitments and when the agreement is signed. It identifies certain customer-specific information that distinguishes the instant contract from the proposed baseline agreement. *Id.* at 5.

The Postal Service concludes that the instant contract complies with 39 U.S.C. 3633 and is functionally equivalent to the proposed IBRS Competitive Contract 3 baseline agreement in Docket Nos. MC2011-21 and CP2011-59. *Id.* at 6. It submits that the instant contract “should be added to the proposed IBRS 3 product grouping.” *Id.* at 4.

II. NOTICE OF FILING

The Commission establishes Docket No. CP2011-61 for consideration of matters raised by the Postal Service’s Notice.

The Commission appoints William C. Miller to serve as Public Representative in this docket.

Comments. Interested persons may submit comments on whether the Postal Service’s filings in the captioned docket are consistent with the policies of 39 U.S.C. 3632, 3633 or 39 CFR part 3015. Comments are due no later than March 3, 2011. The public portions of this filing can be accessed via the Commission’s website (<http://www.prc.gov>).

III. ORDERING PARAGRAPHS

It is ordered:

1. The Commission establishes Docket No. CP2011-61 for consideration of the matters raised in this docket.
2. Pursuant to 39 U.S.C. 505, William C. Miller is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.
3. Comments by interested persons in this proceeding are due no later than March 3, 2011.
4. The current contract filed in Docket No. CP2010-22 for International Business Reply Service Competitive Contract 2 is authorized to continue in effect through March 31, 2011.
5. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Shoshana M. Grove
Secretary