

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

Mail Processing Network Rationalization
Service Standard Changes, 2012

Docket No. N2012-1

**UNITED STATES POSTAL SERVICE NOTICE OF FILING LIBRARY REFERENCES
USPS-LR-N2012-1/75 AND NP19 AND APPLICATION FOR NON-PUBLIC STATUS**
(March 15, 2012)

In accordance with Rule 31(b)(2), the United States Postal Service provides notice that today it files the following Category 4 Library References:

USPS-LR-N2012-1/75	Materials Responsive to NPMHU/USPS-T5-1
USPS-LR-N2012-1/NP19	Materials Responsive to NPMHU/USPS-T5-1 [Non-Public]

Pursuant to 39 C.F.R. § 3001.31(b)(ii) and (iii), the Postal Service files these library references as part of its response to NPMHU/USPS-T5-1. These library references were developed under the supervision of Facilities Program Management, and they do not reflect an update of or revision to another library reference.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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**UNITED STATES POSTAL SERVICE APPLICATION FOR
NONPUBLIC TREATMENT OF LIBRARY REFERENCE USPS-LR-N2012-1/NP19**

In accordance with 39 C.F.R. § 3007.21 and Order No. 225,¹ the United States Postal Service (Postal Service) applies for nonpublic treatment of certain data filed under seal with the Commission.

The materials covered by this application consist of data that disclose confidential financial information associated with real estate negotiations for which no sale has been completed.

By operation of 39 U.S.C. § 410(c)(2), information of a commercial nature, which under good business practice would not be publicly disclosed, is not required to be disclosed to the public. 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). Because the requested information filed non-publicly in this docket falls within the scope of information not required to be disclosed publicly, 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.

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

The data designated as nonpublic consist of commercial information revealing

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

Postal Service strategies for ongoing real estate negotiations that have not resulted in a completed sale. The Postal Service does not believe that any commercial enterprise would voluntarily publish data reflecting real estate negotiation strategies or financial information associated with ongoing real estate negotiations. 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

(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;

None.

(3) A description of the materials claimed to be nonpublic 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 nonpublic;

The responsive data consist of financial information associated with ongoing real estate negotiations for which a sale has not been completed.

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

If the redacted information or information of a similar character were to be disclosed publicly, the Postal Service considers that it is quite likely that it would suffer commercial harm. This information is clearly commercially sensitive to the Postal Service as a repeat participant in real estate transactions. Disclosure of financial

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 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, PRC Docket No. RM2008-1, Mar. 20, 2009, at 11.

information associated with ongoing real estate negotiations would unfairly, to the economic detriment of the Postal Service, permit potential real estate transaction counterparties to gain specific insight into Postal Service real estate negotiation strategies.

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

Identified harm: Public disclosure of financial information in USPS Library Reference USPS-LR-N2012-1/NP19 would be used by potential real estate transaction counterparties of the Postal Service to the detriment of the Postal Service.

Hypothetical: A potential real estate transaction counterparty obtains access to the data in USPS Library Reference USPS-LR-N2012-1/NP19. It analyzes the data to assess the Postal Service's real estate negotiation strategy with a specific focus on how its proposals compare to the price it is willing to accept in executing a transaction. Based upon these data, the potential real estate transaction counterparty assesses the extent to which it wishes to adjust its overall approach for negotiating with the Postal Service, including its price proposals. That potential real estate transaction counterparty gains valuable negotiation intelligence without having to make an investment in research. Then the potential real estate transaction counterparty obtains an advantage over the Postal Service in its real estate negotiations, with the consequent loss of revenue to the Postal Service, which has no similar ability to access data regarding its potential real estate transaction counterparty's negotiation strategy.

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

The Postal Service maintains that the materials filed non-publicly should be

withheld from persons involved in the commercial real estate industry and real estate negotiations with the Postal Service, as well as their consultants and attorneys.

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

The Commission's regulations provide that nonpublic materials shall lose nonpublic 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 foregoing reasons, the Postal Service requests that the Postal Regulatory Commission grant its application for nonpublic treatment of the above-described materials appearing in USPS Library Reference USPS-LR-N2012-1/NP19.