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

COMPETITIVE PRODUCT PRICES INTERNATIONAL BUSINESS REPLY SERVICE CONTRACTS 1 (MC2009-14) NEGOTIATED SERVICES AGREEMENT	Docket No. CP2013-28

NOTICE OF UNITED STATES POSTAL SERVICE OF PRICES UNDER FUNCTIONALLY EQUIVALENT INTERNATIONAL BUSINESS REPLY SERVICE COMPETITIVE CONTRACT 1 NEGOTIATED SERVICE AGREEMENT
(December 14, 2012)

In accordance with 39 C.F.R. § 3015.5, the United States Postal Service (Postal Service) hereby gives notice of contingency prices pursuant to an outstanding International Business Reply Service (IBRS) competitive contract. IBRS competitive contracts are for U.S.-based entities that seek a channel for returned merchandise or other articles from their overseas customers. Such entities typically supply preprinted, prepaid IBRS packaging in which overseas customers can place used or defective consumer items and enter them in the mailstream at no direct cost.[1] Prices and classifications not of general applicability for IBRS competitive contracts were previously established by the Decision of the Governors of the United States Postal Service on the

[1] *See* Request of the United States Postal Service to Add International Business Reply Service Contracts to the Competitive Products List, and Notice of Filing (Under Seal) Contract and Enabling Governors' Decision, Docket Nos. MC2009-14 and CP2009-20, December 24, 2008, Attachment 1, at 2 (statement of Jo Ann Miller); *see also* Notice of United States Postal Service Filing of Functionally Equivalent International Business Reply Service Contracts 1 Negotiated Service Agreement, Docket No. CP2009-22, January 30, 2009, at 3-4 ("In essence, with IBRS, the Postal Service is providing customers an option for return transportation of used or defective lightweight articles. The customers for IBRS contracts, including this one, are businesses that sell lightweight articles to foreign consumers and desire to offer their consumers a way to return those articles for recycling, refurbishing, repair, or other value-added processing.").

Establishment of Prices and Classifications for International Business Reply Service (IBRS) Contracts, issued December 24, 2008 (Governors' Decision No. 08-24).[2]

I. Explanation of Contingency Prices Pursuant to Former Contract

The instant prices occur under a surviving term of a contract that expired on March 31, 2008. As explained in its response to Order No. 164, contingency arrangements such as this one "consist of (1) a provision in each IBRS contract to govern the contingency that a new agreement might not be concluded and approved before expiration" and, in the case of this customer, "(2) subsequent communication with the customer to update the contingency prices in accordance with the contract provision."[3] Such arrangements are necessitated by the particular nature of IBRS as a return service. The contract customer is the recipient, not the mailer, of the IBRS items and therefore has no control over the contingency that extraneous IBRS items might be tendered after the customer's contract has expired. Because the Postal Service incurs costs in accepting and delivering such items, the Postal Service and its IBRS contract customers have agreed to let the Postal Service set prices to cover its costs and potentially to incentivize the customers to enter new arrangements.

The contract underlying the instant contingency prices was executed before the Commission's current rules for competitive and market-dominant products took effect. The contract has since expired, and a successor contract has not been executed. In response to Commission Order No. 164, the Postal Service filed the relevant former

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[2] An unredacted copy of this decision and a record of the Governors' proceedings was filed under seal with the Request of the United States Postal Service to Add International Business Reply Service Contracts to the Competitive Products List, and Notice of Filing (Under Seal) Contract and Enabling Governors' Decision, Docket Nos. MC2009-14 and CP2009-20, December 24, 2008. The notice of filing is available at http://www.prc.gov/Docs/61/61663/MC2009-14%20IBRS%20Request.pdf. A redacted copy of the decision was filed simultaneously and is attached to this Notice as described below.

[3] Response of the United States Postal Service to Order No. 164, and Notice of Filing Redacted Contract and Other Requested Materials, Docket Nos. MC2009-14 and CP2009-20, January 12, 2009, at 2.

contract and a subsequent letter apprising the customer of new contingency prices pursuant to that contract.[4] In Order No. 178, the Commission determined that the Postal Service must file any changes in contingency prices with the Commission under 39 C.F.R. § 3015.5, subject to a minimum 15-day notice requirement.[5] The Commission advised that this determination applied not only to new IBRS contracts, but also to changes in prices under previous contracts filed in response to Order No. 164, such as the now-expired contract that authorizes the instant contingency prices.

Subsequently, pursuant to 39 C.F.R. § 3015.5, the Postal Service filed three notices of changes in contingency prices concerning the underlying contract that expired on March 31, 2008, for calendar years 2010,[6] 2011,[7] and 2012,[8] respectively. In each of these notices, the Postal Service stated that the contingency pricing arrangement for the next calendar year was functionally equivalent to the IBRS contracts that are the subject of PRC Docket Nos. CP2009-20 and CP2009-22 and requested the Commission to include the contingency pricing arrangement for the next calendar year within the IBRS Competitive contracts 1 designation on the competitive products list. In response to these notices, the Commission recognized the Postal Service's proposed new prices, and added the contingency pricing arrangements for the

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[4] *Id.* at Attachment 2-B.

[5] PRC Order No. 178, Order Concerning International Business Reply Service Contract 1 Negotiated Service Agreement, Docket Nos. MC2009-14 and CP2009-20, February 5, 2009, at 10.

[6] Notice of United States Postal Service of Change in Prices under Functionally Equivalent International Business Reply Service Competitive Contract 1 Negotiated Service Agreement, Docket No. CP2010-17, December 18, 2009, at 3-4.

[7] Notice of United States Postal Service of Change in Prices under Functionally Equivalent International Business Reply Service Competitive Contract 1 Negotiated Service Agreement, Docket No. CP2011-43, December 14, 2010, at 4.

[8] Notice of United States Postal Service of Prices Under Functionally Equivalent International Business Reply Service Competitive Contract 1 Negotiated Service Agreement, Docket No. CP2012-5, December 15, 2011.

next calendar year to the Competitive Product List under the IBRS Competitive Contract 1 product.[9]

In filing this instant notice, the Postal Service once more recognizes that this situation bridges the effectiveness of the Commission's current rules and therefore presents a potential conundrum. The underlying contract was not subject to the Commission's current rules concerning the addition of negotiated service agreement products to the competitive products list, yet it could be argued that the instant contingency prices cannot be enforced except in the context of a listed product. Although the Postal Service maintains that the instant contingency prices are a valid continuation of prices established under previous authority over international product prices, the Postal Service includes with this filing materials required under 39 C.F.R. § 3015.5 in the interest of preemptively resolving any alleged inconsistency. Thus, the Postal Service respectfully requests that the Commission include the instant contingency arrangement within the IBRS Competitive Contract 1 designation on the competitive products list, due to its functional equivalence to the IBRS contracts at issue in Docket Nos. CP2009-20 and CP2009-22.

The Postal Service emphasizes that the instant contingency prices are likely to apply to an extremely small number of postal items, due to the mailer's profile and the passage of time since the contract's expiration. The Postal Service also notes the Commission's prediction that "[u]nless the changed rates [*e.g.*, contingency prices] raise new issues, the Commission would not anticipate a need to act further" upon a filing of

[9] *See* PRC Order No. 377, Order Concerning Change in Prices for International Business Reply Service Contract 1 Negotiated Service Agreement, Docket No. CP2010-17, December 30, 2009, at 4; PRC Order No. 629, Order Concerning Contingency Prices for International Business Reply Service Competitive Contract 1 Docket No. CP2011-43, December 29, 2010, at 4; PRC Order No. 1089, Order Including Contingency Price Arrangement within International Business Reply Service Competitive Contract 1 Product, Docket No. CP2012-5, December 30, 2011, at 5.

such IBRS contract prices pursuant to 39 C.F.R. § 3015.5.[10] For these reasons, the contingency prices provided to the mailer this year are to remain in effect unless the Postal Service chooses to modify the rates. Unlike previous notices, these prices are not limited to the next calendar year. Additionally, for these reasons, the Postal Service respectfully urges the Commission to act promptly and proportionately by acknowledging this notice and, if necessary, adding this arrangement to the IBRS Competitive Contract 1 product on the competitive products list as requested.

II. Identification of Filed Materials

The notice to the customer of the instant contingency prices, which will take effect on January 1, 2013, and supporting documents establishing compliance with 39 U.S.C. § 3633 and 39 C.F.R. § 3015.5 are being filed separately under seal with the Commission. A redacted version of the notice to the customer is attached as Attachment 1. The certified statement required by 39 C.F.R. § 3015.5(c)(2), with redactions to customer-identifying information, is marked as Attachment 2. In accordance with the Commission's instructions in Order No. 265,[11] the redacted version of the Governors' Decision that authorizes IBRS contracts is included as Attachment 3. The Postal Service's application for non-public treatment of these materials is included with this filing as Attachment 4. A redacted version of the supporting financial documentation is included with this filing as a separate Excel file.

III. Functional Equivalency of IBRS Competitive Contracts 1

The instant IBRS contingency arrangement is essentially identical to those envisioned in the contracts that the Commission included in the IBRS Competitive

[10] PRC Order No. 178, at 10; PRC Order No. 377, at 3.

[11] PRC Order No. 265, Order Concerning Filing a Functionally Equivalent Global Plus 1 Contract Negotiated Service Agreement, Docket No. CP2009-46, July 31, 2009, at 7.

Contract 1 product in Docket Nos. CP2009-20 and CP2009-22, albeit with minor procedural variations due to different negotiation outcomes. The nature of the IBRS service provided in all three contracts is essentially the same, and the instant IBRS contingency arrangement bears similar market characteristics to the two other IBRS Competitive Contract 1 agreements. To the extent that further comparison might be warranted, the Postal Service incorporates by reference its arguments regarding functional equivalence in Docket No. CP2009-22.[12]

IV. Conclusion

For the reasons discussed and as demonstrated by the financial data filed under seal, the Postal Service has established that the instant contingency prices under an expired IBRS contract are in compliance with the requirements of 39 U.S.C. § 3633. To the extent such a showing is required, the contingency arrangement is also functionally equivalent to those contemplated by the IBRS contracts filed in Docket Nos. CP2009-20 and CP2009-22. Accordingly, this arrangement should be added to the IBRS Competitive Contract 1 product on the competitive products list.

[12] Notice of the United States Postal Service Filing of Functionally Equivalent International Business Reply Service Contracts 1 Negotiated Service Agreement, Docket No. CP2009-22, January 30, 2009, at 3-5.

Respectfully submitted,

UNITED STATES POSTAL SERVICE
By its attorneys:

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Chief Counsel
Global Business and Service Development
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December 14, 2012

GLOBAL BUSINESS

UNITED STATES
POSTAL SERVICE

December 14, 2012

Sent via Express Mail piece number [redacted]
Set via e-mail on December 14, 2012

[redacted]

Dear [redacted]:

Thank you for your continued use of United States Postal Service (USPS) International Business Reply Service (IBRS). We value and appreciate the business relationship that we have with [redacted]

As you are aware, the International Customized Mail Agreement between the USPS and [redacted] expired on May 31, 2008. Article 13 of that Agreement provides that:

> [in] the event that either the Mailer or the USPS terminates this Agreement before March 31, 2008, or in the event that the Mailer and the USPS do not enter into a new International Customized Mail Agreement upon the expiration of this current Agreement, the Mailer shall pay postage for any Qualifying Mail the USPS receives after the agreed upon termination date at a rate of [redacted] per item until midnight on December 31, 2008. The Mailer shall pay postage for any Qualifying Mail the USPS receives after December 31, 2008, at a rate the USPS shall determine.

In keeping with the terms of Article 13, the USPS is hereby informing you of the prices it will charge [redacted] for International Business Reply Envelopes received from Canada beginning on January 1, 2013. These prices are detailed in an enclosure to this letter [redacted]. These rates shall stay in effect indefinitely. However, the USPS reserves the right to modify the rates in the future upon thirty (30) days' notice of any such change.

The prices in the enclosed price table are subject to review by the Postal Regulatory Commission (Commission). Please see the enclosed disclosure statement concerning the filing of business information with the Commission

Thank you for your business and your continued support of the USPS.

Sincerely,

Frank A. Cebello

Frank A. Cebello
Executive Director
Global Business Management

Enclosure: Disclosure Statement
Price Table

cc: Carol Pinto

475 L'ENFANT PLAZA, SW, ROOM 2P736
WASHINGTON, DC 20260-0736
202-268-8058
WWW.USPS.COM

Disclosure Statement – USPS Filings with the Postal Regulatory Commission

The United States Postal Service (USPS) is subject to regulation by the Postal Regulatory Commission (Commission), which is an independent U.S. government agency. The USPS is aware that [redacted] may have an interest in some of the information filed in proceedings at the Commission related to this letter. As a result, if the USPS believes that non-public treatment is appropriate for such information, the USPS will designate such information as "non-public" and file it under seal. In other words, certain information that the USPS provides to the Commission will not be publicly available on the Commission's website, rather, it will be available only to the Commission's staff and third persons who are able to certify that they are not involved in competitive decision making. The seal will apply for ten (10) years, although an interested person may file a request for early termination of the seal. In addition, the USPS may be required to file information in connection with this letter (including revenue, cost, or volume data) in other Commission dockets, including Commission Docket Numbers ACR2013 and ACR2014. Any subsequent Commission Docket Numbers will be identified as ACRXXXX, where XXXX identifies the year in question.

Under U.S. law (Title 39, Code of Federal Regulations, Part 3007), whenever the USPS files information non-publicly, the USPS is required to notify any organization that may have an interest in such information that the USPS is filing non-public information with the Commission. Together with such non-public information, the USPS is required to file an application for the Commission to treat such information as non-public ("an application for nonpublic treatment"). Therefore, in accordance with Title 39, Code of Federal Regulations, Section 3007.20(b), the USPS is notifying you that it will be filing non-public information with the Commission together with an application for non-public treatment.

The USPS is also required to notify you that your organization may address any confidentiality concerns that you may have directly with the Commission. The procedure for making a third-party application to the Commission for non-public treatment of materials believed to be protected from disclosure may be found at Title 39, Code of Federal Regulations, Section 2007.22. You can view these regulations the Commission's website, http://www.prc.gov/Docs/63/63467/Order225.pdf.

The USPS will inform you of the docket number for its filing at the Commission concerning this letter once that docket number is assigned. You may be able to access materials related to the enclosed price table under that docket number on the Commission's public website.

PRICES FOR INTERNATIONAL BUSINESS REPLY MAIL ITEMS RECEIVED FROM CANADA ON BEHALF OF [redacted]

BEGINNING JANUARY 1, 2013

[redacted]

Certification of Prices for the International Business Reply Service Competitive Contract with [redacted]

I, Joseph Moeller, Manager, Regulatory Reporting and Cost Analysis, Finance Department, United States Postal Service, am familiar with the prices for the International Business Reply Service (IBRS) Competitive Contract with [redacted] The prices contained in this Contract were established by the Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for International Business Reply Service (IBRS) Contracts, issued December 24, 2008 (Governors' Decision No. 08-24), which established prices by means of price floor and ceiling formulas.

I hereby certify that the numerical cost values underlying the prices in the [redacted] Contract are the appropriate costs to use in the formulas and represent the best available information. The prices, resulting in a cost coverage of in excess of the minimum required by the Governors' Decision are in compliance with 39 U.S.C § 3633 (a)(1), (2), and (3). The prices demonstrate that the Contract should cover its attributable costs and preclude the subsidization of competitive products by market dominant products. International competitive mail accounts for a relatively small percentage of the total contribution by all competitive products. Contribution from International Business Reply Service (IBRS) Competitive Contracts should be even smaller. The Agreement with [redacted] should not impair the ability of competitive products on the whole to cover an appropriate share of institutional costs.

Joseph Moeller

**CERTIFICATION OF GOVERNORS' VOTE
IN THE
GOVERNORS' DECISION NO. 08-24**

I hereby certify that the Governors voted on adopting Governors' Decision No. 08-24, and that, consistent with 39 USC 3632(a), a majority of the Governors then holding office concurred in the Decision. The vote was 5 in favor and 1 abstention.

Julie S Moore Date: 12/24/08

Julie S. Moore
Secretary of the Board of Governors

DECISION OF THE GOVERNORS OF THE UNITED STATES POSTAL SERVICE ON THE ESTABLISHMENT OF PRICES AND CLASSIFICATIONS FOR INTERNATIONAL BUSINESS REPLY SERVICE (IBRS) CONTRACTS (GOVERNORS' DECISION NO. 08-24)

December 24, 2008

STATEMENT OF EXPLANATION AND JUSTIFICATION

Pursuant to our authority under section 3632 of title 39, United States Code, as amended by the Postal Accountability and Enhancement Act of 2006 ("PAEA"), we establish new prices not of general applicability for certain of the Postal Service's competitive service offerings, and such changes in classification as are necessary to implement the new prices. This decision establishes prices by setting price floor and price ceiling formulas for certain International Business Reply Service (IBRS) contracts for inbound Letter Post content other than items classified as "letters" subject to the Private Express Statutes. The types of contracts to which these prices will apply are described in Attachment A,[1] the price floor and price ceiling formulas are specified in Attachment B, and management's analysis of the appropriateness of these formulas is explained in Attachment C. We have reviewed that analysis and have concluded that the prices emerging from application of the formulas and the classification changes are in accordance with 39 U.S.C. §§ 3632-3633 and 39 C.F.R. §§ 3015.5 and 3015.7. Contracts that fall within the terms specified in Attachment A, and whose prices fall within the price ranges established by the price floor and price ceiling formulas specified in Attachment B, are hereby authorized.

The PAEA provides that prices for competitive products must cover each product's attributable costs, not result in subsidization by market dominant products, and enable all competitive products to contribute an appropriate share to the Postal Service's institutional costs. We have determined that prices established according to the formulas listed in Attachment B would be appropriate for the services covered by the types of IBRS Contracts

[1] The classification for IBRS Contracts is contained in the Mail Classification Schedule language originally proposed by the Postal Service, as modified in Attachment A. *See* United States Postal Service Submission of Additional Mail Classification Schedule Information in Response to Order No. 43, November 20, 2007. It should be noted that certain of the modifications seek to clarify the requirements for the IBRS service available by customized agreement.

classified in Attachment A. Management's analysis of the formulas, included as Attachment C, supports our decision to establish prices through such formulas for the specified types of contracts.

We are satisfied that the prices established by the formulas in Attachment B meet the applicable statutory and regulatory requirements. The price floor formulas provide greater than 100 percent coverage of the costs attributable to each of these types of agreements. We accept and rely upon the certification in Attachment D that the correct cost inputs for the formulas have been identified. In addition, the price floor formulas [redacted] should cover the agreements' attributable costs and provide a contribution toward the Postal Service's institutional costs. The formulas should thus prevent cross-subsidies from market dominant products. As noted in the certification in Attachment D, entry into agreements pursuant to this Decision should not impair the ability of competitive products as a whole to cover an appropriate share of institutional costs.

No agreement authorized pursuant to this Decision may go into effect unless it is submitted to the Postal Regulatory Commission with a notice that complies with 39 C.F.R. § 3015.5 and any other rules that the Commission deems applicable. The notice must include a financial analysis that demonstrates that the agreement covers its attributable costs, based on [redacted] Attachment B. The notice must also include a certification from a Postal Service official that the numerical values chosen for each agreement are appropriate, in that they represent the best available information and that the agreement should not result in a cross-subsidy from market dominant products and should not impair the ability of competitive products, as a whole, to cover an appropriate share of institutional costs.

ORDER

In accordance with the foregoing Decision of the Governors, the formulas set forth herein, which establish prices for the applicable IBRS contracts, and the changes in classification necessary to implement those prices, are hereby approved and ordered

into effect. An agreement is authorized under this Decision only if the prices fall within the formulas set by this Decision and the certification process specified herein is followed. After an authorized agreement is entered into, the Postal Service shall comply with all applicable statutory and regulatory requirements.

Prices and classification changes established pursuant to this Decision will take effect after filing with and completion of review by the Postal Regulatory Commission.

By The Governors:

Alan C. Kessler
Chairman

Attachment A

Description of Applicable International Business Reply Service (IBRS) Contracts

2315.3 International Business Reply Service (IBRS) Contracts

2315.3.1 Description

a. International Business Reply Service (IBRS) Contracts provide a price for IBRS for Letter Post items not subject to the Private Express Statutes, with preparation requirements deviating from the standard, published requirements for cards and envelopes.

b. Preparation requirements are specified by the originating country in which the items are mailed.

c. The rates are dependent upon a volume or postage commitment on the part of the customer.

d. A mailer must ~~tender all of its qualifying mail to the Postal Service and~~ be capable, on an annualized basis, of either tendering at least 5,000 pieces of international mail to the Postal Service or paying at least $100,000 in international ~~$2 million in First-Class Mail International~~ postage to the Postal Service.

e. The contract must cover its attributable costs.

2315.3.2 Size and Weight Limitations

The mailer may be required to meet specific size and weight limitations set by the origination country in which the items are mailed and by the Postal Service.

2315.3.3 Minimum Volume or Revenue Requirements

Mailers must commit to tender varying minimum volumes or postage on an annualized basis. There is no minimum volume requirement per mailing.

2315.3.4 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- None

2315.3.5 Products Included in Group (Agreements)

Attachment B

Formulas for Prices Under Applicable International Business Reply Service Contracts

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

Attachment C

Analysis of the Formulas for Prices Under Applicable International Business Reply Service Contracts

[redacted]

[redacted]

[redacted]

[redacted]

Attachment D

Certification as to the Formulas for Prices Offered Under Applicable International Business Reply Service Contracts

I, W. Ashley Lyons, Manager, Corporate Financial Planning, Finance Department, United States Postal Service, am familiar with the price floor formula and price ceiling formula for International Business Reply Service (IBRS) Contracts, which are set forth in Attachment B.

I hereby certify that these formulas adequately represent all necessary [redacted]. If the Postal Service were to enter into agreements that set prices above the price floor, the Postal Service would be in compliance with 39 U.S.C § 3633 (a)(1), (2), and (3). The price floor formula is designed to ensure that each agreement should cover its attributable costs and preclude the subsidization of competitive products by market dominant products. In Fiscal Year 2007, all outbound international competitive mail accounted for approximately 11 percent of the total contribution by all competitive products. Contribution from IBRS Contracts should be much smaller. Even if all the agreements for IBRS Contracts are signed at the price floor, they should not impair the ability of competitive products on the whole to cover an appropriate share of institutional costs.

W. Ashley Lyons

ATTACHMENT 4

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 materials filed with the Commission in this docket. The materials pertain to contingency prices under a former International Business Reply Service (IBRS) Competitive Contracts 1 contract that the Postal Service believes is functionally equivalent to previously filed GEPS agreements. The Postal Service is filing the notice to the customer concerning prices, which will take effect on January 1, 2013, and supporting documents establishing compliance with 39 U.S.C. § 3633 and 39 C.F.R. § 3015.5, separately under seal with the Commission. The Postal Service is also filing redacted versions of these materials publicly.[2]

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

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

[2] The Postal Service informed the customer prior to filing its notice that it would be seeking non-public treatment of the redacted portions of the contract. The Postal Service also informed the customer that it could file its own application for non-public treatment of these materials in accordance with 39 C.F.R. § 3007.22.

be disclosed to the public.[3] 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.[4] Because the portions of materials filed non-publicly in this docket 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;

In the case of IBRS Competitive Contracts, the Postal Service believes that the third parties with a proprietary interest in the materials are the customer with whom the contract is made and Canada Post Corporation (Canada Post). The Postal Service maintains that customer identifying information should be withheld from public disclosure. Therefore, rather than identifying the customer, the Postal Service gives notice that it has already informed the customer, in compliance with 39 C.F.R. § 3007.20(b), of the nature and scope of this filing and its ability to address its confidentiality concerns directly with the Commission. The Postal Service employee responsible for providing notice to the third party with proprietary interest in the materials filed in this docket is Mr. James Crawford, Business Development Specialist,

[3] 39 U.S.C. § 410(c)(2); 5 U.S.C. § 552(b)(4).

[4] 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, Docket No. RM2008-1, March 20, 2009, at 11.

Global Business, United States Postal Service, 475 L'Enfant Plaza SW, Room 2P020, Washington, D.C. 20260-0020, whose email address is james.j.crawford@usps.gov, and whose telephone number is 202-268-7714.

The financial documentation also contains information that could be considered proprietary to Canada Post. The Postal Service has already informed Canada Post, in compliance with 39 C.F.R. § 3007.20(b), of the nature and scope of filings of this nature and its ability to address its confidentiality concerns directly with the Commission. The Postal Service identifies Ewa Kowalski, Canada Post Corporation, as the appropriate contact on behalf of Canada Post. Ewa Kowalski's telephone number is (613) 734-6201, and her email address is ewa.kowalski@canadapost.postescanada.ca. Canada Post has requested that any communications regarding confidential treatment of these data be sent with a courtesy copy to Dennis Jarvis, General Manager, International Product Management, Canada Post Corporation. Mr. Jarvis's telephone number is (613) 734-8149, and his email address is dennis.jarvis@canadapost.ca.[5]

(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;

In connection with its Notice filed in this docket, the Postal Service included a notice to the customer of contingency prices and financial work papers. The Postal Service filed these materials under seal, with redacted copies filed publicly, and the

[5] In the event of a request for early termination of non-public treatment under 39 C.F.R. § 3007.31, a preliminary determination of non-public status under 39 C.F.R. § 3007.32, or a request for access to non-public materials under 39 C.F.R. § 3007.40, the Postal Service notes, on Canada Post's behalf, that differences in the official observation of national holidays might adversely and unduly affect Canada Post's ability to avail itself of the times allowed for response under the Commission's rules. In such cases, Canada Post has requested that the Postal Service convey its preemptive request that the Commission account for such holidays when accepting submissions on matters that affect Canada Post's interests. A listing of Canada's official holidays can be found at http://www.pch.gc.ca/pgm/ceem-cced/jfa-ha/index-eng.cfm.

Postal Service provided notice to the customer. The Postal Service maintains that the redacted portions of the customer notice and related financial information, including identifying information related to the customer, should remain confidential.

With regard to the notice of contingency prices filed in this docket, some redacted information in the cover letter constitute the name or address of a postal patron whose identifying information may be withheld from mandatory public disclosure by virtue of 39 U.S.C. § 504(g)(1) and 39 U.S.C. § 410(c)(2). The redactions made in the pages following the cover letter, as well as that in the indented text of the cover letter, withhold the actual prices that are being designated as applicable to items that continue to be tendered to the Postal Service for delivery under the now-expired contract. One remaining redaction on the cover letter concerns sensitive information about the structure of the contingency prices.

The redactions applied to 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. To the extent practicable, the Postal Service has limited its redactions in the work papers to the actual information it has determined to be exempt from disclosure under 5 U.S.C. § 552(b). However, in a limited number of cases, narrative passages, such as words or numbers in text, were replaced with general terms describing the redacted material. For example, where the customer's name appears in the spreadsheet within a cell, it has been replaced by the word "Mailer."

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

If the portions of the price change notice that the Postal Service determined to be protected from disclosure due to their commercially sensitive nature were to be disclosed publicly, the Postal Service considers that it is quite likely that it would suffer commercial harm. First, revealing customer identifying information would enable competitors to focus marketing efforts on current or recent postal customers which have been cultivated through the efforts and resources of the Postal Service. The Postal Service considers that it is highly probable that if this information were made public, its competitors would take immediate advantage of it. Therefore, there is a substantial likelihood of losing the customers to a competitor that targets them with lower pricing.

Second, the financial workpapers include specific information such as costs, assumptions used in pricing formulas, the formulas themselves, mailer profile information, projections of variables, contingency rates included to account for market fluctuations and the exchange risks. All of this information is highly confidential in the business world. If this information were made public, the Postal Service's competitors would have the advantage of being able to determine the absolute floor for Postal Service pricing. Unlike its competitors, the Postal Service is required by the mail classification schedule to demonstrate that each negotiated agreement within this group covers its attributable costs. Furthermore, the Postal Service's Governors have required that each contract be submitted to the Commission with a notice that complies with 39 C.F.R. § 3015.5.[6] Thus, competitors would be able to take advantage of the

[6] Decision of the Governors of the United States Postal Service On The Establishment of Prices and Classifications for International Business Reply Service (IBRS) Contracts, December 24, 2008, (Governors' Decision No. 08-24) at 2-3 and Attachment A.

information to offer lower pricing to the IBRS Competitive Contracts customers, while subsidizing any losses with profits from other customers. Eventually, this could freeze the Postal Service out of the international return delivery services market. Given that these spreadsheets are filed in their native format, the Postal Service's assessment is that the likelihood that the information would be used in this way is great.

Disclosure of the prices in the price notice would reveal to competitors the Postal Service's levels of pricing for this service, thereby allowing them to offer lower prices and undercut the Postal Service's marketing efforts. Moreover, disclosure of such information could be used by competitors of the customer to assess its underlying costs, and thereby develop a benchmark for the development of a competitive alternative.

In addition, information in the financial spreadsheets also consists of sensitive commercial information of Canada Post. Disclosure of such information could be used by competitors of Canada Post to develop competitive alternatives to its products.

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

Identified harm: Revealing customer identifying information would enable competitors to target the customers for sales and marketing purposes.

Hypothetical: The identity of the customer in this contract is revealed to the public. Another delivery service has an employee monitoring the filing of IBRS Competitive Contracts and passing along the information to its sales function. The competitor's sales representatives can then quickly contact the Postal Service's customer and offer the customer lower rates or other incentives to use the competitor's services instead of entering a new IBRS Competitive Contract with the Postal Service.

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

Hypothetical: A competing package delivery service obtains a copy of the unredacted version of the prices or the financial work papers from the Postal Regulatory Commission's website. It analyzes the materials 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 IBRS Competitive Contracts customers under that threshold and markets its ability to guarantee to beat the Postal Service on price for international delivery services. By sustaining this below-market strategy for a relatively short period of time, the competitor, or all of the Postal Service's competitors acting in a likewise fashion, would freeze the Postal Service out of the relevant delivery services market for which the IBRS Competitive Contracts product is designed.

Identified harm: Public disclosure of information in the financial workpapers would be used by the customer's competitors to its detriment.

Hypothetical: A firm competing with the customer obtains a copy of the unredacted version of the contract and financial work papers from the Postal Regulatory Commission's website. The competitor analyzes the prices and the work papers to assess the customer's underlying costs for the corresponding delivery products. The competitor uses that information as a baseline to develop lower-cost alternatives.

Identified harm: Public disclosure of information in the financial workpapers and notice to the customer would be used by Canada Post's competitors to its detriment.

Hypothetical: A competing international delivery service obtains a copy of the unredacted version of the financial workpapers and notice to the customer from the Postal Regulatory Commission's website. The competitor analyzes the financial workpapers and notice to the customer to assess Canada Post's prices. The competitor uses that information to target its competitive offerings accordingly.

(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 delivery products (including both private sector integrators and foreign postal administrations), as well as their consultants and attorneys. Additionally, the Postal Service believes that actual or potential customers of the Postal Service for this 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:

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.