Postal Regulatory Commission
Submitted 2/8/2013 3:50:09 PM
Filing ID: 86452
Accepted 2/8/2013

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

COMPETITIVE PRODUCT PRICES GLOBAL RESELLER EXPEDITED PACKAGE CONTRACTS 1 (MC2010-21) NEGOTIATED SERVICE AGREEMENTS	Docket No. CP2013-49

NOTICE OF UNITED STATES POSTAL SERVICE OF FILING A FUNCTIONALLY EQUIVALENT GLOBAL RESELLER EXPEDITED PACKAGE NEGOTIATED SERVICE AGREEMENT AND APPLICATION FOR NON-PUBLIC TREATMENT OF MATERIALS FILED UNDER SEAL
(February 8, 2013)

In accordance with 39 C.F.R. § 3015.5 and Order No. 445,[1] the United States Postal Service (Postal Service) hereby gives notice that it is entering into a Global Reseller Expedited Package (GREP) contract. Prices and classifications not of general applicability for GREP contracts were previously established by the Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Global Reseller Expedited Package Contracts, issued March 24, 2010 (Governors' Decision No. 10-1).[2] Subsequently, the Commission added Global Reseller Expedited Package Contracts 1 (MC2010-21 and CP2010-36) to the competitive product list. The contract filed in Docket No. CP2010-36 serves as the baseline agreement for comparison of potentially functionally equivalent agreements

[1] PRC Order No. 445, Order Concerning Global Reseller Expedited Package Contracts Negotiated Service Agreement, Docket Nos. MC2010-21 and CP2010-36, April 22, 2010.
[2] A redacted copy of the Governors' Decision was filed on March 29, 2010, and is filed as Attachment 3 to this Notice. *See* Request of the United States Postal Service to Add Global Reseller Expedited Package Contracts to the Competitive Products List, and Notice of Filing (Under Seal) of Contract and Enabling Governors' Decision, Docket Nos. MC2010-21 and CP2010-36, March 29, 2010, http://prc.gov/Docs/67/67351/MC2010-21%20Global%20Resellers%20Request.pdf.

under the GREP Contracts 1 grouping.[3] The Postal Regulatory Commission (Commission) determined that individual GREP contracts may be included as part of the GREP Contracts 1 product if they meet the requirements of 39 U.S.C. § 3633 and if they are functionally equivalent to the previously submitted GREP contract.[4] Subsequently, the Commission included a number of individual GREP contracts within the Global Reseller Expedited Package Contracts 1 (MC2010-21) product.[5]

The contract 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 copy of the contract, a certified statement required by 39 C.F.R. § 3015.5(c)(2) for the contract, and Governors' Decision No. 10-1 are filed as Attachments 1, 2, and 3, respectively. Attachment 4 to this Notice is the Postal Service's Application for Non-public Treatment of the materials filed under seal in this docket. A full discussion of the required elements of the application appears in Attachment 4.

I. Background

The first GREP contract was filed on March 29, 2010.[6] The Postal Service demonstrates below that the agreement that is included with this filing is functionally

---

[3] PRC Order No. 445, at 8.
[4] *Id*.
[5] PRC Order No. 811, Order Approving Additional Global Reseller Expedited Package Contracts 1 Negotiated Service Agreement, PRC Docket No. CP2011-67, August 18, 2011, at 5; PRC Order No. 1177, Order Approving Additional Global Reseller Expedited Package Contract 1 Negotiated Service Agreement, Docket No. CP2012-14, January 27, 2012, at 7; PRC Order No. 1337, Order Approving an Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, Docket No. CP2012-21, May 9, 2012, at 5; PRC Order No. 1571, Order Approving an Additional Global Reseller Expedited Package Contracts 1 Negotiated Service Agreement, Docket No. CP2013-20, December 10, 2012, at 4.
[6] Request of the United States Postal Service to Add Global Reseller Expedited Package Contracts to the Competitive Products List, and Notice of Filing (Under Seal) of Contract and Enabling Governors' Decision, Docket Nos. MC2010-21 and CP2010-36, March 29, 2010.

equivalent to the first GREP contract that was the subject of Docket No. CP2010-36. Accordingly, the contract that is the subject of this docket should be included within the GREP Contracts 1 product.

II. Identification of the Additional GREP 1 Contract

The Postal Service believes that this additional GREP contract fits within the Mail Classification Schedule (MCS) language included as Attachment A to Governors' Decision No. 10-1.[7]

III. Functional Equivalency of GREP 1 Contracts

This GREP 1 contract is substantially similar to the contract filed in Docket No. CP2010-36.[8] The contract shares similar cost and market characteristics with that contract. In Governors' Decision No. 10-1, the Governors established a pricing formula and classification that ensure that each GREP contract meets the criteria of 39 U.S.C. § 3633 and the regulations promulgated thereunder. Therefore, the costs of the two contracts conform to a common description. In addition, the GREP language proposed for the MCS requires that each GREP contract must cover its attributable costs. The contract at issue here meets the Governors' criteria and thus exhibits similar cost and market characteristics to the contract filed in Docket No. CP2010-36.

The functional terms of the contract at issue are the same as those of the contract that is the subject of Docket No. CP2010-36, which serves as the baseline

---

[7] *See also* Additional Supplemental Comments of United States Postal Service on Mail Classification Schedule, Docket No. RM2011-8, July 29, 2011, Marked Up Version of Mail Classification Schedule, 2510.7, Global Reseller Expedited Package Contracts.

[8] The contract filed in Docket No. CP2010-36 includes the contract filed as Attachment 3 of the Request of the United States Postal Service to Add Global Reseller Expedited Package Contracts to the Competitive Products List, and Notice of Filing (Under Seal) of Contract and Enabling Governors' Decision, PRC Docket Nos. MC2010-21 and CP2010-36, March 29, 2010, as well as Modification One filed as Attachment 1 to the Notice of the United States Postal Service of Filing Modification to Global Reseller Expedited Package Negotiated Service Agreement, Docket No. CP2010-36, July 29, 2010.

agreement for the GREP Contracts 1 product grouping. The benefits of the contract to the Postal Service are comparable as well. Therefore, the Postal Service submits that the contract is functionally equivalent to the contract that is the subject of Docket No. CP2010-36, and should be added to the competitive product list as a GREP 1 contract.

In a concrete sense as well, this GREP contract shares the same cost and market characteristics as the contract filed in Docket No. CP2010-36. Customers for GREP contracts are resellers that market Express Mail International and Priority Mail International at discounted prices to their customers, especially small- or medium-sized businesses. Prices offered under the contracts may differ depending on the postage commitments made by the customers. Prices also may differ depending upon when the agreement is signed, due to the incorporation of updated costing information. These differences, however, do not alter the contracts' functional equivalency. Because the agreement incorporates the same cost attributes and methodology, the relevant characteristics of this GREP contract are similar, if not the same, as the relevant characteristics of the contract filed in Docket No. CP2010-36.

Like the contract that is the subject of Docket No. CP2010-36, this contract also fits within the parameters outlined by the Governors' Decision establishing the rates for GREP agreements. There are, however, differences between this contract and the contract that is the subject of Docket No. CP2010-36, which include:

- An additional "Whereas" paragraph on page one, in which Reseller acknowledges that a duly authorized representative of the Reseller has read and understood the articles in the agreement;

- The addition of “®” and “™” symbols after Postal Service products and services throughout the agreement;
- In Article 2, the addition of definitions of Express Mail International and Priority Mail International, and a revision of the definition of “Effective Date”;
- A revised definition of Qualifying Mail in Article 3, which includes flat rates products, but excludes Express Mail International and Priority Mail International items that are destined to certain countries, addressed to certain persons, or tendered on behalf of certain third parties or entities;
- A slightly revised summary of the Postal Service’s obligations to seek non-public treatment of certain information, in Article 5, paragraph (3);
- A clarification in Article 6, paragraph (1), concerning the Reseller’s right to offer all or a portion of the discounts provided under the agreement;
- An additional Article 6, paragraph (3)(d) concerning advance notification of tender of certain Qualifying Mail;
- A revised Article 6, paragraph (4) concerning tender;
- The addition of Article 6, paragraph (5) concerning acceptance, which causes the subsequent paragraphs in Article 6 to be renumbered;
- A revision of Article 6, paragraph (7) concerning customs and export requirements;
- A revision of Article 6, paragraph (9), concerning Reseller’s obligations to provide notice to Reseller’s customers that they must comply with all

applicable Postal Service regulations, orders, and demands, and all other applicable laws and regulations;

- The addition of Article 6, paragraph (12), in which Reseller agrees to comply with all applicable USPS regulations, and all other applicable laws and regulations;
- The addition of Article 6, paragraph (13) concerning penalties;
- A revision of Article 7, paragraph (2) concerning prices;
- The negotiated minimum revenue commitment included in Article 8, paragraph (1);
- A revision to Article 8, paragraph (3), concerning the periodic review of the Reseller's progress toward achieving the annualized minimum commitment set forth in Article 8, paragraph (1);
- A revision of the term of the agreement, as established in Article 11, so that the agreement remains in effect until either Party terminates the agreement;
- A revised Article 12 concerning termination of the agreement;
- A revised Article 13, paragraph (1) concerning modification of the agreement;
- A revised Article 14, which concerns entire agreement and the survival of obligations;
- The addition of a reference, in Article 16, to PRC docket numbers concerning the Annual Compliance Report, in which the Postal Service may file confidential information related to this agreement;

- Revisions to Article 18 concerning indemnity;
- Revisions to Article 20 about suspensions of mail service;
- Minor changes to Article 21 concerning assignment;
- Revisions to Article 23 about export and import laws and regulations;
- Revisions to Article 24 concerning superseding terms and conditions;
- Minor revisions to Article 25 about reference citations;
- A revised Article 27 concerning notices;
- An additional Article 31, which states that nothing in the agreement prohibits the USPS from soliciting sales from the Reseller's customers;
- An additional Article 32 concerning Intellectual Property, Co-Branding, and Licensing;
- An additional Article 33 about the Effective Date of the agreement;
- An additional Article 34 concerning limitation of liability; and
- An additional Article 35 about Warranties and Representations.

The Postal Service does not consider that the specified differences affect either the fundamental service the Postal Service is offering or the fundamental structure of the contract. Nothing detracts from the conclusion that this agreement is "functionally equivalent in all pertinent respects"[9] to the contract that is the subject of Docket No. CP2010-36.

Conclusion

For the reasons discussed, and as demonstrated by the financial data filed under seal, the Postal Service has established that this GREP contract is in compliance with

[9] PRC Order No. 85, Order Concerning Global Plus Negotiated Service Agreements, Docket Nos. CP2008-8, CP2008-9, and CP2008-10, June 27, 2008, at 8.

the requirements of 39 U.S.C. § 3633. In addition, this GREP contract is functionally equivalent to the baseline contract that is the subject of Docket No. CP2010-36. Accordingly, this contract should be added to the GREP Contracts 1 product grouping.

Respectfully submitted,

UNITED STATES POSTAL SERVICE
By its attorneys:

Anthony F. Alverno
Chief Counsel
Global Business and Service Development
Corporate and Postal Business Law Section

Christopher C. Meyerson
Attorney

475 L'Enfant Plaza, S.W.
Washington, D.C. 20260-1137
(202) 268-7820; Fax -5628
christopher.c.meyerson@usps.gov
February 8, 2013

GLOBAL CUSTOMIZED MAIL AGREEMENT BETWEEN THE UNITED STATES POSTAL SERVICE AND [redacted]

This Agreement ("Agreement") is between [redacted] ("Reseller"), with offices at [redacted] and the United States Postal Service ("USPS"), an independent establishment of the Executive Branch of the United States Government, with offices at 475 L'Enfant Plaza SW, Washington, DC 20260-9998. The Reseller and the USPS may be referred to individually as a "Party" and together as the "Parties."

INTRODUCTION

WHEREAS, the Parties desire to enter into a non-exclusive relationship whereby the USPS will provide certain products and/or services to the Reseller pursuant to the terms and conditions contained herein;

WHEREAS, the Parties acknowledge and understand that the commencement of performance under this Agreement is subject to the approval of various entities with oversight responsibilities which may include but not be limited to the USPS management's executive committee, the USPS Governors, and/or the Postal Regulatory Commission. Accordingly, the Reseller acknowledges and understands that the ability of the USPS to perform under this Agreement may not occur.

WHEREAS, by signing this Agreement the Reseller acknowledges that a duly authorized representative of the Reseller has read and understood each of the following Articles;

WHEREAS, in light of the aforementioned acknowledgements, the Parties desire to be bound by the terms of this Agreement;

NOW, THEREFORE, in consideration of the mutual promises set forth below, the Parties hereby agree as follows:

ARTICLE 1. PURPOSE OF THE AGREEMENT

This Agreement shall govern the use the Reseller may make of discounted prices for Express Mail International® and Priority Mail International®.

ARTICLE 2. DEFINITIONS

As used in this Agreement:

1. "IMM®" means the *International Mail Manual* as found on the USPS website pe.usps.com on the date of mailing.
2. "DMM®" means the *Domestic Mail Manual* as found on the USPS website pe.usps.com on the date of mailing.
3. "EMI™" means Express Mail International® service as set forth in IMM 220.

4. "PMI™" means Priority Mail International® service as set forth in IMM 230.
5. "Effective Date" means the first date on which the USPS is willing to accept EMI™ and PMI™ shipments from the Reseller under this Agreement.
6. "PC Postage® Provider" means any one of the USPS-authorized providers of software-based solutions for managing postage accounts listed in DMM 604.4.1.4.
7. "Qualifying Mail" means mail that meets the requirements set forth in Article 3 of this Agreement.
8. "Non-Qualifying Mail" means mail that does not meet the requirements set forth in Article 3 of this Agreement.
9. "Reseller's Customers" means any third party to which the Reseller agrees to offer rates under the terms of this Agreement.

ARTICLE 3. QUALIFYING MAIL

Only mail that meets:

1. The requirements set forth in IMM 220 for Express Mail International®, with the exception of:

    a. Any item destined for any country included in Country Group E-1 under Supplement No. 1 to Title 15, Code of Federal Regulations, Part 740, available at http://www.gpo.gov/fdsys/pkg/CFR-2012-title15-vol2/pdf/CFR-2012-title15-vol2-part740-appNo-.pdf;

    b. Any item addressed to persons or entities identified on the Office of Foreign Assets Control's (OFAC's) Specially Designated Nationals List or the Bureau of Industry and Security's (BIS's) Denied Persons and Entity List; and

    c. Any item tendered on behalf of third parties or entities identified on OFAC's Specially Designated Nationals List, BIS's Denied Persons and Entity Lists;

2. The requirements set forth in IMM 230 for Priority Mail International®, with the exception of:

    a. Any item destined for any country included in Country Group E-1 under Supplement No. 1 to Title 15, Code of Federal Regulations, Part 740, available at http://www.gpo.gov/fdsys/pkg/CFR-2012-title15-vol2/pdf/CFR-2012-title15-vol2-part740-appNo-.pdf;

    b. Any item addressed to persons or entities identified on OFAC's Specially Designated Nationals List, BIS's Denied Persons List, or BIS's Entity List; and

c. Any item tendered on behalf of third parties or entities identified on OFAC's Specially Designated Nationals List, BIS's Denied Persons List, or BIS's Entity List;

shall be considered as Qualifying Mail.

ARTICLE 4. NON-QUALIFYING MAIL

Express Mail International® and Priority Mail International® tendered to the USPS at a Bulk Mail Entry Unit or a USPS retail window shall be considered Non-Qualifying Mail. The USPS, at its option and without forfeiting any of its rights under this Agreement, either may refuse to accept Non-Qualifying Mail or may accept Non-Qualifying Mail at the applicable published prices.

ARTICLE 5. OBLIGATIONS OF THE USPS

The USPS hereby agrees:

1. Postage. To provide discounted prices for Qualifying Mail paid for and tendered as required by this Agreement.
2. Notice of Postage Due. To provide the Reseller with a written statement to support the calculation of postage due to the USPS as a result of discrepancies between the PC postage® applied by Reseller's Customers sending Qualifying Mail and the actual postage due to the USPS under this Agreement.
3. Confidentiality. To seek non-public treatment of information it determines to be eligible for protection from public disclosure under applicable law and practice when it files the Agreement with the Postal Regulatory Commission, or when it files information (including data) in connection with the Agreement in accordance with other regulatory requirements.

ARTICLE 6. OBLIGATIONS OF THE RESELLER

The Reseller hereby agrees:

1. Prices. To offer the Reseller's Customers prices based on this Agreement. Subject to the conditions of this Agreement, the Reseller has the right to offer all or a portion of the discounts provided that any difference between discounts offered by the Reseller and discounts offered by the USPS are handled by the Reseller itself and not by the PC Postage® Provider. In no case shall the price the Reseller offers the Reseller's Customers be higher than the full, non-discounted, published USPS price for the product.
2. Payment Method. To pay postage to the USPS through the intermediary of one or more PC Postage® Providers of the Reseller's choosing provided that the PC Postage® Provider(s) is listed as approved in DMM 604.4.1.4, and capable of both (i) programming rates based on this Agreement, and (ii) complying with USPS reporting requirements related to this Agreement.
3. Advance Notification. To provide, as provided for in Article 27,

a. The Manager, Customized Mail, USPS, with notification of the USPS-approved PC Postage® Provider(s) the Reseller intends to use at least fifteen (15) days in advance of the first use of that PC Postage® Provider(s) in connection with this Agreement.

b. The Manager, Customized Mail, USPS, with notification of the Reseller's intent to add an additional PC Postage® Provider(s), or to cease using a particular PC Postage® Provider(s), at least fifteen (15) days in advance of the date of the intended change.

c. The Manager, Customized Mail, USPS, with any and all relevant information required to identify a particular sender tendering Qualifying Mail to the USPS under the pricing terms of this Agreement, as quickly as possible after the relevant information has been determined.

d. The Manager, Customized Mail, USPS, with notice that the Reseller plans to tender Qualifying Mail under this Agreement that requires a license from OFAC, BIS, or the U.S. Department of State. Such notice must be provided not less than ten (10) days prior to tender.

4. Tender.

a. To require that the Reseller's Customers present the mailings of Qualifying Mail to the USPS using any means of tender the USPS authorizes for items paid for by use of PC Postage® with the exception of tender at a retail window of any post office;

b. To take steps to prevent Reseller's Customers from presenting to the Reseller for tender to the USPS any item destined for any country included in Country Group E-1 under Supplement No. 1 to Title 15, Code of Federal Regulations, Part 740, available at http://www.gpo.gov/fdsys/pkg/CFR-2012-title15-vol2/pdf/CFR-2012-title15-vol2-part740-appNo-.pdf (as of July 2012, such countries include Cuba, Iran, North Korea, Sudan, and Syria);

c. To take steps to prevent Reseller's Customers from presenting to the Reseller for tender to the USPS any item addressed to persons or entities identified on OFAC's Specially Designated Nationals List, BIS's Denied Persons List, or BIS's Entity List; and

d. To take steps to prevent Reseller's Customers from presenting to the Reseller for tender to the USPS any item tendered on behalf of third parties or entities identified on OFAC's Specially Designated Nationals List, BIS's Denied Persons List, or BIS's Entity List.

5. Acceptance. Not to:

a. Accept from any of the Reseller's Customers any item destined for any country included in Country Group E-1 under Supplement No. 1 to Title 15, Code of Federal Regulations, Part 740, available at http://www.gpo.gov/fdsys/pkg/CFR-2012-title15-vol2/pdf/CFR-2012-title15-vol2-part740-appNo-.pdf (as of July 2012, such countries include Cuba, Iran, North Korea, Sudan, and Syria);

b. Accept from any of the Reseller's Customers any item addressed to persons or entities identified on OFAC's Specially Designated Nationals List, BIS's Denied Persons List, or BIS's Entity List; and

c. Accept from any of the Reseller's Customers any item tendered on behalf of third parties or entities identified on OFAC's Specially Designated Nationals List, BIS's Denied Persons List, or BIS's Entity List.

6. Customs and Export Documentation. To require that Reseller's Customers provide any necessary documentation, including data provided in electronic format, in connection with each mailing, in the form and at the time specified by the USPS, Customs & Border Protection, Transportation Security Administration, the U.S. Census Bureau, a destination country foreign government, or other authority. The Reseller further understands and agrees to notify the Reseller's Customers that the failure to provide any such required documentation may result in refusal at acceptance, delay in processing, involuntary seizure by customs authorities, and/or return of mail to the sender.

7. Customs and Export Requirements. To require the Reseller's Customers to comply with any regulation or order promulgated by the USPS, OFAC, the U.S. Department of the Treasury, the U.S. Census Bureau, BIS, the U.S. Department of Commerce, the U.S. Department of State, the U.S. Customs & Border Protection, the U.S. Fish and Wildlife Service, the Transportation Security Administration, a destination country foreign government, or other governmental unit, according to any requirements specified by those authorities. See IMM 5 for additional information.

8. Software. To require the Reseller's Customers to apply address labels and Customs declarations to Qualifying Mail using the software provided by the approved PC Postage® Provider which the Reseller has identified as its chosen postage payment intermediary.

9. Notices to Reseller's Customers. To provide notice to the Reseller's Customers that the Reseller's Customers must comply with all applicable USPS regulations, orders, and demands, and all other applicable laws and regulations.

10. Postage Due. To pay postage due to the USPS as a result of discrepancies between the PC postage® applied by the Reseller's Customers and the actual postage due to the USPS under this Agreement.

11. Confidentiality. To treat as confidential and not disclose to third parties, absent express written consent by the USPS, any information related to this Agreement that is treated as non-public by the Postal Regulatory Commission.

12. Compliance. To comply with all applicable USPS regulations, orders, and demands, and all other applicable laws and regulations.

13. Penalties. To pay any fines or penalties, as well as any other expenses, damages, and/or charges (including any applicable duties, taxes, and/or fees vis-a-vis any federal agency other than the USPS), to the extent such are due and owing, and are no longer eligible to be contested by the Reseller

a. that result from an action of any governmental entity that regulates exports and/or imports in relation to any item tendered under this Agreement, or

b. that result from the Reseller's and/or Reseller's Customer's failure to comply with applicable laws and regulations of the origin country, destination country or any country through which a mailing tendered under this Agreement passes (including failure to provide necessary documentation and/or failure to obtain any required license or permit).

ARTICLE 7. PRICES

1. In consideration of the commitment set forth in Article 8 of this Agreement, the USPS shall grant the Reseller [redacted]

2. [redacted]

ARTICLE 8. MINIMUM COMMITMENT

1. Beginning on the Effective Date of this Agreement, the Reseller is required to meet an annualized minimum commitment of [redacted]

2. In the event that the Reseller does not achieve the postage commitment in Paragraph 1 of this Article, the Reseller agrees to pay to the USPS [redacted]

3. The USPS shall perform a periodic review of the Reseller's progress toward achieving the annualized minimum commitment in Paragraph 1 of this Article. These reviews shall take place on a quarterly basis and the first review shall take place following the first ninety (90) days after the date which the USPS is willing to accept Qualifying Mail. Nothing in the review process is intended to affect the Reseller's annualized minimum commitment in Paragraph 1 of this Article.

ARTICLE 9. NO SERVICE GUARANTEE

Nothing in this Agreement shall be construed as a representation or guarantee by the USPS that Qualifying Mail will be delivered to the appropriate addresses within any particular time. The Reseller shall notify the Reseller's Customers that there is no service guarantee for mail tendered to the USPS at the discounted prices provided through this Agreement.

ARTICLE 10. CUSTOMS DUTIES AND TAXES

Customs duties and taxes for packages mailed under this Agreement are the responsibility of the addressee. The Reseller shall notify the Reseller's Customers that Customs duties and taxes for packages mailed under this Agreement are the responsibility of the addressee.

ARTICLE 11. TERM OF THE AGREEMENT

The USPS will notify the Reseller of the Effective Date of this Agreement within thirty (30) days after receiving the approval of the entities that have oversight responsibilities of the USPS. The Agreement will remain in effect until either Party terminates the Agreement, which shall be done by providing at least ninety (90) days prior written notice to the other party.

ARTICLE 12. TERMINATION

1. Either Party to this Agreement, in its sole discretion, may terminate this Agreement for any reason without cost, fault, or penalty, regardless of whether either Party is in default, upon a [redacted] day written notification to the other Party in accordance with the terms of Article 27 of this agreement.
2. The Postal Service may terminate this Agreement if a periodic review of the Reseller's progress which is described in Article 8, Paragraph 3, reveals that the postage paid by the Reseller for mail sent under this Agreement falls below the annualized minimum commitment set forth in Article 8 of this Agreement prorated for the period examined.
3. In the event that this Agreement is terminated for any reason, the minimum commitment in Article 8 shall be calculated on a *pro rata* basis to reflect the actual duration of the Agreement.

ARTICLE 13. MODIFICATION OF THE AGREEMENT

1. Any modification of this Agreement or additional obligation assumed by either Party in connection with this Agreement, with the exception of a notice of termination under the terms of Article 12, shall be binding only if placed in writing and signed by each Party.
2. Modifications may be contingent upon any and all necessary approvals by USPS management's executive committee, the Board of Governors of the USPS, the Governors of the USPS, the Postal Regulatory Commission, the Antitrust Division of the Department of Justice, the Federal Trade Commission and/or any other governmental body with oversight responsibility for the USPS.
3. If such approvals are required, the modifications will not become effective until such time as all necessary approvals are obtained.
4. The USPS will notify the Reseller of the date the modification becomes effective within thirty (30) days after receiving the approval of the entities that have oversight responsibility for the USPS.

5. The USPS shall have no obligation to notify the Reseller of the status of the approval process or of potential fulfillment of the approval process.

ARTICLE 14. ENTIRE AGREEMENT AND SURVIVAL OF OBLIGATIONS

1. This Agreement, including all Annexes thereto, shall constitute the entire agreement between the Parties regarding EMI™ and PMI™ Qualifying Mail as defined in Article 3 of this Agreement during the term of this Agreement.
2. The obligations of the Parties with respect to confidentiality, as provided for in Article 5, Paragraph 3; Article 6, Paragraph 11; and Article 16 will expire ten (10) years from the date of termination or expiration of this Agreement.
3. The obligations of the Parties with respect to notice and payment of postage due, as provided for in Article 5, Paragraph 2, and Article 6, Paragraph 10, will expire ninety (90) days from the date of termination or expiration of this agreement.
4. [redacted]
5. [redacted] any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding upon either Party regarding EMI™ and PMI™ Qualifying Mail under this Agreement except to the extent incorporated in this Agreement.

ARTICLE 15. FORCE MAJEURE

Neither Party shall be liable for its failure to perform under the terms of this Agreement due to any contingency beyond its reasonable control, including acts of God, fires, floods, wars, sabotage, accidents, labor disputes or shortages; governmental laws, ordinances, rules and regulations, whether valid or invalid; court orders whether valid or invalid; inability to obtain material, equipment or transportation; and any other similar or different contingency.

ARTICLE 16. CONFIDENTIALITY

The Reseller acknowledges that as part of securing approval of this Agreement, and in other subsequent regulatory filings, the Agreement and supporting documentation will be filed with the Postal Regulatory Commission ("Commission") in a docketed proceeding. The Reseller authorizes the USPS to determine the scope of information that must be made publicly available in any Commission docketed proceeding. The Reseller further understands that any unredacted portion of the Agreement or supporting information will be available on the Commission's public website, www.prc.gov. In addition, the USPS may file information in connection with this Agreement (including revenue, cost, and/or volume data) in other Commission dockets,

including the Annual Compliance Report (ACR) that the USPS files with the Commission each USPS Fiscal Year. When filed, the ACR has a docket number of ACR20XX (XX indicating the relevant Fiscal Year). The USPS files the ACR report with an application for the Commission to treat customer-specific information as non-public. The Reseller has the right, in accordance with the Commission's rules, to address any confidentiality concerns directly with the Commission. The procedure for making an application to the PRC for non-public treatment of materials believed to be protected from disclosure is found at Title 39, Code of Federal Regulations, Section 3007.22 found on the Commission's website: www.prc.gov/Docs/63/63467/Order225.pdf. At the request of the Reseller, the USPS will notify the Reseller of the docket number of the Commission proceeding concerning this Agreement.

ARTICLE 17. EFFECT OF PARTIAL INVALIDITY

The invalidity of any portion of this Agreement will not and shall not be deemed to affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the Parties agree that the remaining provisions shall be deemed to be in full force and effect.

ARTICLE 18. INDEMNITY

1. The Reseller shall indemnify and save harmless the USPS and its officers, directors, agents, and employees from any and all claims, losses, costs, damages, expenses, or liabilities, including but not limited to penalties, fines, liquidated damages, charges, taxes, fees, duties or other money due ("Claims") growing out of or connected in any other way with the discharge by the Reseller or its agents(s) of any undertaking contained in this Agreement, including Claims that result from the noncompliance of the Reseller or Reseller's Customers with the laws of the United States and other countries

2. Neither Party to this Agreement shall be liable to the other Party nor will they indemnify the other Party for any loss or damage including, without limitation, actual, special, indirect, incidental, punitive, consequential or any other damages (including, without limitation, damages for loss of business profits, business interruption or any other loss) for any reason, except for the following:
    a. liability and indemnification as described in Article 18, paragraph 1, or
    b. any actual damage or loss, with the exception of special and consequential damages, suffered by a Party as a result of a breach of this Agreement by the other Party.

ARTICLE 19. GOVERNING LAW

This Agreement shall be governed by, construed, and enforced in accordance with United States federal law.

ARTICLE 20. SUSPENSIONS OF MAIL SERVICE

In the event that a suspension of either Express Mail International® or Priority Mail International® service from the United States to a country would prevent delivery of Qualifying Mail to addressees in that country, provided USPS issues notification of such

a suspension, the Reseller shall notify the Reseller's Customers not to tender Express Mail International® or Priority Mail International®, as appropriate, to the USPS until service is restored.

ARTICLE 21. ASSIGNMENT

The rights of each Party under this Agreement, with the exception of the Reseller's right to provide the Reseller's Customers with access to a portion or all of its discount from the applicable published postage prices, are personal to that Party and may not be assigned or transferred to any other person, firm, corporation, or other entity without the prior written consent of the other Party. Such consent shall not be unreasonably withheld.

ARTICLE 22. NO WAIVER

The failure of either Party to this Agreement to insist upon the performance of any of the terms and conditions of this Agreement, or the waiver of any breach of the terms and conditions of this Agreement, shall not be construed as thereafter waiving any such terms and conditions, but these shall continue and remain in full force and effect as if such forbearance or waiver had not occurred.

ARTICLE 23. MAILABILITY, EXPORTABILITY AND IMPORTABILITY

All items mailed under this Agreement must conform to the mailability requirements of the USPS as detailed in the IMM 130; all applicable United States laws and regulations, including export control and customs laws and regulations; and all applicable importation restrictions of the destination countries. The Reseller is solely responsible for notifying the Reseller's Customers of their responsibility for determining export and import requirements, obtaining any required licenses and permits, ensuring that the recipient of the item is authorized by the laws of the United States and destination countries to receive the item, and for the exportation and importation status of the products mailed under this Agreement as detailed in IMM 112.

ARTICLE 24. SUPERSEDING TERMS AND CONDITIONS

1. The Parties acknowledge and understand that all obligations of the USPS under this Agreement, including the prices listed in the Annexes, shall be contingent upon the USPS receiving approvals hereinafter ("Conditions Precedent") from one or more internal and external bodies that have oversight responsibilities. Conditions Precedent may include, but are not limited to: approvals or, if applicable, non-objection, from responsible USPS management officials, the USPS Board of Governors, the USPS Governors, the Postal Regulatory Commission, the Antitrust Division of the Department of Justice, the Federal Trade Commission, and/or any other governmental body with oversight responsibility for the USPS. The Parties acknowledge that the Agreement may not be approved by such bodies. Until such time that USPS provides written notice to the Reseller that all Conditions Precedent are fulfilled that are necessary to allow the Postal Service to provide the products or services contemplated under the Agreement, no obligation shall exist for and no benefit shall inure to either Party.

2. In the event that the Conditions Precedent are not fulfilled, the USPS shall have no liability, which shall include no obligation to pay costs associated with any action taken by the Reseller prior to the Effective Date of the Agreement. Further, in the event of termination of the Agreement as set forth in Article 12 or the failure of any Condition Precedent, the USPS shall not be held liable for any damages including, without limitation, actual; special; indirect; incidental; punitive; consequential, or any other damages, which shall include but not be limited to damages for loss of business profits; business interruption; any other loss; and/or for costs incurred by either Party attributable to such non-approval, such as attorney's fees.

ARTICLE 25. PARAGRAPH HEADINGS AND REFERENCE CITATIONS

The titles to the paragraphs of this Agreement are solely for the convenience of the Parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this Agreement. All citations to provisions in the DMM®, IMM®, and Code of Federal Regulations within this Agreement are intended to refer to the substantive information found within the cited section(s) at the time this Agreement was drafted. Subsequent changes to the citations or the relevant substantive information due to published revisions of the DMM®, IMM® or Code of Federal Regulations shall be applicable to this Agreement upon the effective date of such revisions.

ARTICLE 26. FRAUD

The Reseller shall notify the Reseller's Customers that providing false information to access discounted rates or pay less than the applicable postage due through the use of a PC Postage® provider may subject the Reseller's Customers to criminal and/or civil penalties, including fines and imprisonment.

ARTICLE 27. NOTICES

A notice of termination under the terms of Article 12 or demand to a Party required by this Agreement shall be sufficient if delivered personally or mailed, by Express Mail, to the following individuals:

To the USPS:

Managing Director, Global Business and Vice President
United States Postal Service
475 L'Enfant Plaza SW Room 4016
Washington, DC 20260-4016

To the Reseller: [redacted]

With a copy to: [redacted]

Other notices concerning this agreement may be sent via e-mail:

To the United States Postal Service at: icmusps@usps.gov

To the Reseller at: [redacted]

ARTICLE 28. DISCLAIMER

The Reseller is not an agent of the USPS and must act in its own capacity in securing business from the Reseller's Customer.

ARTICLE 29. NOTICE

The Reseller acknowledges and understands that the USPS may review its product offerings during the term of this Agreement and that the USPS may modify existing product offerings during the term of this Agreement in a manner that could affect the Reseller's ability to achieve the volume commitment in Article 8.

ARTICLE 30. COUNTERPARTS

The Parties may execute this Agreement in one or more counterparts (including by facsimile or by electronic means such as .pdf format), not all Parties need be signatories to the same documents, and all counterpart-signed documents shall be deemed an original and one instrument.

ARTICLE 31. USPS SALES

Nothing in this Agreement prohibits the USPS from soliciting sales from the Reseller's customers.

ARTICLE 32. INTELLECTUAL PROPERTY, CO-BRANDING AND LICENSING

The Reseller is allowed the use of the following trademarks: Express Mail International®, and Priority Mail International® and the acronyms EMI™ and PMI™ to indicate the USPS service offered. The Parties acknowledge that in the service of marketing the products under this Agreement that such product marketing may be enhanced through the use of co-branding or the use of each Party's trademarks, logos or intellectual property. In such instances, the Parties acknowledge and agree that any use shall be subject to separate written agreements. The Parties acknowledge and agree that neither Party shall use the other Party's trademarks, logos or intellectual property other than to refer to the trademark owner or the trademark owner's services until such time that a license for such use has been executed by the Parties and all laws and regulations required for such license's effectiveness have been perfected, which shall include but not be limited to any recordation requirements.

ARTICLE 33. EFFECTIVE DATE

The USPS shall inform the Reseller of the Effective Date of this Agreement by means of an e-mail to the Reseller-provided e-mail address above.

ARTICLE 34. LIMITATION OF LIABILITY

1. EMI™ and PMI™ shipments mailed under this Agreement are not guaranteed against delay in delivery.
2. The USPS shall not be liable for any loss or expense, including but not limited to fines and penalties, for Reseller's, Reseller's Customer's, or any other person's failure to comply with any export laws, rules or regulations.
3. The USPS shall not be liable for any act or omission by a person not employed or contracted by the USPS, including any act or omission of the Reseller, the Reseller's Customers, or recipient of an item tendered under this Agreement.
4. The USPS bears no responsibility for the refund of postage in connection with actions taken by Customs authorities.
5. The USPS is not liable for any of the Reseller's actions or the Reseller's Customers' actions and bears no liability in the event of termination with or without cause.

ARTICLE 35. WARRANTIES AND REPRESENTATIONS

The Reseller warrants and represents that the Reseller is not subject to, and is not related to, an entity that is subject to a temporary or other denial of export privileges by BIS and that Reseller is not listed on the BIS's Entity List or OFAC's Specially Designated Nationals List.

In witness whereof, each Party to this Agreement has caused it to be executed on the latter of the two dates accompanying the Parties' signatures.

ON BEHALF OF THE UNITED STATES POSTAL SERVICE:

Signature: Frank A. Cebello

Name: Frank A. Cebello

Title: Executive Director, Global Business Management

Date: 12/8/12

ON BEHALF OF [redacted]

Signature: [redacted]

Name: [redacted]

Title: [redacted]

Date: 12/7/12

[redacted]

Certification of Prices for the Global Reseller Expedited Package 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 Global Reseller Expedited Package 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 Global Reseller Expedited Package Contracts, issued March 24, 2010 (Governors' Decision No. 10-1), 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, exclusive of pickup on demand and international ancillary services fees, 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 Global Reseller Expedited Package 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

DECISION OF THE GOVERNORS OF THE UNITED STATES POSTAL SERVICE ON THE ESTABLISHMENT OF PRICES AND CLASSIFICATIONS FOR GLOBAL RESELLER EXPEDITED PACKAGE CONTRACTS (GOVERNORS' DECISION NO. 10-1)

March 24, 2010

STATEMENT OF EXPLANATION AND JUSTIFICATION

Pursuant to our authority under section 3632 of title 39, 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 Global Reseller Expedited Package contracts. The Global Reseller Expedited Package 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 analyses of the appropriateness of these formulas are explained in Attachment C. We have reviewed those analyses 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 Global Reseller Expedited Package Contracts classified in Attachment A. Management's analyses of the formulas, included as Attachment C support our decision to establish prices through such formulas.

[1] Because the Postal Service is creating a new grouping for Global Reseller Expedited Package Contracts, entirely new Mail Classification Schedule language is proposed.

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 and to the optional service. 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 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 or provision of optional services 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 or provision of the optional services 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 and optional services cover attributable costs, [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 Global Reseller Expedited Package 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 executed, 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:

Louis J. Giuliano
Chairman

Attachment A

Description of Applicable Global Reseller Expedited Package Contracts

2610.11 Global Reseller Expedited Package Contracts

2610.11.1 Description

a. These are contracts whereby USPS provides discounted prices to a Reseller for Express Mail International (EMI), and/or Priority Mail International (PMI) for destinations served by Express Mail International and Priority Mail International. The Reseller offers rates based on its contract to its customers (Reseller's Customers).

b. Preparation requirements are the same as for all Express Mail International and/or Priority Mail International shipments with the following exceptions:

- The Reseller's customers are required to use PC Postage from an authorized PC Postage vendor for payment of postage.
- The Reseller's customers may be required to prepare specific shipments according to country specific requirements.
- The Reseller's customers may be required to tender shipments through limited acceptance channels.

c. The Reseller must be capable of either tendering at least 5,000 pieces of international mail to the Postal Service, or paying at least $100,000 in international postage to the Postal Service.

d. For a Reseller to qualify, the contract must cover its attributable costs.

2610.11.2 Size and Weight Limitations

Size and Weight for Express Mail International:

See Size and Weight Limitations for Express Mail International, at 2205.2.

Size and Weight for Priority Mail International:

See Size and Weight Limitations for Outbound Priority Mail International, at 2215.2.

2610.11.3 Minimum Volume or Revenue Requirements

The Reseller must commit to varying minimum volumes or postage of Express Mail International, Priority Mail International or both, on a quarterly or annualized basis.

2610.11.4 Price Categories

The incentives are based on the volume or revenue commitment above a specified cost floor

Global Reseller Expedited Package Contracts – Express Mail International

Global Reseller Expedited Package Contracts – Priority Mail International

2610.11.5 Optional Features

Pickup On Demand

International Ancillary Services

- International Certificate of Mailing (PMI flat-rate envelope only)
- International Insurance
- International Registered Mail (PMI flat-rate envelope only)
- International Restricted Delivery (PMI flat-rate envelope only)
- International Return Receipt

Attachment B

Formulas for Prices Under Applicable Global Reseller Expedited Package Contracts

[redacted]

Attachment C

Analysis of the Formulas for Prices Under Applicable Global Reseller Expedited Package Contracts

[redacted]

[redacted]

Attachment D

Certification as to the Formulas for Prices Offered Under Applicable Global Reseller Expedited Package Contracts

I, Joseph Moeller, Manager, Regulatory Reporting and Cost Analysis, Finance Department, United States Postal Service, am familiar with the price floor formulas and price ceiling formulas for Global Reseller Expedited Package Contracts, which are set forth in Attachment B.

I hereby certify that these formulas adequately represent all necessary cost elements. If the Postal Service were to enter into agreements and offer services that set prices above the price floors, the Postal Service would be in compliance with 39 U.S.C § 3633 (a)(1), (2), and (3). The price floor formulas are designed to ensure that each agreement and service 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 Global Reseller Expedited Package Contracts should be much smaller. Even if all the agreements for Global Reseller Expedited Package 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.

Joseph Moeller

**CERTIFICATION OF GOVERNORS' VOTE
IN THE
GOVERNORS' DECISION NO. 10-1**

I hereby certify that the Governors voted on adopting Governors' Decision No. 10-1, and that, consistent with 39 USC 3632(a), a majority of the Governors then holding office concurred in the Decision.

Julie S Moore

Date: 3-24-10

Julie S. Moore
Secretary of the Board of Governors

ATTACHMENT 4

APPLICATION OF THE UNITED STATES POSTAL SERVICE FOR NON-PUBLIC TREATMENT OF MATERIALS

In accordance with 39 C.F.R. § 3007.21, the United States Postal Service (Postal Service) hereby applies for non-public treatment of certain materials filed with the Commission in these dockets. The materials pertain to an additional Global Reseller Expedited Package (GREP) contract that the Postal Service believes is functionally equivalent to the GREP contract filed in Docket No. CP2010-36. The contract 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. Redacted copies of the contract, a certified statement required by 39 C.F.R. § 3015.5(c)(2) concerning the contract, and the related Governors' Decision establishing prices and classifications not of general applicability for GREP contracts are filed with the Notice as Attachments 1, 2, and 3, respectively.[1]

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 be disclosed to the public. 39 U.S.C. § 410(c)(2); 5 U.S.C. § 552(b)(3) and (4). The

[1] The Postal Service informed the customer prior to filing its notice that it would be seeking non-public treatment of the redacted portions of each 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.

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).[2] 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 e-mail 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 a GREP contract involving PC Postage, 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 the PC Postage Provider(s) that the customer intends to use.[3] The Postal Service maintains that customer identifying

[2] 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, Mar. 20, 2009, at 11.

[3] However, other postal operators can be considered to have a proprietary interest in some rate information in the financial workpapers included with this filing. The Postal Service maintains that such information should be withheld from public disclosure. In view of the practical difficulties, the Postal Service has not undertaken to inform all affected postal operators about the nature and scope of this filing and about the ability to address any confidentiality concerns directly with the Commission as provided in 39 C.F.R. § 3007.20(b). Due to language and cultural differences as well as the sensitive nature of the Postal Service's rate relationship with the affected foreign postal operators, the Postal Service proposes that a designated Postal Service employee serve as the point of contact for any notices to the relevant postal operators. The Postal Service identifies as an appropriate contact person Guadalupe Contreras, EMS Manager, International Postal Relations. Ms. Contreras' phone number is (202) 268-4598, and her email address is guadalupe.n.contreras@usps.gov. The Postal Service acknowledges that 39 C.F.R. § 3007.21 (c)(2) appears to contemplate only situations where a third party's identification is "sensitive" as permitting the designation of a Postal Service employee who shall act as an intermediary for notice purposes. To the extent that the Postal Service's filing in the absence of actual notice might be construed as beyond the scope of the Commission's rules, the Postal Service respectfully requests a waiver that would allow it to forgo providing a notice to each postal operator, and to designate a Postal Service

information should be withheld from public disclosure. Therefore, rather than identifying the customer of the contract under consideration, 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 J. Crawford, Business Development Specialist, Global Business, United States Postal Service, Room 2P020, Washington, DC 20260-0020, whose email address is james.j.crawford@usps.gov, and whose telephone number is 202-268-7714.

In addition, the Postal Service gives notice that it has already informed the PC Postage Provider that the Reseller intends to use of the nature and scope of this filing and their ability to address their confidentiality concerns directly with the Commission, in compliance with 39 C.F.R. § 3007.20(b). The appropriate contact person for the PC Postage Provider that the Reseller intends to use is: Candi A. Booth, National Sales Manager, Endicia.com, 247 High Street, Palo Alto, CA 94301, whose telephone number is 650-321-3640 x 183 and whose e-mail address is candi.booth@endicia.com.

(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 the Notice filed by the Postal Service in this docket, the Postal Service included a GREP contract, financial workpapers, and a statement certifying that the agreement should meet the requirements of 39 U.S.C. § 3633(a). These materials were filed under seal, with redacted copies filed publicly, after notice to the customer.

---

employee as the contact person under these circumstances, since it is impractical to communicate with dozens of operators in multiple languages about this matter.

The Postal Service maintains that the redacted portions of the GREP contract, related financial information, and identifying information concerning a GREP competitive contract customer should remain confidential.

With regard to the GREP competitive contract filed in this docket, the redactions on page 1, and to the footers of each page, Article 27, and the signature block of the contract constitute the name or address of postal patrons 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 to Article 7, 8 and 14 protect information with specific impact on the customer, including the customer's commitment to the Postal Service and, penalties in the event that the customer does not achieve its postage commitment, the timing and manner in which the Postal Service might change prices under the contract, and the relationship of this agreement to other agreements.

The redactions applied to the financial workpapers protect commercially sensitive information such as underlying costs and assumptions, pricing formulas, information relevant to the customer's mailing profile, business information of the PC Postage Provider that the customer intends to use, and cost coverage projections. To the extent practicable, the Postal Service has limited its redactions in the workpapers 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.

Any performance reports filed in this docket will typically show the actual revenue and cost coverage of the customer's completed contract, and the Postal Service will

redact in its public filing all of the values included that are commercially sensitive business information and will also protect any customer identifying information from disclosure.

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

If the portions of the contract 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 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. The GREP competitive contracts include a provision allowing the Reseller to terminate its contract without cause by providing at least 30 days' notice. Therefore, there is a substantial likelihood of the Postal Service losing customers to a competitor that targets customers of the Postal Service with lower pricing.

Other redacted information in each contract generally includes negotiated contract terms, such as the minimum revenue commitment agreed to by the customer, the penalty in the event the customer does not achieve the minimum revenue commitment, and the percentage of cost increase that may trigger a consequential price increase. This information is commercially sensitive, and the Postal Service does not believe that it would be disclosed under good business practices. Competitors could use the information to assess the offers made by the Postal Service to its customers for

any possible comparative vulnerabilities and could focus sales and marketing efforts on those areas, to the detriment of the Postal Service. Additionally, other potential customers could use the information to their advantage in negotiating the terms of their own agreements with the Postal Service. The Postal Service considers these to be highly probable outcomes that would result from public disclosure of the redacted material.

The financial workpapers filed with this notice include specific information such as costs, assumptions used in pricing formulas, the formulas themselves, mailer profile information, projections of variables, and contingency rates included to account for market fluctuations and the exchange risks. Similar information may be included in the cost, volume and revenue data associated with the agreement that the Commission may require the Postal Service to file after the expiration of this agreement. 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. Competitors could take advantage of the information to offer lower pricing to GREP competitive contract customers, while subsidizing any losses with profits from other customers. Eventually, this could freeze the Postal Service out of the relevant 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.

Potential customers could also deduce from the rates provided in the contract, from information in the workpapers, or from cost, volume and revenue data that the Commission may require the Postal Service to file after the agreement's expiration, whether additional margin for net profit exists between the contract and the contribution that GREP competitive contracts must make. From this information, each customer could attempt to negotiate ever-increasing incentives, such that the Postal Service's ability to negotiate competitive yet financially sound rates would be compromised. Even customers involved in GREP competitive contracts could use information in the workpapers, or the cost, volume and revenue data associated with the expired agreement, in an attempt to renegotiate their own rates, threatening to terminate their current agreements, although the Postal Service considers this to be less likely than the risks previously identified.

Price information in the contract, the financial spreadsheets, and any cost, volume and revenue data concerning the contract filed after the agreement's expiration consists of sensitive commercial information of the customer. Disclosure of such information could be used by competitors of the customer to assess the customer's underlying costs, and thereby develop a benchmark for the development of a competitive alternative.

Information in the financial spreadsheets and any cost, volume and revenue data concerning this agreement filed after the expiration of this contract also consists of sensitive commercial information related to agreements between the Postal Service and

the PC Postage Provider selected by the customer. Such information would be extremely valuable to competitors of both the Postal Service and the PC Postage Provider. Using detailed information about such agreements, competitors would be able to better understand the costs of the postage programs used, and identify areas where they could adapt their own operations to be more competitive. In addition, competitors of the PC Postage Provider could use such information to their advantage in negotiating the terms of their own agreements with the Postal Service.

(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 GREP competitive contracts and passing along the information to its sales function. The competitor's sales representatives could quickly contact the Postal Service's customer and offer the customer lower rates or other incentives to terminate its contract with the Postal Service in favor of using the competitor's services.

Identified harm: Public disclosure of negotiated terms of the agreements could be used by competitors and potential customers to the Postal Service's detriment.

Hypothetical: Customer A signs a GREP competitive contract that is filed with the Postal Regulatory Commission. At the same time, Customer B is considering signing a GREP competitive contract and has no real concern about the penalty provision, which

calls for Customer B to pay up to $10,000 in penalties if it fails to meet its minimum volume commitment before termination of the agreement. The information about Customer A's penalty provision is made public. Customer A's agreement calls for a $5,000 maximum payment as penalty. Customer B sees the information. Customer B then insists that it will not agree to be obligated to pay any more than Customer A was obligated to pay, diminishing the Postal Service's bargaining leverage. The same rationale applies to commitment levels and price adjustment terms.

Identified harm: Public disclosure of the pricing included in the agreement would provide potential customers extraordinary negotiating power to extract lower rates.

Hypothetical: Customer A's negotiated rates are disclosed publicly on the Postal Regulatory Commission's website. Customer B sees the rates and determines that there may be some additional profit margin between the rates provided to Customer A and the statutory cost coverage that the Postal Service must produce in order for the agreement to be added to the competitive products list. Customer B, which was offered rates identical to those published in Customer A's agreement, then uses the publicly available rate information to insist that Customer B must receive lower rates than those the Postal Service has offered it, or Customer B will not use the Postal Service for its expedited package service delivery needs.

Alternatively, Customer B attempts to extract lower rates only for those destinations for which Customer B believes that the Postal Service is the low-cost provider among all service providers. The Postal Service may agree to this demand in order to keep the customer's business overall, which the Postal Service believes will still

satisfy total cost coverage for the agreement. Then, the customer uses other providers for destinations that are different than those for which the customer extracted lower rates. This impacts the Postal Service's overall projected cost coverage for the agreement, such that the Postal Service no longer meets its cost coverage requirement. Although the Postal Service could terminate the contract when the Postal Service first recognizes that the customer's practice and projected profile are at variance, the costs associated with establishing the contract, including filing it with the Postal Regulatory Commission, would be sunk costs that would have a negative impact on the GREP competitive contract product overall.

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

Hypothetical: A competing delivery service obtains a copy of the unredacted version of the financial workpapers from the Postal Regulatory Commission's website. The competing delivery service analyzes the workpapers to determine what the Postal Service would have to charge its customers in order to meet the Postal Service's minimum statutory obligations for cost coverage and contribution to institutional costs. The competing delivery service then sets its own rates for products similar to what the Postal Service offers its GREP competitive contract customers under that threshold and markets its ability to guarantee to beat the Postal Service on price. 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 business-to-business and customer-to-business services markets for which the GREP competitive contract product is designed.

Identified harm: Public disclosure of information in the contract and 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 workpapers from the Postal Regulatory Commission's website. The competitor analyzes the prices and the workpapers to assess the customer's underlying costs, volumes, and volume distribution for the corresponding delivery products. The competitor uses that information to (i) conduct market intelligence on the customer's business practices and (ii) develop lower-cost alternatives using the customer's costs as a baseline.

Identified harm: Public disclosure of information in the contract and financial workpapers would be used by the competitors of the PC Postage Provider to the Postal Service and/or each PC Postage Provider's detriment.

Hypothetical: A firm competing with the customer's selected PC Postage Provider obtains a copy of the unredacted version of the contract and financial workpapers from the Commission's website. The firm uses the information to assess the PC Postage Provider's revenue sources and growth opportunities, and thereby develop benchmarks for competitive alternatives. In addition, disclosure of such information could provide

leverage to other PC Postage Providers in their negotiations with the Postal Service concerning financial arrangements that PC Postage Providers make with the Postal Service in the future.

Identified harm: Public disclosure of any cost, volume and revenue data concerning this agreement that the Commission may require the Postal Service to file after the contract's expiration would give competitors a marketing advantage.

Hypothetical: A competitor could use any cost, volume and revenue data associated with this agreement, which the Commission may require the Postal Service to file in this docket after this agreement's expiration, to "qualify" potential customers. The competitor might focus its marketing efforts only on customers that have a certain mailing profile, and use information in the performance report to determine whether a customer met that profile.

(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 parcel and expedited services, 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.

Conclusion

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