

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

Competitive Product Prices
Global Reseller Expedited Package Contracts 1
(MC2010-21)
Negotiated Service Agreement

Docket No. CP2014-29

PUBLIC REPRESENTATIVE COMMENTS ON
POSTAL SERVICE NOTICE OF FILING AN ADDITIONAL
GLOBAL RESELLER EXPEDITED PACKAGE SERVICES 1 CONTRACT
NEGOTIATED SERVICE AGREEMENT

(February 26, 2014)

The Public Representative hereby provides comments pursuant to Order No. 1989.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service notice of filing an additional Global Reseller Expedited Package Services (GREPS) 1 contract.² Global Reseller Expedited Package Contracts provide discounted prices for Priority Mail Express International (PMEI) and/or Priority Mail International (PMI) to resellers (sales agents) who in turn market PMEI and PMI at discounted prices to their customers, particularly small and medium-sized businesses. Notice at 4-5.

Prices and classifications not of general applicability for GREP contracts were previously established by Governors' Decision No. 10-1, issued March 24, 2010.³ In Order No. 445, Commission approved the addition of the Global Reseller Expedited Package Services 1 product (MC2010-21) to the competitive products list, and included

¹ PRC Order No. 1989, Notice and Order Concerning an Additional Global Reseller Expedited Package Contract 1 Negotiated Service Agreement, February 19, 2014.

² Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package 1 Negotiated Service Agreement, February 14, 2014 (Notice).

³ 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 (Request).

a GREPS 1 contract (CP2010-36) within the product.⁴ That GREPS 1 contract serves as the “baseline” agreement for purposes of functional equivalency analysis with respect to future GREPS 1 1 contracts. Notice at 2. In Order No. 648, the Commission included an additional GREPS 1 contract (CP2011-55) within in the Global Reseller Expedited Package Services 1 product.⁵ The Commission subsequently approved a number of additional GREPS 1 contracts that were the subject of Docket Nos. CP2011-58, CP2011-65, CP2012-14, CP2012-21 and CP2013-20 for inclusion within the product.⁶

The instant contract is the successor to the GREPS 1 contract filed in Docket No. CP2013-20. Notice at 1 and 3. That contract, which is with the same customer as the instant contract, is scheduled to expire on February 28, 2014. *Id.*, at 3. The effective date of the instant contract will be established by Postal Service notice to the reseller. *Id.*, Attachment 1 at 11.

The Postal Service states that the instant GREPS 1 contract is functionally equivalent to the baseline contract and is in compliance with the requirements of 39 U.S.C. § 3633. *Id.* at 7. Because the contract that is the subject of Docket No. CP2013-20 is scheduled to expire February 28, 2014, the Postal Service “urges the Commission to complete its review of . . . [the instant] contract as soon as possible, and add the contract . . . to the GREP Contracts 1 product grouping.” *Id.*, at 3.

⁴ PRC Order No. 445, Order Concerning Global Reseller Expedited Package Contracts Negotiated Service Agreement, Docket Nos. MC2010-21 and CP2010-36, April 22, 2010.

⁵ PRC Order No. 648, Order Approving Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, Docket No. CP2011-55, January 13, 2011.

⁶ PRC Order No. 660, Order Approving Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, Docket No. CP2011-58, February 2, 2011; PRC Order No. 755, Order Approving Additional Global Reseller Expedited Package Contracts Negotiated Service Agreement, Docket No. CP2011-65, June 30, 2011. PRC Order No. 1177, Order Approving Additional Global Reseller Expedited Package Contract 1 Negotiated Service Agreement, Docket No. CP2012-14, January 27, 2012; PRC Order No. 1337, Order Approving Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, Docket No. CP2012-21, May 9, 2012; and, PRC Order No. 1571, Order Approving An Additional Global Reseller Expedited Package Contracts 1 Negotiated Service Agreement, Docket No. CP2013-20, December 20, 2012.

COMMENTS

The Public Representative has reviewed the Postal Service's Notice, the instant GREPS 1 contract, and the supporting financial model filed under seal that accompanied the Notice. Based upon that review, the Public Representative concludes that the instant contract is functionally equivalent to the baseline agreement. In addition, it appears the negotiated prices should generate sufficient revenues to cover costs and satisfy the requirements of 39 U.S.C. § 3633.

Functional Equivalence. The Postal Service states that the instant contract is "substantially similar to the contract filed in Docket No. CP2010-36," which serves as the baseline agreement. *Id.* at 4. More specifically, the Postal Service asserts that the "functional terms" of the instant contract "are the same as those of the [baseline] agreement," and that the contract "shares the same cost and market characteristics," as well. *Id.* at 4.

However, the Postal Service identifies differences between the instant contract and the baseline agreement, including: in Article 1, Purpose of the Agreement (and subsequent articles), replacing "Express Mail International" with "Priority Mail Express International;" Article 3, Qualifying Mail, revising the definition of qualifying mail to exclude PMI flat-rate items, and items destined, or addressed, to certain countries or persons, respectively; Article 6, Obligations of the Reseller, a clarification concerning the Reseller's right to offer all or a portion of the discounts; Article 7, Postage Updates, concerning the effect of generally applicable prices on contract prices; Article 8, Minimum Commitment, a revision concerning the periodic review of Reseller's progress toward achieving the annualized minimum commitment; and, the addition of Article 31, which permits the Postal Service to solicit sales from the Reseller's customers; Article 32, Intellectual Property, Co-Branding, and Licensing; Article 33, Effective Date; Article 34, Limitation of Liability; and, Article 35, Warranties and Representations. *Id.* at 5-7.

Despite these differences, the Postal Service maintains that nothing detracts from the conclusion that the instant contract is "functionally equivalent in all pertinent

respects.” *Id.* at 7. [citation omitted] The Public Representative agrees and concludes that the instant GREPS 1 contract is functionally equivalent to the baseline agreement.

Requirements of 39 U.S.C. § 3633. Pursuant to section 3633(a), prices for competitive products must cover each product’s attributable costs, not result in subsidization of competitive products by market dominant products, and enable competitive products as a whole to contribute an appropriate share to the institutional costs of the Postal Service. In this proceeding, the Postal Service’s financial model indicates that the negotiated prices in the instant contract will cover costs, as well as exceed the minimum cost coverage approved in Governor’s Decision No. 10-1. Based upon a review of that model, it appears that the negotiated prices satisfy the requirements of section 3633(a).

The Public Representative respectfully submits the foregoing comments for the Commission’s consideration.

James F. Callow
Public Representative

901 New York Ave. NW
Washington, DC 20268-0001
202-789-6839
callowjf@prc.gov