



July 21, 1999

Hon. Margaret P. Crenshaw, Secretary
Postal Rate Commission
1333 H Street, NW, Suite 300
Washington, D.C. 20268-0001

Dear Ms. Crenshaw:

By letter dated July 14, 1999, to the General Counsel of the Postal Service, the Commission informed the Postal Service that it had received a request from Business Mailers Review for a copy of its June 30, 1999 *Report to Congress, 1998 International Mail Volumes, Costs, and Revenues*. The Commission requested that the Postal Service submit a written statement identifying specifically which parts of the Report it believes should be deleted prior to disclosure, and justifying withholding this information under applicable law.

As requested by the Commission, the Postal Service has identified in the accompanying materials each item of information that it believes the Commission should delete from the final version of the Report provided to Business Mailers Review. Enclosed are three documents. One document is a memorandum which identifies each of the categories of material that should be deleted, and analyzes the legal support for nondisclosure. Another document is a table which identifies (by page, line, and pertinent table) the specific deletions that are proposed, together with a cross-reference to the category or categories of material that would be withheld by each deletion. Finally, the Postal Service has included a complete copy of the Report which highlights the materials proposed to be deleted.

If there are any questions, do not hesitate to call for further information or clarification.

Sincerely,

Daniel J. Fouchéau

for

William T. Johnstone
Managing Counsel
International and Ratemaking Law

Enclosures

**United States Postal Service Memorandum
Concerning Categories of Information that Should
Be Deleted from Commission Report to Congress on
International Mail Costs, Volumes, and Revenues**

On June 30, 1999, the Postal Rate Commission issued its Report to Congress, 7998 *International Mail* Volumes, Costs, and Revenues (Report), pursuant to 39 U.S.C. § 3663. In a preface to the Report, the Commission noted:

This Report contains information that the Postal Service considers to be of a commercial nature, including trade secrets, which under good business practices it would not publicly disclose. The Postal Service provided this information as required by 39 U.S.C. 3663(b), but it requests that this information be kept confidential.

By letter dated July 14, 1999, to the General Counsel of the Postal Service, the Commission informed the Postal Service that it had received a request for a copy of the Report from *Business Mailers Review*. The Commission requested that the Postal Service submit a written statement identifying specifically which parts of the Report it believed should be deleted prior to disclosure, and justifying withholding this information under applicable law. The Postal Service understands the Commission's request to be consistent with Department of Justice guidelines governing inter-agency consultation when an agency receives a request under the Freedom of Information Act (FOIA) for information that originated at another agency. Department of Justice, Office of Information and Privacy, *OIP Guidance: Referral and Consultation Procedures*, FOIA Update, Vol. XIII, No. 3 (Summer 1991).

In Order No. 1228, issued February 16, 1999, the Commission provided an outline of the data and information that it initially considered necessary to prepare a report to Congress pursuant to new section 3663 of title 39, United States Code. The Postal Service responded with its initial submissions on March 15, 1999. Subsequently, the Commission clarified its needs and described additional information in several Notices of International Mail Data Requirements, to which the Postal Service responded by providing additional data and information.

The materials provided on March 15 consisted primarily of the Postal Service's International Cost and Revenue Analysis (ICRA) Report for Fiscal Year (FY) 1998 and supporting documentation. For the past several years, the ICRA has been developed annually as a basic report summarizing and aggregating a variety of data pertaining to the Postal Service's international business. The ICRA Report is roughly analogous to the Postal Service's Cost and Revenue Analysis (CRA) Report pertaining to domestic mail. Pursuant to Commission

regulations, the Postal Service annually files the CRA Report with the Commission. The ICRA Report, however, has never been made publicly available. In this regard, the treatment of the ICRA Report reflects the substantially different status of international mail services, which, unlike domestic services, are not subject to Commission jurisdiction under 39 U.S.C. Chapter 36, subchapter II. In contrast to many domestic services, furthermore, international mail services largely compete with private firms, and in certain respects with foreign postal administrations, for international postal business. See *UPS Worldwide Forwarding, Inc. v. United States Postal Service*, 66 F.3d 621,625, 632-35 (3d Cir. 1995); *Air Courier Conference of America v. United States Postal Service*, 959 F.2d 1213 (3d Cir. 1992).

In its transmittal letter of March 15, 1999, the Postal Service generally described the ICRA as a document that normally would be produced only for internal distribution, and noted that many of the detailed supporting materials had to be developed specially to meet the Commission's needs under 39 U.S., § 3663. The letter further emphasized the commercially sensitive nature of the data and information that it had provided:

[T]he Postal Service believes that the materials provided are commercially sensitive, and that they should not be publicly available. It is the Postal Service's judgment that most of the items provided here and to be provided later are internal documents of a commercially sensitive nature that under good business practices it would not normally disclose publicly. The Postal Service has traditionally withheld international cost, revenue, and volume information from public disclosure, particularly given the intense nature of competition in international markets. The Postal Service competes not only with private couriers in the expedited and parcel sectors, but also with foreign postal administrations in the carriage of bulk outbound international letters.'

The letter requested that the Commission withhold from public disclosure the international data and information it had provided, and concluded with the following observation regarding eventual issuance of the Commission's report to Congress:

Although the Postal Service submits that it is reasonable for the Commission not to disclose this information pending the production of its report, the Postal Service also understands that the degree to

¹ Letter to Margaret P. Crenshaw, Secretary, Postal Rate Commission, from William T. Johnstone, Managing Counsel, International Law and Ratemaking, at 2 (March 15, 1999).

which the data and information submitted are specifically incorporated in the Commission's report is a matter that will be subsequently determined. In this regard, the Postal Service notes that nothing in section 3663 requires the Commission to make its report available to the public; rather, the statute merely requires that the Commission "transmit [it] to each House of Congress."

In a subsequent document filed with the Commission, the Postal Service elaborated on the commercially sensitive nature of particular types of information that it had submitted.² Specifically, it described the interests protected by withholding country-specific costs, revenues, and volumes, negotiated delivery cost figures, and data and information pertaining to international initiatives. The purpose of providing these descriptions was to indicate "with greater precision the information the Postal Service believes the Commission could fairly exclude from its report, without imposing an administrative burden on the Commission, or depriving it of the ability to perform its statutory functions fairly and comprehensively. Id.

By and large, in producing its final Report to Congress, the Commission has respected the Postal Service's recommendations. With certain limited exceptions, the Report does not contain either country-specific data or data pertaining to specific delivery costs negotiated with foreign postal administrations. The Report does, however, contain costs, revenues, and volumes associated with specific international initiatives, such as Global Package Link, Global Priority Mail, Global Direct Entry/Inbound, and International Customized Mail. Furthermore, the Report contains cost data pertaining to specific international services, which the Postal Service believes are commercially sensitive and should not under good business practices be publicly disclosed.

As requested by the Commission, the Postal Service has identified in the accompanying materials each item of information that it believes the Commission should delete from the final version of the Report as requested by Business Mailers Review. The Postal Service has provided a document that describes by page, line, and pertinent table, the specific deletions that are proposed, together with a reference to the justifications outlined below for withholding this information. The Postal Service has also provided a copy of the complete text of the Report that highlights the materials to be deleted. Finally, the Postal Service analyzes below the legal support for nondisclosure.

² Id. at 3.

³ Comments of the United States Postal Service on the Commission's 39 U.S.C. § 3663 Report, Docket No. IM99-1 (April 8, 1999).

Generally, the Postal Service believes that the basic commercial nature of the information it proposes to delete is clear and cannot be questioned. For the most **part**, the material to be withheld consists of numerical data representing current estimates of product and service costs, and in some instances volumes and revenues. Not only do these data encompass the basic elements of pricing determinations and business decisions, both strategic and **otherwise**, for international mail, but in large part they reflect fundamental measurements of product strengths and weaknesses that would be of immeasurable value to the Postal Service's competitors. In fact, no information or data are more **central** to the economic viability of the Postal Service's product offerings in the competitive international markets. These observations apply most directly to outbound international mail categories, where relationships with products and services of private competitors and foreign postal administrations are obvious, but they also apply in certain respects to inbound mail categories, where disclosure of specific cost information **could** lead to economic consequences having a direct bearing on Postal Service business decisions and its financial condition.

Certain of the deleted information (e.g., cost coverage t-statistics) would not in and of itself be of obvious use to a competitor. Such information, however, when combined with other information that is publicly available, could **lead** to the derivation of more specific data and information that could, for example, expose the cost structures of particular products, as well as illuminate their strengths and weaknesses. In this regard, in evaluating the commercial sensitivity or value of information, it must be kept in mind that often, in an intensely competitive business environment, data and information that might be innocuous independently, could be damaging if combined with other information that might be available through whatever means. This is why, in the competitive marketplace, **typically** firms are extremely reluctant to share any commercial information whatsoever pertaining to their business decisions. Thus, it is not necessary to fully anticipate potential uses of commercial information to know that in environment where any information at **all** concerning competitors is scarce, imaginative firms are capable of turning commercial data into competitive advantages. This circumstance alone validates the conclusion that good business practice **would** not support disclosure of much commercial information at all, and particularly the data that the Postal Service proposes to withhold here.

In the following, the Postal Service has attempted to describe the reasoning underlying its belief that the material it proposes to delete is commercially sensitive and would not in good business practice be disclosed. For convenience of consideration, the material has been categorized, although in several respects the justifications overlap or relate to one another. The table provided describing the proposed deletions associates each category with the discussions below.

A. Attributable costs/contribution, Outbound mail

Much of the data to be deleted indicates costs allocated (attributable costs and contributions to overhead) to each outbound international mail product or service (e.g., Tables li-f, **III-2, IV-2, IV-3**, C-3, E-I F-I through 5, and F-7). The Postal **Service** agrees to make public such data aggregated by general category (e.g., surface and air subtotals and subtotals for initiatives). The Postal Service believes that disclosure of this specific information would be particularly harmful in competitive situations. Service (product) costs constitute critical business information that firms in the private sector rarely, **if ever**, make public. These data are routinely treated as trade secrets, because disaggregated cost data provide a pricing road map that would give firms the capability of **diverting** business from competitors. If a rival business knows its competitors' costs, it can price comparable services at levels which the Postal Service cannot meet. Alternatively, even if competing costs are similar, knowing the range of freedom of pricing decisions in the marketplace could enable competitors to make more informed decisions about enhancing other dimensions of the competitive value of services, such as product features or service performance. For example, if a **firm** knows that the Postal Service's costs for a **particular** service are X, it can price its comparable service at or below those levels until the Postal Service must exit the market. The loss in contribution to the Postal Service from this exit, furthermore, would have to be borne by other international services, with the result that rates for those services would need to be higher than they would otherwise be. Moreover, the competitive disparity created by making such information public for one **firm** (i.e., the Postal Service), but not for other firms would be enhanced in an environment where other firms are under no clear legal obligation not to price products in a predatory manner in the short run **exclusively** for the purpose of gaining a greater share of the market.

Withholding Postal Service cost information is **particularly** important, since some data are already publicly available. Competing firms, for example, have access to UPU terminal dues rates and Department of Transportation regulated air transportation rates. The public availability of those data already enhance the ability of rival firms to target prices and divert business from the Postal Service. Keeping the other cost data confidential is thus critical to the Postal Service's ability to compete on an equal footing.

Maintaining the confidentiality of cost and, as discussed further below, contribution data is important, whether a service makes a positive or negative contribution. The Postal Service in all instances tries to price its services to cover costs and make a reasonable contribution to overhead. Sometimes, however, events or circumstances arise to prevent particular services from reaching financial **goals**. Providing specific cost and contribution data about services that contribute only marginally above their costs can enable rival firms to price their services at levels that effectively impede the Postal Service from placing its services back on track, even if it means pricing at sub-optimum levels.

In this regard, it bears repeating that rival firms are not in all situations legally prohibited from pricing their services below cost. Such below-cost pricing is not an uncommon way for such firms to gain market share at the expense of competing firms.

B. Cost Coverages, Outbound mail

In many instances on the tables indicated in the previous section, and in the descriptive document accompanying this discussion, the Report presents percentage cost contribution (cost coverage) statistics for each international service category. As with attributable costs and specific contributions, the Postal Service agrees to make public cost coverages for surface and air and initiative subtotals. Furthermore the undeleted text of the Report in most instances makes clear which services the Commission has identified as failing to cover costs, In the current context, however, the Postal Service believes that providing these specific cost coverages would be competitively harmful. First, knowing which services produce the highest contributions would enhance the ability of rival firms to identify services that can most profitably be undermined, allowing such firms to concentrate their resources on getting that business. Second, knowing coverages and contributions would enable rival firms to derive specific costs from other publicly available information. Revenues and volumes of international mail are generally available from the Postal Service in the quarterly Revenue, Pieces, and Weights (RPW) Reports, which the Postal Service makes public and files periodically with the Commission. In fact, these data are presented in part in the same tables in the Commission's Report to Congress from which the Postal Service proposes to delete specific cost information. Exposing contribution levels or cost coverages would easily enable firms to derive specific costs by combining this information. Accordingly, for the reasons expressed above, the Postal Service believes that specific cost coverages should be deleted.

C. Volumes and revenues, outbound initiatives

In addition to the cost information discussed above, the Postal Service proposes to delete volume and revenue data for specific international "initiatives (e.g., Tables II-1, IV-2, C-1, E-1, and F-3)." Aggregated figures for the initiatives would be disclosed. For these categories, the Postal Service does not routinely make public such volume, and revenue data. The Postal Service believes that withholding this information is justified, since generally the initiatives consist of newer, less traditional, innovative services for which competition is particularly intense. For the most part, they are relatively recent additions to the Postal Service's offerings, and are relatively low volume, lower revenue categories that are more vulnerable. The Postal Service believes that these initiatives are particularly vulnerable to competition, because customer loyalty for these products has not matured. Product-specific volume, revenue, and cost information for the initiatives would give competitors a clearer understanding of

the strengths of the Postal Service's new product lines, and leave the Postal Service vulnerable to intense competition in markets where the Postal Service has begun to earn a measure of success. Disclosing current volume and revenue data, and allowing rival firms to track the progress of these nascent services over time, furthermore, would undermine the viability of the initiatives by making them more vulnerable to selective assaults by competitors, as explained above. In the markets in which it operates the Postal Service is confident that good business practice would dictate withholding **all** specific data concerning these categories. Although the Postal Service has traditionally routinely made public specific volume and revenue data for the non-initiative services, private firms with which it competes, and firms generally in any industry, typically do not disclose volume and revenue data for any particular products, for reasons similar to those discussed in section (A), above.

D. Attributable costs, **contributions**, and cost coverages, Inbound mail

Certain tables and pages in the Report provide data on categories of inbound international mail (e.g., Tables II-1, III-2, IV-3, pp. 37-38, and Table C-3). For these, the Postal Service agrees to provide volume and revenue data, as well as aggregated surface and air subtotals, but proposes to delete inbound attributable cost, contribution, and cost coverage data. Generally, the competitive situations of inbound international postal **traffic** are different from outbound mail, since inbound mail consists of services offered by foreign postal administrations. In certain contexts, however, knowledge by competitors and foreign postal administrations of the cost structures by service of Postal Service handling of such mail could have a competitive impact or financial consequences. In the context of remail practices, comparisons of Postal Service processing and delivery costs of inbound mail, with terminal dues structures, and with foreign postal rates, could contribute to the ability of firms promoting remail to make more informed strategic decisions that could lead to diversion of United States domestic mail, for which the Postal Service is adequately compensated through its domestic rates, to remail, for which the Postal Service is not adequately compensated through terminal dues or other delivery payment mechanisms. Furthermore, in certain instances, payments for domestic processing and delivery of inbound international mail are negotiated separately by country. More available information about domestic cost structures for inbound processing and delivery **could** in certain circumstances create disadvantages for the Postal Service in negotiating rates for these payments. Moreover, in the future, it may be feasible and economically advantageous for the Postal Service to move toward more country-specific rates for outbound traffic, as well. In the context of negotiating such rates, information about domestic processing and delivery costs could undermine the Postal Service's negotiating positions vis a vis foreign postal administrations. While the competitive considerations involved in disclosing inbound data are not as exigent as with outbound mail, the Postal Service is confident that in the typical business environment, no service-specific commercial data would be made available by

competing firms. The Postal therefore concludes that good business practice would sanction withholding this information.

E. Cost components

Several tables and pages in the Report disclose specific cost data by service, disaggregated by cost component or element (e.g., Appendix C, pp. 15-16, Tables F-2 through 5). For the reasons explained in section (A), above, the Postal Service believes that this commercial information would be harmful if it were disclosed. The fact that it provides an even more detailed picture of the cost structures of particular services amplifies **this concern**.

F. Cost coverage t-values

As noted earlier, in a vacuum, Cost Coverage t-values of individual products, such as those displayed in the Report in Tables III-2 and D-2 and in the text on page 27, would not generally be viewed as sensitive information. Nevertheless, under the current circumstances, such information should be redacted from any publicly-available version of the Report. This follows from the fact that the Report at page 24 explains the exact arithmetic relationship between Percent Cost Coverage, CV of Cost per Piece, and Coverage t-value. The nature of that relationship is such that, knowing the value for a particular service of any two of those three items, it is simple to calculate the value of the third. As the Postal Service is not proposing to redact the CV of Cost per Piece information, further providing specific Coverage t-values would therefore be tantamount to providing the Percent Cost Coverages. For the reasons discussed in section B. above, however, cost coverage information is sensitive and should not be disclosed. To prevent its indirect disclosure, it is necessary to redact the Cost Coverage t-values.

G. Country-specific attributable costs, contribution, cost coverages

Certain information in the Report (e.g., Table E-I) discloses **country-specific** data and data by country group. For the reasons expressed in the document filed with the Commission on April 8, 1999,⁴ the Postal Service believes that this information is commercially sensitive and would not be disclosed under good business practices. Disclosure of country specific information would enable competitors to target Postal Service customers and divert business. It would also impair the Postal Service's bargaining position in delivery cost negotiations with foreign postal administrations with regard to all types of mail.

⁴ *Id.* at 3-5

Legal Analysis

1. 39 U.S.C. § 410 (c)(2)

The chief legal basis, as well as the primary policy justification, for withholding the information identified above is found in the Postal Reorganization Act. In creating the Postal Service as a unique establishment, Congress determined that major sources of constraint on Postal Service operations and finances arising from federal laws should be eliminated. This was in keeping with a dominant theme in Postal Reorganization that the Postal Service should be free to provide the nation's postal services using modern business practices. Accordingly, in 39 U.S.C. § 410(a), Congress directed that no federal statute pertaining to a wide range of topics related to postal operations should apply to the Postal Service, except as **specified**. This exclusion **specifically** included the provisions of 5 U.S.C. Chapters 5 and 7. In section 410(b), Congress then made only certain parts of Chapter 5 in title 5 specifically **applicable**.⁵ It specifically applied the Freedom of Information Act (FOIA), 5 U.S.C. § 552, however, in section **410(c)**, it created special exemptions from mandatory disclosure under the **FOIA**, in addition to those provided in the **FOIA** itself (5 U.S.C. § 552(b)). Subsection 41 O(c) provides:

Subsection (b)(l) **[FOIA]** of this section shall not require the disclosure of

(2) information of a commercial nature, including trade secrets, whether or not obtained from a person outside the Postal Service, which under good business practice would not be publicly disclosed.

As explained above, each of the items the Postal Service proposes to delete from the Commission's Report to Congress falls squarely within this provision. Furthermore, in applying the **FOIA** to the request made by Business Mailers Review, section 41 O(c)(2) applies in two ways.

a. 5 U.S.C. § 552(b)(3)

The **FOIA** enumerates several specific exemptions from mandatory disclosure. Section 552(b) provides:

This section shall not apply to matters that **are--...(3)** specifically exempted from disclosure by statute (other than section 552b of this title), provided that

⁵ Other parts are applied in specific contexts, e.g., 39 U.S.C. §§ 3624, 3628.

such statute (A) requires that the matters be withheld from public in such a manner as to leave no discretion on the issue, **or (B)** establishes particular criteria for withholding or refers to particular types of matters to be withheld.

Two federal district courts have specifically held that 39 U.S.C. § 41 O(c)(2) comes within the **ambit** of this exemption. **Weres Corporation v. United States Postal Service**, C.A. No. 95-1984, at 3-5 (D.D.C 1996)(unpublished Memorandum Opinion, copy attached hereto); **National Western Life Ins. Co. v. United States**, 512 F.Supp. 454,45859 (N.D. Tex. 1980). Both **courts**, moreover, held that subsection (c)(2) satisfies both prongs of subsection (B) in section 552(b)(3). In **particular**, both **courts** found that “**good business practice**” was a workable standard for evaluating whether specific information **could** be withheld. Referring to another court’s finding of a generally expressed criterion to be sufficient to qualify under section 552(b)(3), the court in *National Western Life* stated:

“Good business practice” is no less definite a standard. This standard may not be specifically quantifiable, yet it is not so vague as to leave a Postmaster General with unfettered discretion as to what information may be withheld from disclosure. In creating the Postal Service, Congress declared that it was to be run in a businesslike manner; and in granting the Postal Service powers not ordinarily held by other government agencies, Congress intended it to operate in many ways like a private business enterprise. *May Dept. Stores v. Williamson*, 549 F.2d 1147, 1147 (8th Cir. 1977). ‘Good business practice’ is readily ascertainable by looking to the commercial world, management techniques, and business law, as well as to the standards of practice adhered to by large corporations. Thus, I hold that “good business practice” creates a sufficiently definite standard to justify exclusion of information that would otherwise be disclosed under the FOIA, and section 410(c)(2) qualifies as an exemption under 5 U.S.C. § 552(b)(3)(B).

512 F.Supp 459.

The decision of the court in *Weres*, furthermore, amplifies the conclusion that in applying subsection (c)(2), the opinion of the Postal Service is of primary importance, given the legislative history of the Reorganization Act and the purpose for the exemption. The court stated:

Although plaintiff argues that the phrase “good business practice” is not defined in the statute and thus disqualifies section 410(c)(2) as a “particular matter to be withheld,” plaintiff’s argument is unavailing. Congress enacted the Postal Act to free the USPS from, among other things:

Serious handicaps that are now imposed on the postal service by certain legislative, budgetary, financial and personnel policies that are outdated, unnecessary, and inconsistent with modern management and business practices.

H.R. Rep. No. 91-1104, 91st Cong., 2d Sess. 2, reprinted in 1970 U.S.C.C.A.N. 3649, 3650. A legislative definition of “good business practices” would have injected Congress squarely into the arena of business decision-making at USPS -the very type of situation that Congress sought to eliminate by passage of the Postal Reorganization Act. See, e.g., *id.* at 3653 (congressional involvement in technical details “unjustly hampered” efforts to run USPS like a business). That Congress chose not to define “good business practices” is clear from its finding that congressional meddling in business operations was inconsistent with modern management practices. See *id.* at 3650-53.

Memorandum Opinion at 4 (copy attached).

In the discussion above, the Postal Service has carefully explained the bases for its conclusions that the material proposed to be deleted from the Commission’s report is information of a commercial nature which would not in good business practices be publicly disclosed. Through 5 U.S.C. § 552(b)(3), the Commission is entitled to invoke this as a basis for withholding the material that the Postal Service has identified.

b. 39 U.S.C. § 3604(e)

Even if subsection (c)(2) did not qualify as an exemption under section 552(b)(3), the Commission could apply it independently under 39 U.S.C. § 3604(e). That provision states:

The provisions of section 410 and Chapter 10 of this title shall apply to the Commission, as appropriate.

In these circumstances, where the Commission is mandated by another provision of the same statute to produce a report to Congress that must contain confidential commercial information of the type Congress specifically exempted the Postal Service from having to disclose under FOIA, it would be appropriate for section 41 O(c)(2) to apply to the Commission's determination. This conclusion is reinforced by the fact that in 39 U.S.C. § 3663, which directed the Commission to create the Report and the Postal Service to provide data, Congress neither directed the report to be made public nor qualified the specific exemption in subsection (c)(2).

2. 5 U.S.C. § 552(b)(5)

In section 552(b)(5), the FOIA also exempts from mandatory disclosure inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency.

While this exemption is commonly found to apply to materials revealing 'deliberative process' in agency decision making, in *Federal Open Market Committee v. Merrill*, 443 U.S. 340 (1979), the Supreme Court found another dimension to the fifth exemption that encompassed

for good cause shown... a trade secret or other confidential research, development or commercial information.

Id. at 360. This interpretation was based on the language Federal Rule of Civil Procedure 26(c)(7). While the factual context in which the Court acknowledged the exemption arose out of a situation involving government contracts, during the time prior to contract award, the logic of the Court's reasoning, namely, that disclosure of commercial information could place the Government at a competitive disadvantage, would also apply in the instant context. As explained above, here disclosure of the materials identified could place the Postal Service at a competitive disadvantage in international mail markets. Furthermore, while the Court's reasoning in *Merrill* relied significantly on the timing involved in the contracting process, a recent federal district court decision suggests that, as long as the vulnerability to damage from disclosure remains, the exemption would be valid. Taylor *Woodrow International, Ltd. v. United States*, No. C88-429R at 5 (W.D. Wash. 1989) (unpublished Slip. Op., copy attached hereto). In that case, the court stated:

The theory behind this privilege "is not that the flow of advice may be hampered, but that the Government will be placed at

a competitive disadvantage or that the consummation of the contract may be endangered.” *[Merrill]* at 360. Accordingly, this privilege protects the government when it enters the marketplace as an ordinary buyer or seller. Government *Land Bank v. General Services Administration*, 671 F.2d 663,665 (1st Cir. 1982).

In this regard, the reasoning behind this dimension of the fifth exemption is similar to the reasoning underlying a provision of the Commission’s own periodic reporting rules. The Postal Service’s transmittal letter to the Commission dated March 15, 1999, explained this connection as follows:

In this regard, we note the similarity between the objectives furthered by nondisclosure here and the policy embodied in Section 102(a)(10) of the Commission’s periodic reporting rules (39 C.F.R. § 3001.102(a)(10)), which permits delay up to one year in providing billing determinant information for the competitive categories of domestic Express Mail, Priority Mail, and Parcel Post. This provision grew out of the Postal Service’s concern, expressed in Docket No. RM89-3, that the provision of this information would result in commercial harm to the Postal Service.

The Postal Service believes that in the instant situation, section 552(b)(5) should be applied to exempt from mandatory disclosure the items described above under the interpretations presented by the Supreme Court in *Merrill* and subsequent decisions.

3. 5 U.S.C. § 552(b)(4)

The Postal Service also submits that the material identified above and in the accompanying materials can be withheld pursuant to the fourth exemption to mandatory disclosure under the FOIA, 5 U.S.C. § 552(b)(4). Section 552(b)(4) exempts

trade secrets and commercial and financial information obtained from a person and privileged or confidential.

This fourth exemption has been held to apply when disclosure of commercial information – as in the instant situation -- would cause competitive harm to the entity supplying the information. See *Critical Mass Energy Project v. NRC*, 975 F.2d 871 (D.C. Cir.

1992); *National Parks & Conservation Ass'n v. Morton*, 490 F.2d 765 (DC. Cir. 1974).

In applying this exemption, the Postal Service acknowledges the body of case law that would support the conclusion that the Postal Service cannot be interpreted to be a "person" within the meaning of subsection (b)(4). See, e.g., *Allnet Communication Services v. FCC*, 800 F.Supp. 984,988 (D.D.C. 1992); *Board of Trade v. Commodity Futures Trading Commission*, 627 F.2d 392 (D.C. Cit. 1980). In this regard, however, the Postal Service submits that whether (b)(4) could be interpreted to apply to commercially sensitive information provided to the Commission by the Postal Service has never been squarely addressed by the courts. Furthermore, the logic of the fourth exemption, as it has been applied to information provided by persons outside of the agency invoking it, matches exactly the circumstances here. The Postal Service has provided the Commission sensitive commercial information and data falling within the substantive boundaries of subsection (b)(4). As the Postal Service has demonstrated, furthermore, disclosure of these data publicly would inflict substantial competitive harm. Especially in the context of the Postal Reorganization Act, which was enacted in part to create and protect the Postal Service's unique status as a government business, application of this exemption to information provided by the Postal Service would be appropriate.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

WERES CORPORATION,

Plaintiff,

v.

UNITED STATES POSTAL SERVICE,

Defendant.

Civil Action No. 95-1984 (NHJ)

FILED

SEP 23 1996

NANCY MAYER-WHITTINGTON, CLERK
U.S. DISTRICT COURT

MEMORANDUM ORDER

Plaintiff Weres Corporation brings this action under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 (1994). Plaintiff seeks to compel the United States Postal Service ("USPS") to produce certain pricing information received by the USPS in response to a contract solicitation. The USPS contends that it may withhold the requested information from public disclosure pursuant to FOIA Exemption 3, 5 U.S.C. § 552(b)(3) (1994). Presently before the Court are the cross-motions of the parties for summary judgment. Upon consideration of the motions, the Court will deny the motion of plaintiff and grant summary judgment for defendant.

The following material facts are undisputed: The USPS does not procure goods and services by soliciting sealed bids which are opened in public. Instead, it employs a contract negotiation system which may involve negotiations with offerors after bid proposals are reviewed by the USPS. The solicitation at issue in this case, Solicitation No. 475630-95-1309, requested proposals for portable conveyors. The USPS made two separate awards based primarily on the lowest price received from responsible offerors.

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Plaintiff Weres Corporation, which did not participate in the USPS solicitation, requested a "complete abstract" of proposed bids. In response to plaintiff's requests for bid abstracts, the USPS identified the successful offerors, released the names of the other offerors, and released the unit and total prices of the awarded contracts. The USPS, however, withheld pricing information submitted by unsuccessful offerors. Although USPS regulations permit the disclosure of prices submitted by unsuccessful offerors, the agency customarily does not disclose this information to the public. At issue is whether FOIA Exemption (3)(B), 5 U.S.C. § 552(b)(3)(B) (1994), protects from disclosure unit and total prices submitted by unsuccessful offerors in a USPS contract solicitation.

Subsection (B) of FOIA Exemption 3 exempts from mandatory disclosure matters specifically exempted from disclosure by statute, provided that such statute "establishes particular criteria for withholding or refers to particular types of matters to be withheld." 5 U.S.C. § 552(b)(3)(B) (1994). A statute thus falls within the FOIA disclosure exemption if it satisfies either of two disjunctive requirements: the statute provides criteria "in which discretion may be exercised in favor of withholding information that would otherwise be subject to disclosure" (hereafter "Subsection B-1"); or the statute "refers to particular matters to be withheld" (hereafter "Subsection B-2"). Association of Retired R.R. Workers, Inc. v. United States R.R. Retirement Bd., 830 F.2d 331, 333-34 (D.C. Cir. 1987).

The USPS contends that Section 410(c)(2) of the Postal Reorganization Act (the "Postal Act"), Pub. L. No. 91-375, § 114, (codified as amended at 39 U.S.C. § 410 (c)(2) (1994)),

qualifies under Subsection B as a FOIA Exemption 3 withholding statute.¹ The Court agrees.

Section 410 of the Postal Act provides that:

- (a) Except as otherwise provided by subsection (b) of this section, and except as otherwise provided in this title . . .
- (b) The following provisions shall apply to the Postal Service:
 - (1) section 552 (public information), section 552a (records about individuals), section 552b (open meetings)
- (c) Subsection (b)(1) of this section shall not require the disclosure of --
 - (2) information of a commercial nature, including trade secrets, whether or not obtained from a person outside the Postal Service, which under good business practice would not be publicly disclosed.

39 U.S.C. §§ 410(a)-(c)(2) (1994). Because the statute, on its face, plainly exempts the matters described in Section 410(c)(2) from FOIA disclosure, the congressional purpose in enacting the statute is clear from the words of the statute itself. See Reporters Comm. for Freedom of the Press v. United States Dep't of Justice, 816 F.2d 730, 735 (D.C. Cir.), *modified on other grounds*, 831 F.2d 1124 (D.C. Cir. 1987), *rev'd on other grounds*, 489 U.S. 749 (1989). In short, the statute unambiguously provides that Section 410(c)(2) trumps FOIA disclosure requirements. Moreover, Section 410(c)(2) falls within the scope of FOIA Exemption 3 Subsection B-2's provision for nondisclosure of "particular types of matters to be withheld." See *e.g.*, Judge Rose Guthrie Alexander & Ferdon v. ITC, 846 F.2d 1527, 1530-31 (D.C. Cir. 1988) (finding that Tariff Act prohibition against disclosure of "proprietary matters" that "can be associated with" or

¹ This is an issue of first impression in this Circuit. In the only published opinion on the issue, the Federal District Court in the Northern District of Texas held that 39 U.S.C. § 410(c)(2) qualifies as a withholding statute under FOIA Exemption 3(B). See National Western Life Ins. Co. v. United States, 512 F. Supp. 454, 459 (N.D. Tex. 1980).

G. Cost Coverage t-values

As noted earlier, in a vacuum, Cost Coverage t-values of individual products, such as those displayed in the Report in Tables III-2 and D-2 and in the text on page 27, would not generally be viewed as sensitive information. Nevertheless, under the current circumstances, such information should be redacted from any publicly-available version of the Report. This follows from the fact that the Report at page 24 explains the exact arithmetic relationship between Percent Cost Coverage, CV of Cost per Piece, and Coverage t-value. The nature of that relationship is such that, knowing the value for a particular service of any two of those three items, it is simple to calculate the value of the third. As the Postal Service is not proposing to redact the CV of Cost per Piece information, further providing specific Coverage t-values would therefore be tantamount to providing the Percent Cost Coverages. For the reasons discussed in section B. above; however, cost coverage information is sensitive and should not be disclosed. To prevent its indirect disclosure, it is necessary to redact the Cost Coverage t-values.

"otherwise used to identify" operations of particular firms satisfies conditions of Subsection B-2).

Although plaintiff argues that the phrase "good business practice" is not defined in the statute and thus disqualifies Section 410(c)(2) as a "particular matter to be withheld," plaintiff's argument is unavailing. Congress enacted the Postal Act to free the USPS from, among other things:

serious handicaps that are now imposed on the postal service by certain legislative, budgetary, financial, and personnel policies that are outmoded, unnecessary, and inconsistent with modern management and business practices.

H.R. REP. NO. 91-1104, 91st Cong., 2d Sess. 2, *reprinted in* 1970 U.S.C.C.A.N. 3649, 3650. A legislative definition of "good business practices" would have injected Congress squarely into the arena of business decision-making at USPS – the very type of situation that Congress sought to eliminate by passage of the Postal Reorganization Act. *See e.g., id.* at 3653 (congressional involvement in technical details "unjustly hampered" efforts to run USPS like a business). That Congress chose not to define "good business practices" is clear from its finding that congressional meddling in business operations was inconsistent with modern management practices. *See id.* at 3650-53.

The Court finds no authority to support plaintiff's contention that Congress may not choose to exempt matters from disclosure under Subsection B-2 unless it provides a narrow definition of the information to be withheld. Indeed, the designation of information to be withheld under Section 410 – "information of a commercial nature . . . which under good business practice would not be publicly disclosed" – leaves no more room for agency discretion

than other statutes to which the Court of Appeals for this Circuit has applied Subsection B-2.

See, e.g., Mudge Rose Guthrie Alexander & Ferdon v. ITC, 846 at 1529-31.

Having established that 39 U.S.C. § 410(c)(2) qualifies as a withholding statute, the Court must consider whether the USPS has shown that the requested information falls within the statute's scope. *See Goland v. CIA*, 607 F.2d 339, 350 (D.C. Cir. 1978), *cert. denied*, 445 U.S. 927 (1980). It is undisputed that the information sought by plaintiff is commercial information. Hence, the sole remaining question is whether the release of unit and total prices submitted by unsuccessful offerors in a USPS solicitation qualifies as information which, "under good business practice, would not be publicly disclosed." *See* 39 U.S.C. § 410(c)(2) (1994).

The USPS argues that were it to release unsuccessful bid prices to the public, such a disclosure could increase the agency's procurement costs. The USPS bases its argument on the following hypotheticals:

[I]f the successful offeror learns that its price is well below the next lowest proposal, it may increase its price for future proposals. Similarly, if the next-lowest proposal is the only one that is close in price to the successful proposal, and the successful offeror goes out of business or for some other reason does not submit future proposals, then the next-lowest offeror may increase its price for future proposals.

Declaration of B.E. Burchell at 3; *see also* Declaration of Jim Nails at 2.

Although plaintiff argues that potential bidders would not object to release of their unsuccessful bid proposals, plaintiff does not dispute the USPS's contention that the release of this information to the public may increase the agency's procurement costs. In sum, the agency has set forth an undisputed, non-conclusory, and logical "good business practice" rationale for its decision to withhold unsuccessful bid prices from public disclosure. *Cf. Mudge Rose Guthrie*

Alexander & Ferdon v. ITC, 846 F.2d at 1531-32 (suggesting ITC could provide hypotheticals to explain proprietary nature of withheld data). The Court finds that the requested information falls within the nondisclosure provisions of 39 U.S.C. § 410(c)(2).

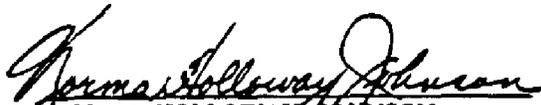
Accordingly, it is this ~~23rd~~ day of September 1996,

ORDERED that the motion of defendant for summary judgment be, and hereby is, granted; it is further

ORDERED that summary judgment be, and hereby is, entered in favor of defendant; it is further

ORDERED that the motion of plaintiff for summary judgment be, and hereby is, denied; and it is further

ORDERED that any pending motions in this case be, and hereby are, denied as moot.


NORMA HOLLOWAY JOHNSON
UNITED STATES DISTRICT JUDGE

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WESTERN DISTRICT OF WASHINGTON
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TAYLOR WOODROW INTERNATIONAL,)
LTD., et al.,)
)
Plaintiffs,)
)
v.)
)
UNITED STATES OF AMERICA,)
DEPARTMENT OF THE NAVY,)
)
Defendant.)

NO. C88-429R

ORDER DENYING PLAINTIFF'S
SUMMARY JUDGMENT MOTION
AND GRANTING DEFENDANT'S
SUMMARY JUDGMENT MOTION

THIS MATTER comes before the court on plaintiffs' summary judgment motion to compel defendant to release certain documents under the Freedom of Information Act and defendant's cross motion for summary judgment to withhold release of the information.¹ Having reviewed the motions, together with all documents filed in support, and being fully advised, the court finds and rules as follows:

¹Plaintiffs' counsel originally requested oral arguments on the motions. However, counsel for both parties have since agreed to cancel this request.

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1 I. FACTUAL BACKGROUND.

2 Plaintiffs Taylor Woodrow International, Ltd., Chris Berg,
3 Inc., and Riedel International, Inc. formed Taywood-Berg-Riedel
4 Joint Venture ("TBR") to bid on a construction contract offered by
5 defendant United States Navy. The contract's three separate pro-
6 jects require site preparation and facility support construction for
7 a Relocatable Over The Horizon Radar system on Amchitka Island,
8 Alaska.

9 Before soliciting bids, the government paid nearly two million
10 dollars to an outside consultant for cost estimates on the contract.
11 The cost estimates established reasonable project prices to compare
12 against the submitted contract bids. These estimates describe how
13 the contractor might construct the project and include overall cost
14 summary sheets as well as individual cost summaries for each unit of
15 work.

16 The government awarded the contract to TBR on February 12,
17 1987. TBR's bid was approximately 78.2 million dollars. Since
18 beginning the project, TBR has also submitted change order proposals
19 of approximately twenty million dollars.

20 On August 13, 1987, TBR requested copies of all cost estimate
21 sheets under the Freedom of Information Act ("FOIA"). 5 U.S.C.
22 § 552. The government released the bottom line cost estimates for
23 the contract's three projects, but refused to release the more
24 detailed individual cost summary sheets. On October 1, 1987, TBR
25 appealed to the General Counsel of the Navy. The General Counsel
26 denied the appeal, claiming the materials are exempt under the FOIA.

1 TBR then filed this action to compel disclosure of the cost estimate
2 sheets under the FOIA. Both parties now move for summary judgment.

3
4 II. DISCUSSION.

5 A. Standard of Review.

6 Summary judgment is appropriate when there is no genuine issue
7 as to any material fact and the moving party is entitled to judgment
8 as a matter of law. If there is no issue of material fact, the
9 moving party must demonstrate the right to judgment as a matter of
10 law in the context of undisputed facts. Aronsen v. Crown
11 Zellerbach, 662 F.2d 584, 591 (9th Cir. 1981).

12 Summary judgment is appropriate on FOIA exemption claims as
13 long as the facts and all inferences drawn from those facts are
14 construed in the light most favorable to the party requesting dis-
15 closure. Miller v. United States Department of State, 779 F.2d
16 1378, 1382 (8th Cir. 1985). Absent evidence of bad faith, summary
17 judgment on the basis of agency affidavits is warranted if the
18 affidavits describe, with reasonably specific detail, both the
19 documents and the agency's justifications for nondisclosure, demon-
20 strating that the withheld information logically falls within the
21 claimed exemption. Military Audit Project v. Casey, 656 F.2d 724,
22 738 (D.C. Cir. 1981).

23 B. Exemption to Disclosure Under the FOIA.

24 Under the FOIA, a federal agency must disclose agency records
25 unless those records fall within one of nine enumerated exemptions.
26 Department of Justice v. Julian, 108 S.Ct. 1606, 1611 (1988).

1 Courts traditionally construe these exemptions narrowly because the
2 mandate of the FOIA calls for broad disclosure of government
3 records. Id. This action involves Exemption 5 to the FOIA, which
4 excludes from disclosure "inter-agency or intra-agency memorandums
5 or letters which would not be available by law to a party other than
6 an agency in litigation with the agency." 5 U.S.C. § 552 (b)(5).
7 The public has a right to all memoranda that a private party could
8 discover in litigation with the agency, EPA v. Mink, 410 U.S. 73, 86
9 (1973); however, under Exemption 5, the agency may withhold "those
10 documents, and only those documents, normally privileged in the
11 civil discovery context." NLRB v. Sears Roebuck & Co., 421 U.S.
12 132, 149 (1975); Julian, 108 S.Ct. at 1613. Moreover, the govern-
13 ment agency bears the burden of proving that the documents are
14 exempt from its duty to disclose. National Wildlife Federation v.
15 United States Forest Service, 861 F.2d 1114, 1116 (9th Cir. 1988).

16 In the present action, both parties agree that the cost esti-
17 mates are intra-agency memoranda, so the only question remaining is
18 whether those memoranda would normally be privileged in the civil
19 discovery context. The Navy asserts two recognized Exemption 5
20 privileges: the "deliberative process" privilege and the "confiden-
21 tial commercial information" privilege. Because it finds that the
22 confidential commercial information privilege applies to the dis-
23 puted documents, the court need not examine whether the deliberative
24 process privilege applies.

25 The confidential commercial information privilege derives from
26

1 Fed. R. Civ. P. 26 (c)(7).² Federal Open Market Committee v.
2 Merrill, 443 U.S. 340, 355 (1979). The theory behind this privilege
3 "is not that the flow of advice may be hampered, but that the
4 Government will be placed at a competitive disadvantage or that the
5 consummation of the contract may be endangered." Id. at 360.
6 Accordingly, this privilege protects the government when it enters
7 the marketplace as an ordinary buyer or seller. Government Land
8 Bank v. General Services Administration, 671 F.2d 663, 665 (1st Cir.
9 1982).

10 The government argues that release of the cost estimates
11 before completion of the contract would create a serious commercial
12 disadvantage for the government as it bargains with TBR over change
13 order negotiations. As proof, the government offers five hypotheti-
14 cal "scenarios" to show the potential financial damage that the Navy
15 would suffer if the cost estimates were released. Each scenario
16 shows that, if it had access to the estimates, TBR could adjust
17 change order proposals to fit the government's estimates. For
18 example, knowledge of the consultant's contemplated construction
19 methods might reduce TBR's incentive to discover less expensive
20 methods. Similarly, TBR would have no incentive to locate and

21 ²Fed. R. Civ. P. 26 (c)(7) provides:

22
23 Upon motion by a party or by the person from whom
24 discovery is sought, and for good cause shown, the court
25 ... may make any order which justice requires to protect
26 a party or person from annoyance, embarrassment, oppres-
sion, or undue burden or expense, including one or more
of the following: ... (7) that a trade secret or other
confidential research, development, or commercial infor-
mation not be disclosed or be disclosed only in a desig-
nated way;....

ORDER
Page -5-

1 charge out materials at a lower cost, or to achieve project goals
2 using less labor and equipment.

3 Plaintiff TBR, on the other hand, simply contends that the
4 confidential commercial privilege ceases to exist once the govern-
5 ment awards the contract.

6 The courts have established that cost estimates are privileged
7 documents subject to Exemption 5 before awarding a contract, but no
8 decisions address whether the commercial disadvantage that the
9 government might suffer during change order negotiations justifies
10 extending the privilege until the contract is complete. See, e.g.
11 Merrill, 443 U.S. at 360; Morrison-Knudson Co. v. Dep't of the Army,
12 595 F. Supp. 352, 355-56 (D.D.C. 1984), aff'd 762 F.2d 138 (D.C.
13 Cir. 1985); Hack v. Dep't. of Energy, 538 F. Supp. 1098, 1104
14 (D.D.C. 1982).

15 The purpose of the confidential commercial privilege is to
16 protect the release of potentially damaging commercial information,
17 but only while the opportunity to take unfair advantage of the
18 government agency continues to exist. See Merrill, 443 U.S. at 360;
19 Morrison-Knudson Co., 595 F. Supp. at 355; Hack, 538 F. Supp. at
20 1104. In the present action, the process of contracting has not
21 ended. Normally, once the government awards a contract, all negoti-
22 ations end and the contract price becomes fixed. In that instance,
23 there would be no reason to continue to withhold the information.
24 Here, however, the Navy faces a situation in which plaintiff TBR has
25 already submitted change order proposals amounting to approximately
26 one fourth of the total contract cost. If the court releases the

1 cost estimate sheets, the plaintiffs could take unfair commercial
2 advantage of the Navy. As a result, the policy behind applying the
3 commercial confidential privilege in this particular instance is
4 still very much alive even after the contract award.

5 By its affidavits, the Navy has described, with reasonably
6 specific detail, both the documents and its justifications for
7 nondisclosure. It has demonstrated that the withheld cost estimate
8 sheets logically fall within the confidential commercial information
9 privilege. Consequently, the Navy may continue to withhold the cost
10 estimate sheets so long as it continues to negotiate substantial
11 change order proposals.

12 NOW, THEREFORE, plaintiff TBR's summary judgment motion is
13 DENIED and defendant United States Navy's summary judgment motion is
14 GRANTED.

15 DATED at Seattle, Washington this 31st day of March, 1989.

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17 
18 BARBARA J. ROTHSTEIN
19 CHIEF UNITED STATES DISTRICT JUDGE
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**Report to Congress, 1998 International Mail Volumes, Costs
and Revenues (June 30, 1999)**

"Justification" indicates the category or categories of material, as discussed in the designated subsection of the accompanying memo.

Proposed Deletions

Citation	Description	Justification
P. 9, Table II-1 (Summary of Volume, Revenue, and Attributable Cost for Section 3663 International Mail Services)	For all "Outbound Mail" categories (except "Surface," "Air," and "Initiatives" subtotals and "Total Outbound") all figures in Columns (3) Attributable Cost, (4) Contribution, and (5) Cost Coverage). For all "Inbound Mail" categories, (except "Surface" and "Air" subtotals, and "Total Inbound"), all figures in Columns (3), (4), and (5).	A, B, C, D
P. 9, Table II-1 (Summary of Volume, Revenue, and Attributable Cost for Section 3663 International Mail Services)	For "Outbound Mail," for all categories under "Initiatives" (except "Subtotal Initiatives"), all figures in Columns (1) Volume, and (2) Revenue.	C
P. 20, line 24. P. 21, line 7.	Percentage of total attributable cost for outbound services comprising average settlement costs and international transportation costs.	E
P. 25, Table III-2 (Cost Per Piece, Revenue Per Piece, and Coefficients of Variation for International Mail)	For all "Outbound" categories, all figures in columns designated "ICRA Cost per Piece," "Pct. Cost Coverage," and "Coverage t-value."	A, B, F
P. 25, Table III-2 (Cost Per Piece, Revenue Per Piece, and Coefficients of Variation for International Mail)	For all "Inbound" categories, all figures in columns designated "ICRA Cost per Piece," "Pct. Cost Coverage," and "Coverage t-value."	D, F
P. 27, line 11.	T-value figure for outbound letters and letter packages.	F

P. 27, lines 13, 21, 23, 24	T-value figure for specific products.	F
P. 34, Table IV-2 (Summary of Revenue, Volume, and Costs for Outbound and Inbound International Mail [Costs Reflect Commission Attribution Methodology]).	For all "Outbound Mail" categories (except "Surface," "Air," and "Initiatives" subtotals, and "Total Outbound)," all figures in Columns (3) Volume Variable, (4) Product Specific, (5) Attributable Cost, (6) Contribution, (8) Unit Attributable Cost, (9) Unit Contribution, and (10) Cost Coverage.	A, B, C
P. 34, Table IV-2 (Summary of Revenue, Volume, and Costs for Outbound and Inbound International Mail [Costs Reflect Commission Attribution Methodology]).	For "Outbound Mail" for all categories under "Initiatives" (except "Subtotal, Initiatives"), all figures in Columns (1) Volume, (2) revenue, and (7) Unit Revenue.	C
P. 34, Table IV-2 (Summary of Revenue, Volume, and Costs for Outbound and Inbound International Mail [Costs Reflect Commission Attribution Methodology]).	For all categories of "Inbound Mail" (except "Total Inbound"), all figures in all columns, (3) - (6), (8) - (10).	D
P. 35, line 5.	Percentage cost coverage figures for Surface Printed Matter and Surface Periodicals.	B
P. 35, line 13.	Percentage cost coverage figure for Global Package Link.	B, C
P. 35, line 14.	For Global Package Link, figure by which attributable costs exceeded revenues in FY 1998.	A
P. 35, line 23.	Percentage cost coverage figure for Global Priority Mail.	B
P. 36, line 2.	For Global Priority Mail, figure by which revenues fall short of costs, including product specific costs for FY 1998.	A
P. 36, line 4.	For Global Priority Mail, figures for advertising expense and product specific costs in FY 1998.	A, E

P. 37, line 14	Combined loss figure for Surface LC/AO and Air LC/AO.	A
P. 38, line 7.	Percentage cost coverage figures for Surface Parcel Post and Air Parcel Post.	B
P. 38, line 11.	Percentage cost coverage figure for inbound EMS.	A, D
P. 39, Table IV-3.	All rows except subtotals in Columns 4 & 5.	A, B
P. 39, line 5 of text.	Percentage cost coverage figure for Air Letters and Cards.	B
P. 39, line 7 of text.	Percentage cost coverage figure for ISAL mail.	B
Appendix C, p. 3 of 18, Table C-1 (Distribution of Outbound Volume by International Mail Category and Data Source).	For all categories under "Initiatives" (except "Subtotal, Initiatives"), all figures in Columns (1) Piece Volume and (2) Percent Distribution of Volume.	C
Appendix C, p. 15 of 18, line 21.	Figure for product-specific costs for Global Package Link (GPL).	E
Appendix C, p. 16 of 18, line 1.	Figure for product-specific costs for Global Priority Mail (GPM).	E
Appendix C, p. 17 of 18, Table C-3)(Global Direct Mail.	All figures in all columns (Revenue, Cost, Contribution, Pieces, Weight).	A, B, C
Appendix D, page 14, Table D-1	All figures in all columns	E
Appendix D, page 14, Table D-2	All figures in last two columns (ACP Coverage and Coverage T-value)	B, F
Appendix E, pp. 2-3 of 3, Table E-1 (Outbound International Mail Summary of FY 1998 International Volumes, Revenue, and Attributable Cost and Cost Coverage by International Mail Category and Terminal Dues Regime).	For all categories (except "Total Surface," "Total Air," "Total Initiatives," and "Grand Total Outbound"), all figures in all columns ((1) Volume, (2) Revenue, (3) Attributable Cost, (4) Contribution, and (4) Cost Coverage).	A, B, C

<p>Appendix F, p. 3 of 10, Table F-1 (Comparison of Revenue, Attributable Cost, Contribution to Institutional Cost and Cost Coverage for Outbound Surface and Air International Mail Using PRC Methodology Unadjusted and Adjusted for the USPS' New Methodology for International Air Transportation Cost).</p>	<p>For all categories (except "Subtotal, Surface," "Subtotal, Air," and "Total Surface and Air"), all figures in all columns ("PRC Total Attributable Costs" (2) Unadjusted, (3) Adjusted, (4) Adjusted minus Unadjusted; "Contribution to Institutional Costs" (5) Unadjusted, (6) Adjusted, (7) Adjusted minus Unadjusted; "Cost Coverage" (8) Unadjusted, (9) Adjusted, (10) Percent Change).</p>	<p>A, B</p>
<p>Appendix F, p. 4 of 10, Table F-2 (Development of FY 1998 Attributable Cost for International Mail Using PRC Costing Methodology with USPS Revised Methodology for Calculating International Transportation Cost).</p>	<p>For all categories (1 – 15, except 6 (Subtotal, Surface), 14 (Subtotal, Air), and 15 (Total Surface and Air)), all figures in Columns (2) PRC Unit Cost, (3) PRC Int'l Tp Unit Cost, (4) Int'l Tp Unit Cost, (5) Adjusted PRC Unit Cost, (8) Adjusted Cost Coverage, and (9) Unadjusted Cost Coverage.</p>	<p>A, B</p>
<p>Appendix F, p. 5 of 10, Table F-3 (Development of Attributable Cost for Global Priority Mail Using the 6/11/99 ICRA Report – PRC Version and the Postal Service's New Methodology for International Air Transportation Cost).</p>	<p>For all categories (Cost Segments and Components), all figures for all columns (PRC Version, USPS Version w/ new Int'l Air Trans Cost, and PRC Version w/ new Int'l Air Trans Cost).</p>	<p>A, E</p>

<p>Appendix F, p. 6 of 10, Table F-4 (Development of Attributable Cost for Outbound Mail – Standard Service and Initiatives – Adjusted to Reflect the New USPS Method for International Air Transportation Cost).</p>	<p>For all outbound categories (except 1 Standard Services, 6 Subtotal, Initiatives, and 7 Total Outbound), all figures in all columns ((1) PRC Version, (2) PRC Version w/ new Int'l Air Trans Cost, and (3) Reduction in Attributable Costs)).</p>	<p>A, E</p>
<p>Appendix F, p. 7 of 10, Table F-5 (Comparison of Revenue, Attributable Cost, Contribution to Institutional Cost and Cost Coverage for International Mail -- Standard Services and Initiatives – Using PRC Methodology Unadjusted and Adjusted for the USPS' New Methodology for International Air Transportation Cost).</p>	<p>For all outbound categories (except 1 Standard Services, 6 Initiatives, and 7 Total Outbound), all figures for all columns ((1) Revenue; "Attributable Costs" (2) PRC Version, (3) PRC Version w/ new Int'l Air Trans Cost, (4) Reduction in Attributable Costs; "Contribution to Institutional Cost" (5) PRC Version, (6) PRC Version w. new Int'l Air Trans Cost, (7) Increase in Contribution; "Cost Coverage" (8) PRC Version, (9) PRC Version w/ new Int'l Air Trans Cost, and (10) Percent Change).</p>	<p>A, B, C, E</p>
<p>Appendix F, p. 9 of 10, Table F-7 (Effect of Using the Postal Service's Method for Calculating International Air Transportation Costs on International Attributable Cost)</p>	<p>For Outbound Mail, for all categories (except "Subtotal, Surface," "Subtotal, Air," "Subtotal, Initiatives," and "Total Outbound"), all figures in all columns ((1) Reduction in Attributable Cost, (2) Increase in Contribution to Institutional Cost, (3) Unadjusted Cost Coverage, and (4) Adjusted Cost Coverage).</p>	<p>A, B</p>