

# 709 Negotiated Service Agreements

## Overview

### 1.0 General Requirements for Negotiated Service Agreements (NSAs)

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### 1.1 Basic Information

#### 1.1.1 Definition and Purpose

A negotiated service agreement (NSA) is a customized and mutually beneficial contractual agreement between the USPS and a specific mailer (customer or organization). An NSA provides for customized pricing, prices, and classifications under the terms and conditions established in the NSA and may include modifications to current mailing standards and other postal requirements. Any mailer may submit an application for an NSA if the mailer meets the requirements in 1.2 and follows the process in 1.3.

#### 1.1.2 Legal Framework

Terms and conditions of an NSA affecting prices or classifications require that the USPS request a recommended decision from the Postal Regulatory Commission before the USPS may approve and implement the NSA. NSAs must be recommended and approved under 39 U.S.C. 36 and the Postal Regulatory Commission's rules of practice and procedure.

### 1.2 Candidate Factors and Requirements

#### 1.2.1 Factors

The USPS considers the following factors in evaluating any candidate's NSA proposal:

- a. Candidate's presentation of information as requested by the USPS to document the following:
  1. Current mailing systems, postage payment systems, and quality control procedures and programs.
  2. Historical data showing mail volumes and use of specific mail services or mailpiece characteristics, as applicable. The candidate, as necessary, must also provide the effect on mail volumes of any corporate mergers, acquisitions, divestitures, and similar events.
- b. Candidate's ability to make and present in an acceptable format accurate forecasts of future mail volumes for USPS products and services proposed for an NSA.
- c. Candidate's ability to collect necessary data in an acceptable format to support an NSA.



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- d. Candidate's willingness to establish and maintain electronic systems and quality control programs as specified by the USPS for paying postage and generating records to facilitate monitoring and reconciling mail volumes, prices, and fees, including volumes and postage paid by a mail preparation agent on behalf of the candidate.
- e. Candidate's production of mail using a formal system to ensure proper mail preparation and accurate postage calculations.
- f. Candidate's use or planned implementation of a Certified Mail preparation total quality program to ensure proper mail preparation and to provide accurate documentation of mailings and postage payment.

#### **1.2.2 General Requirements**

No proposed NSA may have an overall negative financial impact on the USPS. Any proposed NSA must also contain, at a minimum, the following general candidate requirements and conditions:

- a. The candidate must permit USPS inspection of mail content to determine price eligibility.
- b. The candidate must prepare mail under current applicable mailing standards, unless they are to be modified under a proposed NSA.
- c. The candidate must meet and adhere to quality management standards for the classes of mail and prices claimed.
- d. The candidate must make available to the USPS necessary records and data related to the NSA in a form that facilitates monitoring of compliance with the terms and conditions of the NSA.
- e. The candidate must provide proper specified notice to cancel the NSA.
- f. The USPS has the right to cancel the NSA at any time with specified proper notice for any failure or, where appropriate, material failure of the mailer to:
  - 1. Use the NSA within the time period specified in the NSA.
  - 2. Provide accurate data, present properly prepared and paid mailings, or comply with any other material term or condition in the NSA.
- g. The candidate must engage counsel and file testimony as necessary in support of the NSA before the Postal Regulatory Commission.

### **1.3 Application Process**

#### **1.3.1 Initial Proposal**

A mailer seeking to enter into an NSA with the USPS must submit a written proposal, with appropriate supporting documentation, to the USPS manager of Pricing Strategy (see [608.8.0](#) for address). The proposal must contain the reasons for requesting the NSA along with a summary of the information responding to the applicable candidate features and general requirements described in [1.2](#). A nondisclosure agreement must be signed before any substantive discussion of the proposal.

### 1.3.2 Negotiations and Contractual Agreement

As a result of the proposal, the candidate and the USPS may enter into negotiations to establish an NSA, with terms and conditions specific to the candidate, that is either a functionally equivalent NSA (i.e., comparable to an existing baseline NSA) or a new baseline NSA (i.e., not comparable to an existing NSA). A candidate in the negotiation process may withdraw a proposal for an NSA at any time prior to the execution of the NSA. Once the NSA is executed, the NSA is controlled by its terms and conditions.

### 1.3.3 Additional Consideration

If the USPS decides to end negotiations with the candidate before reaching an agreement to enter into an NSA under 1.1, the manager of Pricing Strategy notifies the candidate in writing and gives the reasons for the decision. Within 15 days from the receipt of the written explanation, the candidate may ask for reconsideration of the manager's decision. The candidate's request for reconsideration must include additional information and reasons why negotiations for an NSA should be resumed. The candidate submits the request for reconsideration through the manager of Pricing Strategy to the vice president of Pricing and Classification (see 608.8.0 for address).

## 1.4 Market Dominant First-Class Mail and USPS Marketing Mail Letters NSAs

### 1.4.1 Definition and Purpose

The First-Class Mail and USPS Marketing Mail NSA is based on the combined total revenue of First-Class Mail automation letters, USPS Marketing Mail automation letters, and USPS Marketing Mail carrier route automation letters, and provides an incentive to encourage the growth of First-Class Mail. A baseline is determined from the revenue generated from First-Class Mail automation letters, USPS Marketing Mail automation letters, and USPS Marketing Mail carrier route barcoded automation-compatible letters that are mailed as and eligible for full-service Intelligent Mail prices (705.23.0) during a prior specified 12-month period of time. It includes a postage threshold that is adjusted from the baseline to qualify for a rebate. If the adjusted revenue threshold is met, a rebate is generated on a percentage of the difference of an increase in postage as a result of a subsequent cumulative First-Class Mail and USPS Marketing Mail price increase related to the prices in existence at the time of the agreement. If the adjusted revenue threshold is not met, the NSA holder will pay a penalty.

### 1.4.2 Candidate Factors and Requirements

Potential participants must be IMb full-service customers with extensive, but declining First-Class Mail volumes and significant additional volumes of USPS Marketing Mail. Candidates must also meet the standards in 1.1 through 1.3 to qualify. The basic agreement comprises five components:

- a. Revenue threshold: Is based on the amount of total combined postage paid for First-Class Mail automation letters, USPS Marketing Mail automation letters, and USPS Marketing Mail carrier route barcoded automation-compatible letters. The baseline for the revenue threshold is the total postage for these categories over the previous one-year period. The threshold is calculated at a negotiated percentage above the baseline for each year during the duration of the agreement.



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- b. Revenue threshold adjustment: Will be adjusted upward by a negotiated amount for every dollar decline in First-Class Mail postage. To qualify for rebates under this adjustment, a pre-determined revenue amount of USPS Marketing Mail must be mailed to offset each dollar decline in postage from First-Class Mail.
- c. Postage commitment with penalty: The postage commitment is an amount equal to the adjusted revenue threshold. If the amount of total postage from eligible mail in the first year of the contract is less than the adjusted revenue threshold, a negotiated percentage penalty in the amount of the difference between the adjusted revenue threshold and the actual total postage paid for contract year one must be paid. Subsequent year penalties for failing to meet the adjusted revenue threshold are negotiated by the parties within nine months of the end of the previous contract year.
- d. Rebate on First-Class Mail: If the mailer holding the agreement exceeds the adjusted revenue thresholds in any given year of the contract, it will earn rebates on its qualifying First-Class Mail postage. The rebate will be equal to a negotiated percent of the increase in postage as a result of a subsequent cumulative price increase (relative to First-Class Mail prices in existence at the initiation of the agreement) for all qualifying pieces.
- e. Rebate on USPS Marketing Mail: If the mailer holding the agreement exceeds the adjusted revenue thresholds in any given year of the contract, it will earn rebates on its qualifying USPS Marketing Mail postage. The rebate will be equal to a negotiated percent of the increase in postage as a result of a subsequent cumulative price increase (relative to USPS Marketing Mail prices in existence at the initiation of the agreement) for all qualifying pieces.

#### **1.4.3 General Requirements**

Any proposed First-Class Mail and USPS Marketing Mail NSA under this classification must also contain, at a minimum, the following general candidate requirements and conditions:

- a. The NSA expires three years from the effective date. Either party can terminate the agreement, without penalty, for convenience prior to the last 90 days of each contract year with 90 days written notice to the other party.
- b. The NSA will contain a merger and acquisition clause, which adjusts the threshold to account for increased mailing activity (or decreased, in the case of a sale or closure).

#### **1.4.4 Initial Proposal**

The proposal must explain how the candidate meets the requirements in [1.4.2](#) and also must meet the following conditions:

- a. The candidate must submit a written proposal that includes appropriate supporting documentation to the manager of Correspondence & Transactions (see [608.8.0](#) for address).
- b. The proposal must be initiated by the mailer and include a summary of the information responding to the applicable candidate features and general requirements described in [1.4.3](#).
- c. A nondisclosure agreement must be signed before any substantive discussion of the proposal begins.