

§ 2011. Provisions relating to competitive products

(a)(1) In this subsection, the term “costs attributable” has the meaning given such term by section 3631.

(2) There is established in the Treasury of the United States a revolving fund, to be called the Postal Service Competitive Products Fund, which shall be available to the Postal Service without fiscal year limitation for the payment of—

(A) costs attributable to competitive products; and

(B) all other costs incurred by the Postal Service, to the extent allocable to competitive products.

(b) There shall be deposited in the Competitive Products Fund, subject to withdrawal by the Postal Service—

(1) revenues from competitive products;

(2) amounts received from obligations issued by Postal Service under subsection (e);

(3) interest and dividends earned on investments of the Competitive Products Fund; and

(4) any other receipts of the Postal Service (including from the sale of assets), to the extent allocable to competitive products.

(c) If the Postal Service determines that the moneys of the Competitive Products Fund are in excess of current needs, the Postal Service may request the investment of such amounts as the Postal Service determines advisable by the Secretary of the Treasury in obligations of, or obligations guaranteed by, the Government of the United States, and, with the approval of the Secretary, in such other obligations or securities as the Postal Service determines appropriate.

(d) With the approval of the Secretary of the Treasury, the Postal Service may deposit moneys of the Competitive Products Fund in any Federal Reserve bank, any depository for public funds, or in such other places and in such manner as the Postal Service and the Secretary may mutually agree.

(e)(1)(A) Subject to the limitations specified in section 2005(a), the Postal Service is authorized to borrow money and to issue and sell such obligations as the Postal Service determines necessary to provide for competitive products and deposit such amounts in the Competitive Products Fund.

(B) Subject to paragraph (5), any borrowings by the Postal Service under subparagraph (A) shall be supported and serviced by—

(i) the revenues and receipts from competitive products and the assets related to the provision of competitive products (as determined under subsection (h)); or

(ii) for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e).

(2) The Postal Service may enter into binding covenants with the holders of such obligations, and with any trustee under any agreement entered into in connection with the issuance of such obligations with respect to—

(A) the establishment of reserve, sinking, and other funds;

(B) application and use of revenues and receipts of the Competitive Products Fund;

(C) stipulations concerning the subsequent issuance of obligations or the execution of leases or lease purchases relating to properties of the Postal Service; and

(D) such other matters as the Postal Service considers necessary or desirable to enhance the marketability of such obligations.

(3) Obligations issued by the Postal Service under this subsection—

(A) shall be in such forms and denominations;

(B) shall be sold at such times and in such amounts;

(C) shall mature at such time or times;

(D) shall be sold at such prices;

(E) shall bear such rates of interest;

(F) may be redeemable before maturity in such manner, at such times, and at such redemption premiums;

(G) may be entitled to such relative priorities of claim on the assets of the Postal Service with respect to principal and interest payments; and

(H) shall be subject to such other terms and conditions,

as the Postal Service determines.

(4) Obligations issued by the Postal Service under this subsection—

(A) shall be negotiable or nonnegotiable and bearer or registered instruments, as specified therein and in any indenture or covenant relating thereto;

(B) shall contain a recital that such obligations are issued under this section, and such recital shall be conclusive evidence of the regularity of the issuance and sale of such obligations and of their validity;

(C) shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the Government of the United States, and the Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the obligations of the Postal Service acquired under this section;

(D) shall not be exempt either as to principal or interest from any taxation now or hereafter imposed by any State or local taxing authority; and

(E) except as provided in section 2006(c), shall not be obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by, the Government of the United States, and the obligations shall so plainly state.

(5) The Postal Service shall make payments of principal, or interest, or both on obligations issued under this section out of revenues and receipts from competitive products and assets related to the provision of competitive products (as determined under subsection (h)), or for purposes of any period before accounting practices and principles under subsection (h) have been es-

established and applied, the best information available, including the audited statements required by section 2008(e). For purposes of this subsection, the total assets of the Competitive Products Fund shall be the greater of—

(A) the assets related to the provision of competitive products as calculated under subsection (h); or

(B) the percentage of total Postal Service revenues and receipts from competitive products times the total assets of the Postal Service.

(f) The receipts and disbursements of the Competitive Products Fund shall be accorded the same budgetary treatment as is accorded to receipts and disbursements of the Postal Service Fund under section 2009a.

(g) A judgment (or settlement of a claim) against the Postal Service or the Government of the United States shall be paid out of the Competitive Products Fund to the extent that the judgment or claim arises out of activities of the Postal Service in the provision of competitive products.

(h)(1)(A) The Secretary of the Treasury, in consultation with the Postal Service and an independent, certified public accounting firm and other advisors as the Secretary considers appropriate, shall develop recommendations regarding—

(i) the accounting practices and principles that should be followed by the Postal Service with the objectives of—

(I) identifying and valuing the assets and liabilities of the Postal Service associated with providing competitive products, including the capital and operating costs incurred by the Postal Service in providing such competitive products; and

(II) subject to subsection (e)(5), preventing the subsidization of such products by market-dominant products; and

(ii) the substantive and procedural rules that should be followed in determining the assumed Federal income tax on competitive products income of the Postal Service for any year (within the meaning of section 3634).

(B) Not earlier than 6 months after the date of enactment of this section, and not later than 12 months after such date, the Secretary of the Treasury shall submit the recommendations under subparagraph (A) to the Postal Regulatory Commission.

(2)(A) Upon receiving the recommendations of the Secretary of the Treasury under paragraph (1), the Commission shall give interested parties, including the Postal Service, users of the mails, and an officer of the Commission who shall be required to represent the interests of the general public, an opportunity to present their views on those recommendations through submission of written data, views, or arguments with or without opportunity for oral presentation, or in such other manner as the Commission considers appropriate.

(B)(i) After due consideration of the views and other information received under subparagraph (A), the Commission shall by rule—

(I) provide for the establishment and application of the accounting practices and prin-

ciples which shall be followed by the Postal Service;

(II) provide for the establishment and application of the substantive and procedural rules described under paragraph (1)(A)(ii); and

(III) provide for the submission by the Postal Service to the Postal Regulatory Commission of annual and other periodic reports setting forth such information as the Commission may require.

(ii) Final rules under this subparagraph shall be issued not later than 12 months after the date on which recommendations are submitted under paragraph (1) (or by such later date on which the Commission and the Postal Service may agree). The Commission is authorized to promulgate regulations revising such rules.

(C)(i) Reports described under subparagraph (B)(i)(III) shall be submitted at such time and in such form, and shall include such information, as the Commission by rule requires.

(ii) The Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with such rules as the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service information under subparagraph (B)(i)(III) whenever it shall appear that—

(I) the quality of the information furnished in those reports has become significantly inaccurate or can be significantly improved; or

(II) such revisions are, in the judgment of the Commission, otherwise necessitated by the public interest.

(D) A copy of each report described under subparagraph (B)(i)(III) shall be submitted by the Postal Service to the Secretary of the Treasury and the Inspector General of the United States Postal Service.

(i)(1) The Postal Service shall submit an annual report to the Secretary of the Treasury concerning the operation of the Competitive Products Fund. The report shall address such matters as risk limitations, reserve balances, allocation or distribution of moneys, liquidity requirements, and measures to safeguard against losses.

(2) A copy of the most recent report submitted under paragraph (1) shall be included in the annual report submitted by the Postal Regulatory Commission under section 3652(g).

(Added Pub. L. 109-435, title IV, § 401(a)(1), Dec. 20, 2006, 120 Stat. 3221.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (h)(1)(B), is the date of enactment of Pub. L. 109-435, which was approved Dec. 20, 2006.

CHAPTER 22—CONVICT LABOR

Sec.

2201. No postal equipment or supplies manufactured by convict labor.

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Except as provided in chapter 307 of title 18, the Postal Service may not make a contract for