



MEMORANDUM

To: California State Lottery Commission **Date:** October 16, 2007

From: Joan M. Borucki
Director

Prepared By: Patricia Eberhart, Deputy Director
Operations Division

Subject: Item 9(b) - Approval of Contract for Small Business Parcel Delivery to United Parcel Services

ISSUE

Should the California State Lottery Commission (Commission) award a two-year contract to United Parcel Services (UPS) for small parcel delivery services?

RECOMMENDATION

Staff recommends that the Commission approve the award of a two-year contract to UPS to provide small parcel delivery services starting November 1, 2007 through October 31, 2009, with the option to extend up to four additional years. The total contract expenditure is not to exceed \$250,000 for the two-year period. The contract is not a guaranteed amount, but a maximum amount to be used for actual expenses on an as needed basis.

BACKGROUND

The Facilities Operations Department requested a competitive bid solicitation process to establish a contract to provide express small package air delivery and expedited ground parcel delivery services. The services would include the contiguous 48 states, Alaska, Hawaii, Puerto Rico, and any and all international destinations, to and from the California State Lottery (Lottery) Headquarters and all Lottery facilities located throughout California. A contract for these services will ensure that the Lottery maintains uninterrupted shipping and overnight mailing capabilities.

DISCUSSION

On May 22, 2007, an Invitation for Bid (IFB) was officially released. A letter of interest was mailed to 39 potential bidders from the Contract and Procurement Services Section's Vendor Database. The IFB was also advertised on the Lottery's website and the Department of General Services' California State Contracts Register.

Additionally, the Lottery issued an Amendment to IFB 2235 on June 15, 2007, revising the Scope of Services to specify that "delivery services must be performed by employees of the Contractor; operating Contractor owned or leased vehicles." This is a non-negotiable term that was implemented for the security and control needs of the Lottery's small parcel delivery service.

Proposals were received from two companies: FedEx Corporation (FedEx) and United Parcel Service (UPS).

The bids were opened and evaluated by a review team. The mandatory evaluation was pass/fail with both companies passing. Award of the contract was based on the bidder proposing the lowest total rate based on the sum of the rates to ship a 3.5 pound package for ground, Two Day Air, Next Day AM, Next Day PM service, and the rate for standard envelope service from Zip Code 93711 (Fresno) to Zip Code 95811 (Sacramento). Listed below, in alphabetical order, are the results of the Price Assessment:

<u>Bidder</u>	<u>Total Assessed Bid Amount</u>
FedEx Corporation	\$25.76
United Parcel Service	\$27.46

FedEx was announced as the apparent successful bidder in response to the IFB for small parcel delivery service.

Included with their bid response, FedEx submitted incorporated directions and questions to the Lottery's IFB. They were not reviewed during the Mandatory Submittal Review or Price Assessment, as they were determined to be issues for negotiation addressed after naming FedEx as the apparent successful bidder.

During the Contract Administrator's review of FedEx's incorporated directions and questions on August 22, 2007, a statement was discovered declaring that "FedEx Ground uses independent contractors for pickups and deliveries."

Clarification from FedEx was requested on August 27, 2007, as to how they would fulfill the Lottery's requirement that delivery services be performed by employees of the Contractor; operating Contractor owned or leased vehicles. FedEx responded

that FedEx Ground uses contractors to perform its end deliveries, and a change in that model would not be forthcoming.

While the bid response from FedEx met the mandatory requirements of the IFB and presented the lowest total assessed bid amount, it does not fulfill the Lottery's requirement that delivery services be performed by employees of the Contractor; operating Contractor owned or leased vehicles. Additionally, making an exception by awarding the contract to FedEx for the Lottery's small parcel delivery service would be unfair to similarly situated potential bidders who did not submit a bid response because of the mandate.

As such, the Lottery disqualified the bid response submitted by FedEx for not meeting the requirements of the Lottery's Scope of Services for small parcel delivery service.

Since only two bid responses were received for this solicitation and FedEx has been disqualified, the remaining qualified bidder is UPS. UPS passed the mandatory submittal review and presented a total assessed bid amount comparable to that of FedEx.

Based on the review and assessment explained above, staff recommends that UPS be designated as the apparent successful bidder of the contract for small parcel delivery service. The two-year contract has an option to extend for four additional years. The contract is scheduled to begin November 1, 2007, with a total contract expenditure authority of \$250,000.