August 8, 2008

Mr. Russell G. Golden
Technical Director – File Reference No. 1600-100
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, Connecticut 06856-5116

Request for Comments on a Proposed Statement, *Disclosure of Certain Loss Contingencies, an amendment of FASB Statements No. 5 and 141(R)* (File Reference No. 1600-100)

Dear Mr. Golden:

We welcome the opportunity to comment on the Proposed Statement, *Disclosure of Certain Loss Contingencies* (the "proposed Statement"). We understand that the accounting rules for loss contingencies have remained substantially intact for many years and that they are due for re-evaluation. However, we also recognize that Statement 5's longevity has been driven in large part by its ability to strike a reasonable balance between disclosing what is meaningful and estimable, and what is not. We believe that if the proposed Statement is enacted as currently drafted, the resulting estimates and disclosures may not strike the same balance.

We are a co-signer to a comment letter issued by McKenna Long & Aldridge on behalf of a number of Fortune 500 and other companies. That letter addresses many of our concerns with the proposed Statement on a broad basis. In the appendix to this letter, we are addressing two specific issues which are of particular concern to UPS – (1) the inclusion of potential obligations for withdrawal from multiemployer benefit plans within the scope of the proposed Statement, and (2) the effective date of the proposed Statement.

We would be happy to discuss this letter or any of our comments, and we appreciate the Board's consideration of these items.

Very truly yours,

Teri P. McClure
Senior Vice President,
General Counsel and Secretary
United Parcel Service, Inc.

Appendix

Question 2—Do you agree with the Board's decision to include within the scope of this proposed Statement obligations that may result from withdrawal from a multiemployer plan for a portion of its unfunded benefit obligations, which are currently subject to the provisions of Statement 5? Why or why not?

We do not agree that obligations that may result from withdrawal from a multiemployer plan should be covered under the scope of this statement. We believe Statement 5 currently covers such potential obligations in an adequate fashion.

To paraphrase the proposed Statement, an entity is expected to disclose a loss, regardless of likelihood, if it is expected to be resolved in the near term and could have a severe impact. In practice, what this means is not clear. To begin with, withdrawal from a multiemployer plan generally cannot be done unilaterally. A withdrawal of this type is a function of collective bargaining, and, in that process, it is not realistic to "expect" any particular outcome until negotiations near or reach completion. Even after a "hand-shake" agreement is reached with union leadership, the contract must still be ratified, which can be a major uncertainty in and of itself. Further, premature disclosure of the potential withdrawal from a multiemployer plan will have a significant impact on the collective bargaining process and make it extremely difficult to ever negotiate such a withdrawal.

In addition, using estimates and ranges would be misleading. A withdrawal liability is calculated in accordance with the provisions of ERISA and the multiemployer plan terms. It includes actuarial assumptions as well as the plan's funding status which varies over time. Based on the inherent uncertainties in the calculation (which ultimately is performed by the plan and not the employer), any estimates or ranges would be too broad to be useful and could be misleading.

Finally, the proposed Statement has introduced the term "severe impact" which is an evaluation criterion that has not been widely applied up to this point. Based on the footnote definition of this term, and given that a multiemployer plan withdrawal would probably be negotiated as part of a comprehensive compensation package, it would likely be rare to ever need to disclose a potential withdrawal liability under the proposed Statement even when the withdrawal liability is highly material.

In general, we are unsure what the intended result is for including potential withdrawal liabilities under this statement. As currently proposed, it appears one result could be to accelerate disclosures based on speculation along with cost projections prepared with limited or no data. Alternatively, the "severe impact" criterion could be applied in such a way as to never disclose a potential withdrawal obligation. We do not believe either of these would improve current accounting practice.

Accordingly, because of the unique characteristics of multiemployer benefit plans, we recommend that obligations that may result from withdrawal from such plans be excluded from the scope of the proposed Standard.

Question 14—Do you believe it is operational for entities to implement the proposed Statement in fiscal years ending after December 15, 2008? Why or why not?

No, we do not believe it would be operational to implement the proposed Statement for fiscal years ending after December 15, 2008. As noted in our response to Question 2, we believe there is more work to be done with regard to the inclusion of obligations that may result from withdrawal from a multiemployer plan. Furthermore, as previously mentioned, the additional comment letter that we co-signed makes a compelling case for retaining Statement 5 intact as opposed to implementing this proposed Statement as currently written. Included in that letter are many issues that need to be studied and addressed prior to adoption and implementation of any new standard in this area. We do not believe it is feasible to accomplish this prior to the current effective date.

At a minimum, the application of this proposed Statement should be deferred to address the many issues raised by the legal and accounting communities along with providing an opportunity to evaluate comments, test the application of the proposed Statement, and give more guidance in how it is expected to be applied, including specific examples.