



CITY OF SANTA BARBARA
SANTA BARBARA MUNICIPAL AIRPORT
AIRPORT CONCESSIONS DISADVANTAGED
BUSINESS ENTERPRISE (ACDBE) PROGRAM
FY 2016-2019

Program Statement

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POLICY STATEMENT

Section 23.1, 23.23 – Objectives/Policy Statement

Santa Barbara Municipal Airport has established an Airport Concession Disadvantaged Business Enterprise (ACDBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 23. Santa Barbara Airport is a primary airport and has received federal funds authorized for airport development after January 1988 (authorized under Title 49 of the United States Code). The Airport has signed airport grant assurances that it will comply with 49 CFR Part 23.

It is the policy of the Airport to ensure that ACDBEs as defined in Part 23, have an equal opportunity to receive and participate in concession opportunities. It is also the policy:

1. To ensure nondiscrimination in the award and administration of opportunities for concessions by airports receiving DOT financial assistance;
2. To create a level playing field on which ACDBEs can compete fairly for opportunities for concessions;
3. To ensure that the ACDBE program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as ACDBEs at the airport(s);
5. To help remove barriers to the participation of ACDBEs in opportunities for concessions at the airport(s); and
6. To provide appropriate flexibility to the airports in establishing and providing opportunities for ACDBEs.

Deanna Zachrisson, Airport Business Development Manager, has been designated as the ACDBE Liaison Officer (ACDBELO). In that capacity, Ms. Zachrisson is responsible for implementing all aspects of the ACDBE program. Implementation of the ACDBE program is accorded the same priority as compliance with all other legal obligations incurred by the Airport in its financial assistance agreements with the Department of Transportation.

The Airport has disseminated this policy statement to the City Council and within the organization. The Airport has distributed this statement to ACDBE and non-ACDBE concessionaire communities who may compete for future opportunities.

The distribution was accomplished by posting to the Santa Barbara Airport website, email notification through the City and County of Santa Barbara’s business licensing offices, and by notices provided to the Airports Council International – North America, the Association of American Airport Executives, and the Airport Minorities Advisory Council (AMAC) for further dissemination.

Hazel Johns, Airport Director

Date

Deanna Zachrisson, ACDBE Liaison Officer

Date

DRAFT

SUBPART A – GENERAL REQUIREMENTS

Section 23.1 – Objectives

The objectives are found in the policy statement on the first page of this program.

Section 23.3 – Definitions

Santa Barbara Airport will use terms in this program that have the meaning defined in Section 23.3 and Part 26 Section 26.5 where applicable.

Section 23.5 – Applicability

The Airport is a primary airport and the sponsor of federal airport funds authorized for airport development after January 1988 that was authorized under Title 49 of the United States Code.

Section 23.9 – Non-discrimination Requirements

In accordance with the requirements stated in 49 CFR 26.7, the Airport will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any concession agreement, management contract, or subcontract, purchase or lease agreement or other agreement covered by 49 CFR Part 23 on the basis of race, color, sex, or national origin.

In administering its ACDBE program, the Airport will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the ACDBE program with respect to individuals of a particular race, color, sex, or national origin.

The Airport acknowledges these representations are also in accordance with obligations contained in its Civil Rights, DBE and ACDBE Airport grant assurances.

The Airport will include the following assurances in all concession agreements and management contracts it executes with any firm:

1. "This agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. The concessionaire or contractor agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23.

2. “The concessionaire or contractor agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR part 23, that it enters and cause those businesses to similarly include the statements in further agreements.”

Section 23.11 – Compliance and Enforcement

The Airport will comply with and is subject to the provisions of 49 CFR Part 26 (§§ 26.101, 26.105, 26.107 and 2 CFR parts 180 and 1200.

The Airport will comply with this part or be subject to formal enforcement action under §26.105 or appropriate program sanctions, such as the suspension or termination of Federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied. Program sanctions may include actions consistent with 49 U.S.C. §§ 47106(d), 47111(d), and 47122.

In addition, 2 C.F.R. Part 180, regarding Government-wide Debarment and Suspension (Non-procurement), which became effective November 15, 2006 (adopted and supplemented by DOT at 2 C.F.R. Part 1200, effective June 2, 2008) provides Office of Management and Budget (OMB) guidance for Federal agencies on the government-wide debarment and suspension system for non-procurement transactions, programs and activities. 2 C.F.R. Part 1200 adopts the OMB guidance in subparts A through I of 2 CFR part 180, as supplemented by part 1200, as the Department of Transportation policies and procedures for non-procurement suspension and debarment.

The Airport’s compliance with all requirements of this part is enforced through the procedures of Title 49 of the United States Code, including 49 U.S.C. 47106(d), 47111(d), and 47122, and regulations implementing them.

The following enforcement actions apply to firms participating in the Airport’s ACDBE program:

1. For a firm that does not meet the eligibility criteria of subpart D of this part and that attempts to participate as an ACDBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the Department of Transportation (DOT) or the Federal Aviation Administration (FAA) may initiate suspension or debarment proceedings against the firm under 2 CFR parts 180 and 1200.
2. For a firm that, in order to meet ACDBE goals or other AC/DBE program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria of subpart D of this part, DOT or FAA may initiate suspension or debarment proceedings against the firm under 2 CFR parts 180 and 1200.

3. DOT may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the ACDBE program whose conduct is subject to such action under 49 CFR Part 31.
4. DOT may refer to the Department of Justice, for prosecution under 18 U.S.C. §§ 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of an ACDBE in the Santa Barbara Airport ACDBE program or otherwise violates applicable Federal statutes.

Compliance reviews: The FAA may review the Airport's compliance with this part at any time, including but not limited to, reviews of paperwork, on-site reviews, and review of the airport sponsor's monitoring and enforcement mechanism, as appropriate. The FAA Office of Civil Rights may initiate a compliance review based on complaints received.

Any person who knows of a violation of this part by the Airport may file a complaint under 14 CFR Part 16 with the Federal Aviation Administration Office of Chief Counsel.

SUBPART B – ACDBE PROGRAMS

Section 23.21 – ACDBE Program Updates

Santa Barbara Airport is a non-hub primary airport required to have an ACDBE program.

As a condition of eligibility for FAA financial assistance, the Airport will submit its ACDBE program and overall goals to FAA according to 23.45(a) of this section.

Until the Airport's new ACDBE program is submitted and approved, it will continue to implement the ACDBE program that was in effect previously, except with respect to any provision that is contrary to 49 CFR Part 23.

This ACDBE program will be implemented at Santa Barbara Municipal Airport.

When the Airport makes significant changes to its ACDBE program, it will provide the amended program to the FAA for approval prior to implementing the changes.

Section 23.23 – Administrative Provisions

Policy Statement:

The Airport is committed to operating its ACDBE program in a nondiscriminatory manner.

Santa Barbara Airport's Policy Statement is elaborated on the first page of this program.

ACDBE Liaison Officer (ACDBELO):

Santa Barbara Airport has designated the following individual as the DBE Liaison Officer:

Deanna Zachrisson, Airport Business Development Manager
Santa Barbara Airport
601 Firestone Road
Santa Barbara, CA 93117
805-692-6030
dzachrisson@santabarbaraCA.gov

In that capacity, the ACDBELO is responsible for implementing all aspects of the ACDBE program and ensuring that the Airport complies with all provisions of 49 CFR Part 23. The ACDBELO has direct, independent access to the Airport Director concerning ACDBE program matters. An organizational chart displaying the ACDBELO's position in the organization is found in Attachment 1 to this program.

The ACDBELO is responsible for developing, implementing and monitoring the ACDBE program, in coordination with other appropriate officials. The ACDBELO has one additional full-time equivalent to support the program to assist in the administration of the program. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by FAA or DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to ACDBEs in a timely manner.
5. Identifies contracts and procurements so that ACDBE goals are included in solicitations (both race-neutral methods and contract specific goals.)
6. Analyzes the Airport's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the City of Santa Barbara on ACDBE matters and achievement.

9. Provides ACDBEs with information and assistance in preparing bids, obtaining bonding, financing, and insurance; acts as a liaison to the OSDDBU-Minority Resource Center (MRC).
10. Plans and participates in ACDBE training seminars.
11. Acts as liaison to the Unified Certification Program (UCP) in California
12. Provides outreach to ACDBEs and community organizations to advise them of opportunities.

Other Airport staff support the program in numerous ways, including but not exclusively by: are responsible for

1. Gathering and reporting statistical data and other information as required by FAA or DOT.
2. Maintaining the Airport's updated directory on certified ACDBEs and distinguishing them from DBEs.
3. Participating in ACDBE training seminars.
4. Assuring that information about minority business associations/groups, media outlets and financial institutions remain current.
5. Acting as liaison to the Unified Certification Program (UCP) in California.

Directory:

The Airport through the California Unified Certification Program (UCP), maintains a directory identifying all firms eligible to participate as DBEs and ACDBEs. The Directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as an ACDBE.

The UCP will ensure that the Directory lists each type of work for which a firm is eligible to be certified by using the most specific NAICS code available to describe each type of work. The UCP will make any changes to the current directory entries necessary to meet the requirements of this paragraph.

The UCP revises the Directory daily. The Airport makes the Directory available as follows. The Airport will make the Directory available in its administrative offices at 601 Firestone Road, Santa Barbara, CA 93110 or can be obtained at www.californiaucp.org The Directory may be found in Attachment 2 to this program document.

Section 23.25 – Ensuring Nondiscriminatory Participation of ACDBEs

The Airport will take the following measures to ensure nondiscriminatory participation of ACDBEs in concessions, and other covered activities (23.25(a)).

All new concession opportunities, as appropriate in each individual instance, will be:

- Advertised in market area business and Chamber of Commerce publications, including minority focused publications.
- Advertised in airport industry publications such as ACI-NA Centerlines and Airport Revenue News magazine.
- Promoted via the City of Santa Barbara website and the Santa Barbara Airport website.
- Presented at public meetings of the Santa Barbara Airport Commission and/or other public outreach meetings.

The Airport will seek ACDBE participation in all types of concession activities, rather than concentrating participation in one category or a few categories to the exclusion of others. (23.25(c))

The Airport overall goal methodology and a description of the race-neutral measures it will use to meet the goals are described in Section 23.25 and Attachment 4 of this plan. The goals are set consistent with the requirements of Subpart D. (23.25(b), (d))

If the Airport projects that race-neutral measures alone, are not sufficient to meet an overall goal, it will use race-conscious measures as described in Section 23.25 (e) (1-2) and Attachment 4 and 5 of this plan. (23.25(e))

The Airport will require businesses subject to ACDBE goals at the airport (except car rental companies) to make good faith efforts to explore all available options to meet goals, to the maximum extent practicable, through direct ownership arrangements with ACDBEs. (23.25(f))

Section 23.61 – Quotas or Set-Asides

The Airport will not use set-asides or quotas as a means of obtaining ACDBE participation. (23.25(g)).

Section 23.27 – Reporting

The Airport will retain sufficient basic information about the ACDBE program implementation, ACDBE certification and the award and performance of agreements and contracts to enable the

FAA to determine compliance with Part 23. This data will be retained for a minimum of 3 years following the end of the concession agreement or other covered contract.

Beginning March 1, 2006, the Airport will submit to the FAA Regional Civil Rights Office, an annual ACDBE participation report on the form in Appendix A of Part 23.

Section 23.29 – Compliance and Enforcement Procedures

The Airport will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 23, the Airport’s ACDBELO will:

1. Conduct an annual one-on-one with ACDBE-certified concessionaires and evaluate independent control of the business by the ACDBE
2. Conduct an annual review of certification status
3. Upon any changes with new or existing concessionaires, review contracts, leases, joint venture agreements, purchase contracts and other relevant documents for compliance
4. Conduct semi-annual site visit at concessionaire locations to assure operation by the ACDBE concessionaire (or as appropriate)
5. Bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.
6. The Airport will consider similar action under its own legal authorities, including responsibility determinations in future contracts.

SUBPART C – CERTIFICATION AND ELIGIBILITY

Section 23.31 – Certification Standards and Procedures

The Airport is a member of a Unified Certification Program (UCP) administered by the State of California which will make ACDBE certification decisions on behalf of the Airport. The UCP’s directory of eligible DBEs specifies whether a firm is certified as a DBE for purposes of Part 26, and ACDBE for purposes of part 23, or both. The Airport accepts the procedures and standards of Part 26, as implemented by the UCP, except as provided in 23.31, for certification of ACDBEs to participate in the concessions program and such standards are incorporated herein.

Prior to entering into a new contract, extension, or option with a currently certified ACDBE, the Airport will review their eligibility with the UCP at that time (i.e., “as soon as possible”) rather

than waiting until the latest date allowed under Part 23. The schedule for this review process will be in conjunction with any new or option contracts.

The Airport will consider, provided determined by the UCP, a firm as a small business eligible to be certified as an ACDBE if its gross receipts, averaged over the firm's previous three fiscal years do not exceed \$56.42 million for non-car rental ACDBEs and \$75.23 million for car rental ACDBEs. The size standard for banks and other financial institutions is \$1 billion in assets, for pay telephone companies is 1,500 employees and for ACDBE automobile dealers is 350 employees.

Section 23.35 – Personal Net Worth Standard

The personal net worth standard used in determining eligibility for purposes of Part 23 is \$1.32 million. The Airport defines Personal Net Worth (PNW) as the net value of the assets of an individual remaining after total liabilities are deducted. An individual's personal net worth (PNW) does not include the following:

1. The individual's ownership interest in an ACDBE firm or a firm that is applying for ACDBE certification;
2. The individual's equity in his or her primary place of residence; and
3. Other assets that the individual can document are necessary to obtain financing or a franchise agreement for the initiation or expansion of his or her ACDBE firm (or have in fact been encumbered to support existing financing for the individual's ACDBE business) to a maximum of \$3 million. *However, the effectiveness of this paragraph (3) of this definition is suspended with respect to any application for ACDBE certification made or any financing or franchise agreement obtained after June 20, 2012. (23.3)*

An individual's personal net worth includes only his or her own share of assets held jointly or as community property with the individual's spouse.

Any person who has a personal net worth exceeding this amount is not a socially and economically disadvantaged individual, even if a member of a group otherwise presumed to be disadvantaged. (See 23.3 - *Personal Net Worth* definition and 23.35)

The Airport will presume that a firm that is certified as a DBE under part 26 is eligible to participate as an ACDBE, if certified by the California Unified Certification Program. However, the Airport will ensure that the disadvantaged owners of a DBE certified under part 26 are able to control the firm with respect to its activity in an airport concessions program. The Airport recognizes that the provisions of part 26, sections 26.83(c) (2-6) do not apply to certifications for purposes of part 23.

The Airport also acknowledges that a prime contractor includes a firm holding a prime contract with an airport concessionaire to provide goods or services to the concessionaire or a firm holding a prime concession agreement with a recipient. The Airport recognizes that the eligibility of Alaska Native Corporations (ANC) owned firms for purposes of part 23 is governed by part 26 section 26.73(h). (23.39(c)(d)).

With the support of the certification expertise of the UCP, the Airport will accept the certification standards of part 23 to determine the ACDBE eligibility of firms that provide goods and services to concessionaires. (23.39(i))

In instances when the eligibility of a concessionaire is removed after the concessionaire has entered into a concession agreement because the firm exceeded the size standard or the owner has exceeded the PNW standard, and the firm in all other respects remains an eligible ACDBE, the Airport may continue to count the concessionaire's participation toward ACDBE goals during the remainder of the current concession agreement. The Airport will not count the concessionaire's participation toward ACDBE goals beyond the termination date for the concession agreement in effect at the time of the decertification. (23.39(e))

SUBPART D – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 23.41 – Basic Overall Goal Requirement

The Airport will establish two separate overall ACDBE goals; one for car rentals and another for concessions other than car rentals. The overall goals will cover a three year period and the sponsor will review the goals annually to make sure the goal continues to fit the Airport's circumstances. The Airport will report any significant overall goal adjustments to the FAA.

If the average annual concession revenues for car rentals over the preceding 3 years do not exceed \$200,000, the Airport will not submit an overall goal for car rentals. Likewise, if the average annual concession revenues for concessions other than car rentals over the preceding 3 years do not exceed \$200,000, the Airport will not submit an overall goal for concessions other than car rentals. The Airport understands that "revenue" means total revenue generated by concessions, not the fees received by the airport from concessionaires.

The Airport's overall goals will provide for participation by all certified ACDBEs and will not be subdivided into group-specific goals.

Section 23.43 – Consultation in Goal Setting

The Airport will consult with stakeholders before submitting the overall goals to the FAA. Stakeholders will include, but not be limited to, minority and women's business groups, community organizations, trade associations representing concessionaires currently located at the Airport, as well as existing concessionaires themselves, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged

businesses, the effects of discrimination on opportunities for ACDBEs, and the Airport’s efforts to increase participation of ACDBEs. The Airport’s stakeholders are identified in Attachment 4 as well as a summary of the information obtained from the stakeholders.

Section 23.45 – Overall Goals

Santa Barbara Airport is a non-hub primary airport. As a condition of eligibility for FAA financial assistance, the sponsor will submit its overall goals according to the following schedule:

Primary Airport Size	Region	Date Due	Period Covered	Next Goal Due
Large/Medium Hubs	All regions	October 1, 2014	2015/2016/2017	October 1, 2017 (2018/2019/2017)
Small Hubs	All regions	October 1, 2012	2013/2014/2015	October 1, 2015 (2016/2017/2018)
Non-Hubs	All regions	October 1, 2013	2014/2015/2016	October 1, 2016 (2017/2018/2019)

If a new concession opportunity arises at a time that falls between the normal submission dates above and the estimated average of annual gross revenues are anticipated to be \$200,000 or greater, the Airport will submit an appropriate adjustment to the overall goal to FAA for approval no later than 90 days before issuing the solicitation for the new concession opportunity. (23.45i)

The Airport will establish overall goals in accordance with the Two-Step process as specified in section 23.51. After determining the total gross receipts for the concession activity, the first step is to determine the relative availability of ACDBEs in the market area, “base figure.” The second step is to examine all relevant evidence reasonably available in the sponsor’s jurisdiction to determine if an adjustment to the Step 1 “base figure” is necessary so that the goal reflects as accurately as possible the ACDBE participation the sponsor would expect in the absence of discrimination. Evidence may include, but is not limited to past participation by ACDBEs, a disparity study, evidence from related fields that affect ACDBE opportunities to form, grow, and compete (such as statistical disparities in ability to get required financing, bonding, insurance; or data on employment, self-employment, education, training and union apprenticeship.)

The Airport will arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by ACDBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under § 26.39 of this part.

A description of the methodology to calculate the overall goal for car rentals, the goal calculations, and the data the Airport relied on can be found in Attachment 5 to this program.

A description of the methodology to calculate the overall goal for concessions other than car rentals, the goal calculations, and the data the Airport relied on can be found in Attachment 4 to this program.

Projection of Estimated Race-Neutral & Race-Conscious Participation (23.45(f), 23.25(d-e))

The breakout of estimated race-neutral and race-conscious participation can be found with the goal methodology in Attachments 4 and 5 to this program. This section of the program will be reviewed annually when the goal calculation is reviewed under 23.41(c).

Concession Specific Goals (23.25 (c)(e)(1)(iv))

The Airport will use concession specific goals to meet any portion of the overall goals if does not project being able to meet the goal using race-neutral means. Concession specific goals are established so that, over the period to which the overall goals apply, they will cumulatively result in meeting any portion of the overall goal that is not projected to be met through the use of race-neutral means.

The Airport will establish concession specific goals only on those concessions that have direct ownership arrangements (except car rentals), sublease, or subcontracting possibilities. The Airport will require businesses subject to ACDBE goals at the airport (except car rental companies) to make good faith efforts to explore all available options to meet goals, to the maximum extent practicable, through direct ownership arrangements with ACDBEs (23.25 (f)).

Car rental firms are not required to change their corporate structure to provide for direct ownership arrangements. In the case of a car rental goal, where it appears that all or most of the goal is likely to be met through the purchases by car rental companies of vehicles or other goods or services from ACDBEs, one permissible alternative is to structure the goal entirely in terms of purchases of goods and services.

The Airport need not establish a concession specific goal on every such concession, and the size of concession specific goals will be adapted to the circumstances of each such concession (e.g., type and location of concession, availability of ACDBEs.)

If the objective of a concession specific goal is to obtain ACDBE participation through direct ownership with an ACDBE, the Airport will calculate the goal as a percentage of the total estimated annual gross receipts from the concession. (23.25(e)(1)(i))

If the concession specific goal applies to purchases and/or leases of goods and services, the Airport will calculate the goal by dividing the estimated dollar value of such purchases and/or

leases from ACDBEs by the total estimated dollar value of all purchases to be made by the concessionaire. (23.25(e)(1)(ii))

Good Faith Efforts on Concession Specific Goals (23.25(e)(1)(iii), (iv))

To be eligible to be awarded a concession that has a concession specific goal, bidders/offerors must make good faith efforts to meet the goal. A bidder/offeror may do so either by obtaining enough ACDBE participation to meet the goal or by documenting that it made sufficient good faith efforts to do so. (23.25(e)(1)(iv)). Examples of good faith efforts are found in Appendix A to 49 CFR Part 26. The procedures applicable to 49 CFR Sections 26.51 and 26.53, regarding contract goals apply to the Airport's concession specific goals.

Demonstration of Good Faith Efforts (26.53(a) & (c))

The following personnel are responsible for determining whether a concessionaire who has not met the concession specific goal has documented sufficient good faith efforts to be regarded as responsive. The Airport will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before the Airport commits to the concession agreement with the bidder/offeror.

Information Submittal (26.53(b))

The Airport treats bidder/offeror's compliance with good faith effort requirements as a matter of responsiveness. Each solicitation for which a concession specific goal has been established will require the concessionaires to submit the following information:

1. The names and addresses of ACDBE firms or ACDBE suppliers of goods and services that will participate in the concession;
2. A description of the work that each ACDBE will perform;
3. The dollar amount of the participation of each ACDBE firm/supplier participating;
4. Written and signed documentation of commitment to use a ACDBE whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the ACDBE that it is participating in the concession as provided in the prime concessionaire's commitment; and
6. If the contract goal is not met, evidence of good faith efforts

Administrative reconsideration (26.53(d))

Within seven (7) days of being informed by the Airport that it is not responsive because it has not documented sufficient good faith efforts, a concessionaire may request administrative reconsideration. Concessionaire should make this request in writing to the following reconsideration official Deanna Zachrisson, Airport Business Development Manager, 601 Firestone Road, Santa Barbara, CA 93117, (805)967-7111, dzachrisson@santabarbaraCA.gov. The reconsideration official will not have played any role in the original determination that the concessionaire did not document sufficient good faith efforts.

As part of this reconsideration, the concessionaire will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The concessionaire will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. The Airport will send the concessionaire a written decision on reconsideration, explaining the basis for finding that the concessionaire did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Good Faith Efforts for Replacing an ACDBE Concessionaire (26.53(f))

The Airport will require a concessionaire to make good faith efforts to replace an ACDBE that is terminated or has otherwise failed to complete its concession agreement, lease, or subcontract with another certified ACDBE, to the extent needed to meet the concession specific goal. The Airport will require the concessionaire to notify the ACDBELO immediately of the ACDBEs inability or unwillingness to perform and provide reasonable documentation.

In this situation, the Airport will require the concessionaire to obtain prior approval of the substitute ACDBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts. If the concessionaire fails or refuses to comply within the specified time the Airport may issue a termination for default proceeding.

Sample Proposal/Bid Specification:

The requirements of 49 CFR Part 23, regulations of the U.S. Department of Transportation, applies to this concession. It is the policy of the City of Santa Barbara to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this concession will be conditioned upon satisfying the requirements of this proposal/bid specification. These requirements apply to all concessions firms and suppliers, including those who qualify as an ACDBE. An ACDBE concession specific goal of X percent of (*annual gross receipts; value of leases and/or purchases of goods and services*) has been established for this concession. The concession firm shall make good faith

efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 6), to meet the concession specific goal for ACDBE participation in the performance of this concession.

The concession firm will be required to submit the following information: (1) the names and addresses of ACDBE firms and suppliers that will participate in the concession, (2) A description of the work that each ACDBE will perform; (3) The dollar amount of the participation of each ACDBE firm participating; (4) Written and signed documentation of commitment to use a ACDBE whose participation it submits to meet a contract goal; (5) Written and signed confirmation from the ACDBE that it is participating in the concession as provided in the prime concessionaire’s commitment; and (6) If the contract goal is not met, evidence of good faith efforts.

Section 23.53 – Counting ACDBE Participation for Car Rental Goals

The Airport will count ACDBE participation toward overall goals other than car rental as provided in 49 CFR 23.53.

Section 23.55 – Counting ACDBE Participation for Concessions Other than Car Rentals

The Airport will count ACDBE participation toward overall goals other than car rental as provided in 49 CFR 23.55.

Section 23.57 (b) – Goal Shortfall Accountability

If the awards and commitments on the Uniform Report of ACDBE Participation at the end of any fiscal year are less than the overall goal applicable to that fiscal year, the Airport will:

1. Analyze in detail the reasons for the difference between the overall goal and the awards and commitments in that fiscal year;
2. Establish specific steps and milestones to correct the problems the Airport may have identified in the analysis to enable us to fully meet the goal for the new fiscal year.

SUBPART E – OTHER PROVISIONS

Section 23.71 – Existing Agreements

The Airport will assess potential for ACDBE participation when an extension or option to renew an existing agreement is exercised, or when a material amendment is made. The Airport will use any means authorized by part 23 to obtain a modified amount of ACDBE participation in the renewed or amended agreement.

Section 23.73 – Privately-Owned or Leased Terminal Buildings

The Airport will pass through applicable provisions of part 23 to private terminal owner or lessees via the agreement with the owner or lessee. The Airport will ensure that the owner or lessee complies with part 23, to the extent than any concessionaire contracts by these lessees. Currently, no such contracts exist. The Airport commits to revise its program and obtain from the owner or lessee the goals and other elements of the ACDBE program required under Part 23.

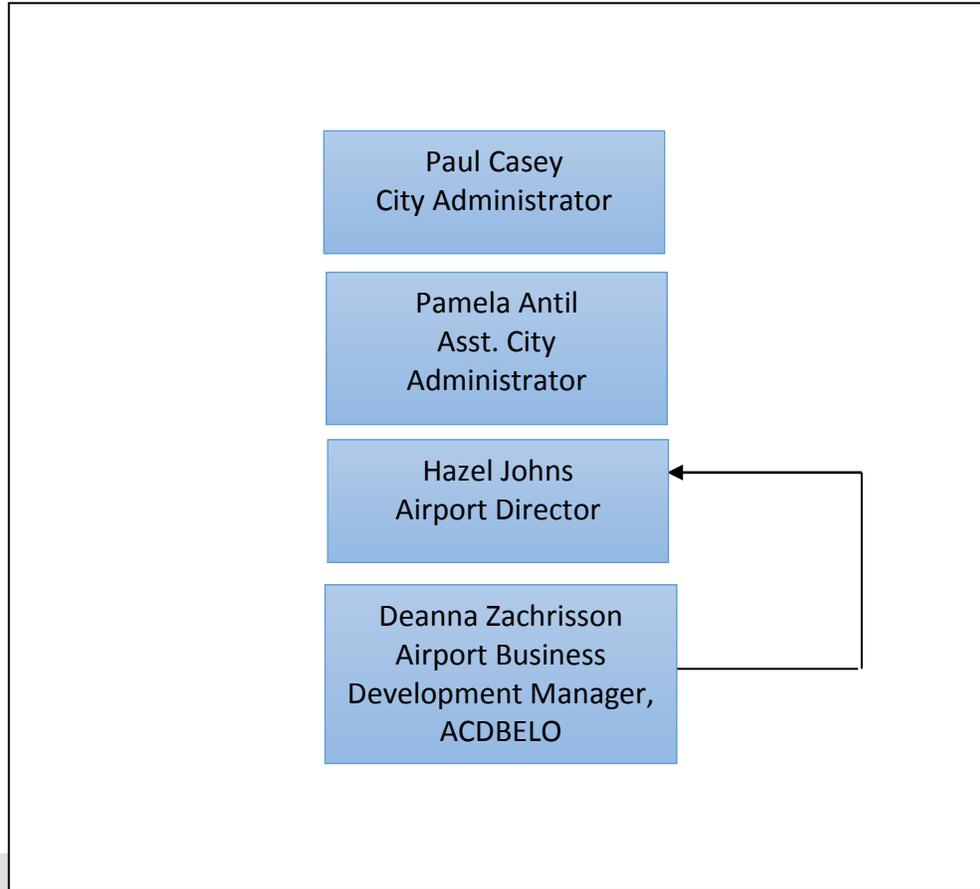
Section 23.75 – Long-Term Exclusive Agreements

The Airport will not enter into a long-term and exclusive agreements for concessions without prior approval of the FAA Regional Civil Rights Office. The Airport understands that a “long-term” agreement is one having a term of longer than 5 years. The Airport understands that an “exclusive” agreement is one in which an entire category of a particular business opportunity is limited to a single business entity. If special, local circumstances exist that make it important to enter into a long-term and exclusive agreement, The Airport will submit detailed information to the FAA Regional Civil Rights Office for review and approval.

Section 23.79 – Geographic Preferences

The Airport will not use a “local geographic preference”,i.e., any requirement that gives an ACDBE located in one place (e.g., Santa Barbara) an advantage over ACDBEs from other places in obtaining business as, or with, a concession at an airport.

ATTACHMENT 1. ORGANIZATIONAL CHART



ATTACHMENT 2. ACDBE DIRECTORY

www.californiaucp.org

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ATTACHMENT 3. MONITORING AND ENFORCEMENT MECHANISMS

The Airport has several remedies available to enforce the ACDBE requirements contained in its contracts, including, but not limited to, the following:

1. Breach of contract action, pursuant to the terms of the contract
2. Breach of contract action, pursuant to California state statute

In addition, the federal government has available several enforcement mechanisms that it may apply to firms participating in the ACDBE program, including, but not limited to, the following:

1. Suspension or debarment proceedings pursuant to 49 CFR part 23 and 2 CFR parts 180 and 1200
2. Enforcement action pursuant to 49 CFR part 31; and
3. Prosecution pursuant to 18 USC 1001.

The Airport will implement various mechanisms to monitor program participants to ensure they comply with Part 23, including, but not limited to the following:

1. The Airport will insert the following provisions into concessions agreements and management contracts:
 - A. Concession contracts clearly state that they are subject to the requirements of the ACDBE program 49 CFR Part 23.
2. The Airport will implement compliance and monitoring procedures as follows:
 - A. Conduct an annual one-on-one with ACDBE-certified concessionaires and evaluate independent control of the business by the ACDBE
 - B. The Airport will confirm on an annual basis, in conjunction with participation reporting, the ACDBE participants remain certified in the State of California.
 - C. The Airport staff will complete onsite reviews of all concession locations on a semi-annual basis to assure independent control and active management of the concession operation.
 - D. Upon any changes with new or existing concessionaires, review contracts, leases, joint venture agreements, purchase contracts and other relevant documents for compliance

3. The Airport will implement the following additional monitoring and compliance procedures:
 - A. Failure to comply with the provisions and requirements of 49 CFR Part 23 is considered to be a material default of an Airport lease and concession agreement.

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ATTACHMENT 4. GOAL CALCULATION

Section 23.45: Overall Goal Calculation for Concessions Other Than Car Rentals

The Airport has determined that its market area is Santa Barbara, San Luis Obispo, Ventura and Los Angeles counties. The market area is the geographical area in which the substantial majority of firms which seek to do concessions business with the airport are located and the geographical area in which the firms receive a substantial majority of concessions related revenues are located.

The overall goal calculation is the result of an analysis conducted by the Airport using information about the average or typical annual sales revenue generated by concessions serving the traveling public, the availability of ACDBEs, and likelihood for new opportunities given the typical length of concessions contracts and the historical ACDBE participation percentage in airport concessions.

Methodology Used to Calculate Overall Goal

Step 1 23.45(c): Base Figure

To calculate the base of the goal Airport considered the relative availability of ACDBE and MBE/WBE certified firms (the latter presumed to qualify for ACDBE certification) compared to non-ACDBE or minority/woman owned firms.

Availability of Non-Car Rental Concessionaires

Type of Airport Product/Service	NAICS Codes	Santa Barbara County		San Luis Obispo & Ventura counties		Los Angeles County	
		Non	ACDBE*	Non	ACDBE*	Non	ACDBE*
Food Service	722211, 722310, 722511, 722513, 722515	719	0/5	1,730	0/5	25,845	11/3
News/Gifts	451212, 453220	68	0/9	21	0/2	609	15/1
Airport Advertising	541890	7	0/0	25	0/18	208	0/1
Total Market (Step 1)		794	0/14	1,776	0/44	26,662	26/5
		0.017		0.025		.000975	

*Includes certified Women-owned (WBE) and Minority-owned (MBE) businesses

The Airport also took into consideration the previous 3 years of gross concession receipts and the projected potential concession revenue (gross receipts) three years into the future including upcoming new opportunities.

Gross Receipts for Previous 3 Years - Non-Car Rental Concessions

Fiscal Year	Concessions Revenue (Non-Car Rental)
2013	\$2,308,378.20
2014	\$2,131,816.01
2015	\$2,197,257.44
Total	\$6,637,451.65
Average	\$2,212,483.88

The Airport estimates that revenues to existing concessions may grow by 3% over the next three years due to the typical rate of inflation. There are no new concession opportunities anticipated during this current goal period due to a period of recovery from multi-year enplanement losses in recent years.

The following are not included in the total gross receipts for concessions: (a) the gross receipts of car rental operations, (b) the dollar amount of a management contract or subcontract with a non-ACDBE, (c) the gross receipts of business activities to which a management contract or subcontract with a non-ACDBE pertains, and (d) any portion of a firm’s estimated gross receipts that will not be generated from a concession.

If a new concession opportunity arises prior to the end of this goal period and the estimated average of annual gross revenues are anticipated to be \$200,000 or greater, the Airport will submit to the FAA an appropriate adjustment to the overall goal. This will be submitted to FAA for approval no later than 90 days before issuing the solicitation for the new concession opportunity. (23.45(i)).

Goods and Services

The Airport can meet the percentage goal by including the purchase from ACDBEs of goods and services used in businesses conducted at the airport. The Airport, and the businesses at the airport, shall make good faith efforts to explore all available options to achieve, to the maximum extent practicable, compliance with the goal through direct ownership arrangements, including joint ventures and franchises. The dollar value from purchases of goods and services from ACDBEs may be added to the numerator, and the dollar value from purchases of goods and services from all firms (ACDBEs and non-ACDBEs) may be added to the denominator.

Management Contract or Subcontract

The Airport can meet the percentage goal by including any business operated through a management contract or subcontract with an ACDBE. The Airport, and the businesses at the airport, will add the dollar amount of a management contract or subcontract with an ACDBE to the total participation by ACDBEs in airport concessions (both the numerator AND the denominator) and to the base from which the airport’s percentage goal is calculated. However, the dollar amount of a management contract or subcontract with a non-ACDBE and the gross revenue of business activities to which the management contract or subcontract pertains will not be added to this base in either the numerator or denominator.

The base figure for the relative availability of DBEs was researched as illustrated above.

Numerator: Ready, willing, and able non-car rental ACDBEs in the market area of Santa Barbara, San Luis Obispo, Ventura and Los Angeles counties = 89

Denominator: All ready, willing and able non-car rental concession firms in the market area= 29,232

$$\frac{89}{29,232}$$

The data source or demonstrable evidence used to derive the **numerator** was the Federal Aviation Administration dbE-Connect system list of certified ACDBEs in California, as well as the Census Bureau’s County Pattern Database, factfinder.census.gov

The data source or demonstrable evidence used to derive the **denominator** was the United States Census Bureau, <http://www.census.gov/eos/www/naics/> and <http://www.factfinder.census.gov>

When the Airport divided the numerator by the denominator the Airport arrived at the Step 1 base figure for the overall goal for non-car rental concessions of: 0.00304461%

Step 2: 23.51(d) – Adjustment to Base Figure

After calculating a base figure of the relative availability of ACDBEs, the Airport examined evidence to determine what adjustment was needed to the Step 1 base figure in order to arrive at the overall goal. Data considered in evaluation of the adjustment to the base figure included the median of historical ACDBE accomplishments. The median participation over the previous five year period was 63%.

Historical ACDBE Participation for Previous Five Years

FY	ACDBE Goals			Accomplishments		
	Race Conscious	Race Neutral	Total	Race Conscious	Race Neutral	Total
2011	0%	1.06%	1.06%	0%	14.12%	14.12%
2012	0%	1.06%	1.06%	0%	62.64%	62.64%
2013	0%	1.06%	1.06%	0%	63.2%	63.2%
2014	0%	1.06%	1.06%	0%	64.14%	64.14%
2015	0%	1.06%	1.06%	0%	63.0%	63.0%
Average Participation 2011-2015						53.4%

The Airport also considered the methodology of averaging the last five years of ACDBE participation in order to establish a goal adjustment. The Airport determined that this approach most reasonably accounted for an expected participation in the absence of discrimination at Santa Barbara Airport.

Amount of Goal

The overall goal for non-car rental concessions is 53.4%. The Airport believes that this adjusted goal figure will accurately reflect ACDBE non-car rental concession participation that can be achieved during this 3-year period.

There are no applicable disparity studies for the local market area or recent legal case information available to show any evidence of barriers to entry or competitiveness of ACDBEs. However, the Airport’s high level of ACDBE participation would suggest that any barriers or discriminatory factors are not significant.

The Airport will not use concession specific goals to meet any portion of the overall goals it does not project being able to meet using race-neutral means. Concession specific goals are established so that, over the period to which the overall goals apply, they will cumulatively result in meeting any portion of the overall goal that is not projected to be met through the use of race-neutral means.

Section 23.42_ – Consultation

Santa Barbara Airport initiated a public consultation process in order to receive feedback prior to submittal of its proposed goal.

On November 16, 2016, the Airport’s ACDBELO presented information about the ACDBE program and the proposed goal setting process to the City of Santa Barbara Airport Commission. This meeting was duly advertised to the public and also video recorded for later

public viewing. Meeting participants and public viewers were provided avenues by which they could submit feedback to the Airport with regard to the proposed goal.

Prior to submitting this goal to the FAA, the Airport also consulted with the following stakeholders:

There are currently no certified ACDBEs in Santa Barbara city or county, however, the Airport's main food and beverage concessionaire, located outside the market area was consulted with regard to the Airport's goal setting.

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ATTACHMENT 5. GOAL CALCULATION (RENTAL CARS)

Section 23.45: Overall Goal Calculation for Car Rentals

Establishment of a meaningful ACDBE goal for car rentals is exceedingly difficult as a result of insufficient numbers of ACDBE rental car companies and/or suppliers to such companies. Particularly on a local basis, there are no certified ACDBEs serving the Airport based in Santa Barbara County. Therefore, the Airport has determined that its market area for car rental concessions is Santa Barbara, San Luis Obispo, Ventura and Los Angeles Counties. The market area is the geographical area in which the substantial majority of firms which seek to do concessions business with the airport are located and the geographical area in which the firms receive a substantial majority of concessions related revenues are located.

Methodology used to Calculate Overall Goal

Step 1: 23.45 9(c) Base Figure

There are two allowable approaches to calculate airport car rental ACDBE participation goals. The Airport finds that the first method, which is to express the goal as a percentage of gross receipts, is possibly difficult to calculate due to a lack of ACDBE rental car company ownership participation in the market area. Instead, the Airport proposes expressing the rental car ACDBE goal as a percentage of the value of all goods and services purchases to support the Santa Barbara Airport operation. Nonetheless, the Airport provides below for informational purposes, the concessions revenue for car rentals for the previous three years.

Fiscal Year	Concessions Revenue (Car Rental)
2013	14,724,867
2014	15,246,721
2015	15,433,285
Total	45,404,893
Average	15,134,964

The Airport does not anticipate any major changes that would increase or decrease car rental concession revenues over next three years. It is reasonable to assume that procurement of goods and services to support the Airport operation will remain at similar levels due to rental car company policies for vehicle replacement and maintenance. In summary, the car rental concession opportunities anticipated during this goal period are limited to the possibilities of purchasing goods and services such as insurance, automobiles, repair services, etc.

If a new concession opportunity arises prior to the end of this goal period and the estimated average of annual gross revenues are anticipated to be \$200,000 or greater, the Airport will

submit to the FAA an appropriate adjustment to the overall goal. This will be submitted to FAA for approval no later than 90 days before issuing the solicitation for the new concession opportunity. (23.45(i)).

There are only two certified ACDBEs in the Airport's market area, both located in Los Angeles County. One firm is a car dealership which sells cars to rental car companies, and the other is an insurance firm which insures rental cars. For the purposes of this base goal calculation, the Airport examined the number of similar firms are located in the market area. However, due to the absence of any ACDBE firms in Santa Barbara, San Luis Obispo and Ventura counties, the analysis was limited to Los Angeles County, where demonstrably ACDBE purchases are being made by rental car companies operating at the Santa Barbara Airport.

The data source or demonstrable evidence used to derive the **denominator** was a NAICS code specific search in Los Angeles County with the U.S. Census Bureau (<http://www.factfinder.census.gov>) data for 2014. This source identified 432 new car dealerships in Los Angeles County. The percentage of such businesses is 0.107296%. The same source identified 3,733 insurance brokers and agencies in Los Angeles County. The percentage of such businesses is 0.026788%. Based on the analysis of available ACDBEs, the Step 1 base figures are less than 1% and are therefore not particularly helpful as a goal calculation tool.

Goods and Services

Santa Barbara receives information from rental car companies regarding their total nationwide procurements as well as nationwide procurement from ACDBE vendors. Given the lack of certified ACDBEs within the rental car sector, it is reasonable to express the Airport's participation goal in terms of purchases made. The percentage of total purchases by ACDBEs generated by the Santa Barbara operation can constitute a good faith effort to achieve an ACDBE percentage goal.

Step 2: 23.51(d)

After calculating a base figure of the relative availability of ACDBEs, the Airport examined evidence to determine what adjustment was needed to the Step 1 base figure in order to arrive at the overall goal.

Past History Participation

Two of the Airports three national rental car companies are making purchases from two ACDBE vendors in Los Angeles County. The Airport intends to work with the remaining rental car company in order to identify a means to make ACDBE purchases.

Rental Car Company	Total Purchases			ACDBE Purchases		
	2014	2015	2016	2014	2015	2016
Avis	\$9,676,243	\$8,407,736	\$3,111,731	\$1,105,034	\$1,892,947	\$1,302,350
Enterprise	\$1,739,322	\$1,544,581	\$1,503,478	\$0	\$0	\$0
Hertz	\$1,459,605	\$8,954,422	\$10,095,425	\$39,145	\$331,334	\$356,115
TOTAL	\$12,875,170	\$18,906,739	\$14,710,634	\$1,144,179	\$2,224,281	\$1,658,465
Percentage of ACDBE Purchases				8%	12%	11%

In order to reflect as accurately as possible the ACDBE participation the Airport would expect in the absence of discrimination, the Airport has adjusted the base figure of less than 1%, expressed in availability of car rental ACDBEs. The overall goal for car rental concessions is 10.3% of total purchases made by rental car companies

Section 23.43 – Consultation

Santa Barbara Airport initiated a public consultation process in order to receive feedback prior to submittal of its proposed goal. Prior to submitting this goal to the FAA, Airport consulted with the following stakeholders:

On November 9, 2016, the Airport convened a meeting of representatives from its three rental car firms. The Airport staff discussed the proposed goal and the means to improve participation. These firms indicated support for the goal, and an intention to make good faith efforts to make purchases from ACDBEs.

On November 16, 2016, the Airport’s ACDBELO presented information about the ACDBE program and the proposed goal setting process to the City of Santa Barbara Airport Commission. This meeting was duly advertised to the public and also video recorded for later public viewing. Meeting participants and public viewers were provided avenues by which they could submit feedback to the Airport with regard to the proposed goal

- Concessionaire meeting
- Advertising in minority publications
- Face-to-face conference
- Chambers of Commerce
- ACI, AAAP, AMAC

- A) A summary of the information these stakeholders provided is as follows:
- B) No comments have been received.

ATTACHMENT 6 RACE NEUTRAL AND RACE CONSCIOUS PARTICIPATION

Section 23.51 – Breakout of Estimated Race-Neutral & Race Conscious Participation

The Airport will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating ACDBE participation. The Airport uses the following race-neutral measures.

The Airport understands that it will be expected to actually take these steps, and this is not merely a paper exercise.

1. Locating and identifying ACDBEs and other small businesses who may be interested in participating as concessionaires under 49 CFR Part 23;
2. Notifying ACDBEs of concession opportunities and encouraging them to compete, when appropriate;
3. When practical, structuring concession activities so as to encourage and facilitate the participation of ACDBEs;
4. Ensuring that competitors for concession opportunities are informed during pre-solicitation meetings about how the sponsor's ACDBE program;
5. Providing information concerning the availability of ACDBE firms to competitors to assist them in obtaining ACDBE participation.

The Airport estimates that, in meeting the overall goal of 53.4%, it will obtain 100 percent from race-neutral participation and zero percent through race-conscious measures. The following is a summary of the basis of the assessment that race-neutral measures will be sufficient to achieve the overall goal. The supporting basis for this determination is that the Airport's participation has consistently reached this level annually since 2012. The concessions contracts which generate this participation are not anticipated to expire until 2021. Any new concessions opportunities would only serve to potentially increase participation.

In the unlikely event that the Airport anticipates that race-neutral measures, standing alone, are not sufficient to meet an overall goal, it will use the following race-conscious measures to meet the overall goal:

The Airport will establish concession-specific goals for particular concession opportunities.

1. The Airport will negotiate with potential concessionaires to include ACDBE participation through direct ownership arrangements or measures, in the operation of the concession.

In order to ensure that the ACDBE program will be narrowly tailored to overcome the effects of discrimination, if the Airport uses concession specific goals it will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual ACDBE participation (see 26.51(f)) and track and report race-neutral and race conscious participation separately.

For reporting purposes, race-neutral ACDBE participation includes, but is not necessarily limited to, the following: ACDBE participation through a prime contract that an ACDBE obtains through customary competitive procurement procedures; ACDBE participation through a subcontract on a prime contract that does not carry ACDBE goal; ACDBE participation on a prime contract exceeding a concession specific goal; and ACDBE participation through a subcontract from a prime contractor that did not consider a firm’s ACDBE status in making the award. The Airport will maintain data separately on ACDBE achievements in those contracts with and without concession specific goals, respectively.

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ATTACHMENT 7. FORMS FOR DEMONSTRATION OF GOOD FAITH EFFORTS

Forms 1 and 2 are provided as part of the solicitation documents.

FORM 1: AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) UTILIZATION

The undersigned bidder/offeror has satisfied the requirements of the bid/proposal specification in the following manner (please check the appropriate space):

_____ The bidder/offeror is committed to a minimum of _____ % ACDBE utilization on this contract.

_____ The bidder/offeror (if unable to meet the ACDBE goal of _____%) is committed to a minimum of _____% ACDBE utilization on this contract and submitted documentation demonstrating good faith efforts.

Name of bidder/offeror’s firm: _____

State Registration No. _____

By _____
(Signature) Title

FORM 2: LETTER OF INTENT

Name of bidder/offeror’s firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of ACDBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by ACDBE firm:

The bidder/offeror is committed to utilizing the above-named ACDBE firm for the work described above. The estimated dollar value of this work is \$ _____.

Affirmation

The above-named ACDBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By _____
(Signature) (Title)

If the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.

(Submit this page for each ACDBE subcontractor.)

ATTACHMENT 8. ACDBE CERTIFICATION APPLICATION FORM

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ATTACHMENT 9. STATE OF CALIFORNIA UNIFIED CERTIFICATION PROGRAM

CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS)

Office of Business & Economic Opportunity - MS 79

1823 - 14th Street

Sacramento, CA 95814

Phone: (916) 324-1700 or (866) 810-6346

Fax: (916) 324-1862

Email: DBE_Certification@dot.ca.gov

caltrans.ca.gov

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ATTACHMENT 10. REGULATIONS: 49 CFR PART 23

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