



**CITY OF AUSTIN
ACDBE PROGRAM – 49 CFR, PART 23
AIRPORT CONCESSION DBE PROGRAM
EFFECTIVE APRIL 2015**

POLICY STATEMENT

Section 23.1, 23.23

Objectives/Policy Statement

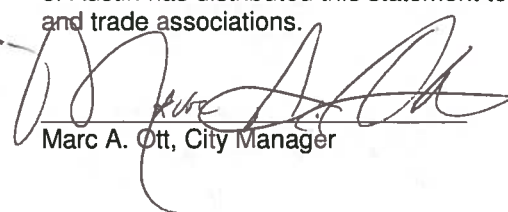
The City of Austin has established an Airport Concession Disadvantaged Business Enterprise (ACDBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 23. The City of Austin, through the Department of Aviation, is the owner and operator of Austin Bergstrom International Airport (ABIA) and has received federal funds authorized for airport development after January 1988 (authorized under Title 49 of the United States Code). The City of Austin has signed airport grant assurances that it will comply with 49 CFR Part 23.

It is the policy of the City of Austin to ensure that ACDBEs as defined in Part 23, have an equal opportunity to receive and participate in concession opportunities. It is also our 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 our 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 ABIA;
5. To help remove barriers to the participation of ACDBEs in opportunities for concessions at ABIA; and
6. To provide appropriate flexibility to the Department of Aviation in establishing and providing opportunities for ACDBEs.

Debra Dibble of the Small & Minority Business Resources Department (SMBR) has been designated as the ACDBE Liaison Officer (ACDBELO). In that capacity, the ACDBELO 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 City of Austin in its financial assistance agreements with the U.S. Department of Transportation.

The City of Austin has disseminated this policy statement to the Austin City Council, Department of Aviation, Austin Bergstrom International Airport, and all of the components of our organization. The City of Austin has distributed this statement to ACDBE and non-ACDBE concessionaires, service providers, and trade associations.


Marc A. Ott, City Manager


Date

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

The City of Austin will use terms in this program that have the meaning defined in Section 23.3 and Part 26 Section 26.5 where applicable.

Administrator means the Administrator of the Federal Aviation Administration (FAA).

Affiliation has the same meaning the term has in the Small Business Administration (SBA) regulations, 13 CFR part 121, except that the provisions of SBA regulations concerning affiliation in the context of joint ventures (13 CFR §121.103(f)) do not apply to this part.

(1) Except as otherwise provided in 13 CFR part 121, concerns are affiliates of each other when, either directly or indirectly:

(i) One concern controls or has the power to control the other; or

(ii) A third party or parties controls or has the power to control both; or

(iii) An identity of interest between or among parties exists such that affiliation may be found.

(2) In determining whether affiliation exists, it is necessary to consider all appropriate factors, including common ownership, common management, and contractual relationships. Affiliates must be considered together in determining whether a concern meets small business size criteria and the statutory cap on the participation of firms in the ACDBE program.

Airport Concession Disadvantaged Business Enterprise (ACDBE) means a concession that is a for-profit small business concern—

(1) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and

(2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

Alaska Native Corporation (ANC) means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)

Bid means a complete, properly signed response to a competitive bidding Solicitation issued by the City, submitted on the prescribed forms required by the relevant Contract Awarding Authority, to perform or provide labor, materials, equipment, supplies or services to or for the City for a stated price.

Bidder means a person, Firm or Business Enterprise that submits a Bid in response to a Solicitation. A Bidder may be represented by an agent if such agent provides evidence demonstrating the agent's authority.

Car dealership means an establishment primarily engaged in the retail sale of new and/or used automobiles. Car dealerships frequently maintain repair departments and carry stocks of replacement parts, tires, batteries, and automotive accessories. Such establishments also frequently sell pickup trucks

and vans at retail. In the standard industrial classification system, car dealerships are categorized in NAICS code 441110.

Compliance Plan means the plan submitted with the Bid/Proposal detailing the Bidder/Proposer's achievement of the Goals or its Good Faith Efforts to meet the Goals for all elements of the Solicitation, subject to the rules established by the relevant Contract Awarding Authority. A Compliance Plan must be submitted with a Bid/Proposal for any City project for which Goals have been established.

Concession means one or more of the types of for-profit businesses listed in paragraph (1) or (2) of this definition:

(1) A business, located on an airport subject to this part, that is engaged in the sale of consumer goods or services to the public under an agreement with the recipient, another concessionaire, or the owner or lessee of a terminal, if other than the recipient.

(2) A business conducting one or more of the following covered activities, even if it does not maintain an office, store, or other business location on an airport subject to this part, as long as the activities take place on the airport: Management contracts and subcontracts, a web-based or other electronic business in a terminal or which passengers can access at the terminal, an advertising business that provides advertising displays or messages to the public on the airport, or a business that provides goods and services to concessionaires.

Example to paragraph (2): A supplier of goods or a management contractor maintains its office or primary place of business off the airport. However the supplier provides goods to a retail establishment in the airport; or the management contractor operates the parking facility on the airport. These businesses are considered concessions for purposes of this part.

(3) For purposes of this subpart, a business is not considered to be "located on the airport" solely because it picks up and/or delivers customers under a permit, license, or other agreement. For example, providers of taxi, limousine, car rental, or hotel services are not considered to be located on the airport just because they send shuttles onto airport grounds to pick up passengers or drop them off. A business is considered to be "located on the airport," however, if it has an on-airport facility. Such facilities include in the case of a taxi operator, a dispatcher; in the case of a limousine, a booth selling tickets to the public; in the case of a car rental company, a counter at which its services are sold to the public or a ready return facility; and in the case of a hotel operator, a hotel located anywhere on airport property.

(4) Any business meeting the definition of concession is covered by this subpart, regardless of the name given to the agreement with the recipient, concessionaire, or airport terminal owner or lessee. A concession may be operated under various types of agreements, including but not limited to the following:

(i) Leases.

(ii) Subleases.

(iii) Permits.

(iv) Contracts or subcontracts.

(v) Other instruments or arrangements.

(5) The conduct of an aeronautical activity is not considered a concession for purposes of this subpart. Aeronautical activities include scheduled and non-scheduled air carriers, air taxis, air charters, and air couriers, in their normal passenger or freight carrying capacities; fixed base operators; flight schools; recreational service providers (e.g., sky-diving, parachute-jumping, flying guides); and air tour services.

(6) Other examples of entities that do not meet the definition of a concession include flight kitchens and in-flight caterers servicing air carriers, government agencies, industrial plants, farm leases, individuals leasing hangar space, custodial and security contracts, telephone and electric service to the airport facility, holding companies, and skycap services under contract with an air carrier or airport.

Concessionaire means a firm that owns and controls a concession or a portion of a concession.

Contract means includes the entire and integrated binding legal agreement between the City and a Contractor or Consultant to provide or procure labor, materials, equipment, supplies and services to, for or on behalf of the City. Except as otherwise specifically defined in this section, a Contract does not include:

- (a) awards made by the City with federal/state grant or City general fund monies to a non-profit entity where the City offers assistance, guidance, or supervision on a project or program and the recipient of the grant award uses the grant monies to provide services to the community;
- (b) sales transactions where the City sells its personal or real property;
- (c) a loan transaction where the City is acting as a debtor or a creditor;
- (d) lease and franchise agreements;
- (e) agreements to use City real property;
- (f) gifts of materials, equipment, supplies or services to the City;
- (g) interlocal or intergovernmental agreements between or among political subdivisions; or
- (h) procurements of Commodities or services that are sole source by virtue of intellectual property rights or other exclusive rights and for which there are no other subcontracting opportunities.

It is the intent of this Program to complement any federally funded contracts subject to a federally promulgated affirmative action program. In these instances, the City shall administer this Program to complement the federal program.

Contract Awarding Authority means the City official or department authorized to enter into contracts on behalf of the City.

Department (DOT) means the U.S. Department of Transportation, including the Office of the Secretary and the Federal Aviation Administration (FAA).

Direct ownership arrangement means a joint venture, partnership, sublease, licensee, franchise, or other arrangement in which a firm owns and controls a concession.

Good faith efforts means efforts to achieve an ACDBE goal or other requirement of this part that, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to meet the program requirement.

Immediate family member means father, mother, husband, wife, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, mother-in-law, father-in-law, brother-in-law, sister-in-law, or registered domestic partner.

Indian tribe means any Indian tribe, band, nation, or other organized group or community of Indians, including any ANC, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or is recognized as such by the State in which

the tribe, band, nation, group, or community resides. See definition of "tribally-owned concern" in this section.

Joint venture means an association of an ACDBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the ACDBE is responsible for a distinct, clearly defined portion of the work of the contract and whose shares in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest. Joint venture entities are not certified as ACDBEs.

Large hub primary airport means a commercial service airport that has a number of passenger boardings equal to at least one percent of all passenger boardings in the United States.

Management contract or subcontract means an agreement with a recipient or another management contractor under which a firm directs or operates one or more business activities, the assets of which are owned, leased, or otherwise controlled by the recipient. The managing agent generally receives, as compensation, a flat fee or a percentage of the gross receipts or profit from the business activity. For purposes of this subpart, the business activity operated or directed by the managing agent must be other than an aeronautical activity, be located at an airport subject to this subpart, and be engaged in the sale of consumer goods or provision of services to the public.

Material amendment means a significant change to the basic rights or obligations of the parties to a concession agreement. Examples of material amendments include an extension to the term not provided for in the original agreement or a substantial increase in the scope of the concession privilege. Examples of nonmaterial amendments include a change in the name of the concessionaire or a change to the payment due dates.

Medium hub primary airport means a commercial service airport that has a number of passenger boardings equal to at least 0.25 percent of all passenger boardings in the United States but less than one percent of such passenger boardings.

Native Hawaiian means any individual whose ancestors were natives, prior to 1778, of the area that now comprises the State of Hawaii.

Native Hawaiian Organization means any community service organization serving Native Hawaiians in the State of Hawaii that is a not-for-profit organization chartered by the State of Hawaii, and is controlled by Native Hawaiians

Noncompliance means that a recipient has not correctly implemented the requirements of this part.

Nonhub primary airport means a commercial service airport that has more than 10,000 passenger boardings each year but less than 0.05 percent of all passenger boardings in the United States.

Part 26 means 49 CFR part 26, the U.S. Department of Transportation's disadvantaged business enterprise regulation for DOT-assisted contracts.

Personal net worth means 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. 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.

Primary airport means a commercial service airport that the Secretary determines to have more than 10,000 passengers enplaned annually.

Primary industry classification means the North American Industrial Classification System (NAICS) code designation that best describes the primary business of a firm. The NAICS Manual is available through the National Technical Information Service (NTIS) of the U.S. Department of Commerce (Springfield, VA, 22261). NTIS also makes materials available through its Web site (<http://www.ntis.gov/naics>).

Primary recipient means a recipient to which DOT financial assistance is extended through the programs of the FAA and which passes some or all of it on to another recipient.

Principal place of business means the business location where the individuals who manage the firm's day-to-day operations spend most working hours and where top management's business records are kept. If the offices from which management is directed and where business records are kept are in different locations, the recipient will determine the principal place of business for ACDBE program purposes.

Proposal means a complete, properly signed response to a Solicitation that, if accepted, would bind the Proposer to perform the resultant Contract.

Proposer means a person, Business Enterprise or Firm that submits a Proposal in response to a Solicitation. A Proposer may be represented by an agent if such agent provides evidence demonstrating the agent's authority.

Proposer means a person, Business Enterprise or Firm that submits a Proposal in response to a Solicitation. A Proposer may be represented by an agent if such agent provides evidence demonstrating the agent's authority.

Race-conscious means a measure or program that is focused specifically on assisting only ACDBEs, including women-owned ACDBEs. For the purposes of this part, race-conscious measures include gender-conscious measures.

Race-neutral means a measure or program that is, or can be, used to assist all small businesses, without making distinctions or classifications on the basis of race or gender.

Secretary means the Secretary of Transportation or his/her designee.

Set-aside means a contracting practice restricting eligibility for the competitive award of a contract solely to ACDBE firms.

Small Business Administration or SBA means the United States Small Business Administration.

Small business concern means a for profit business that does not exceed the size standards of §23.33 of this part.

Small hub airport means a publicly owned commercial service airport that has a number of passenger boardings equal to at least 0.05 percent of all passenger boardings in the United States but less than 0.25 percent of such passenger boardings.

Socially and economically disadvantaged individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is—

(1) Any individual determined by a recipient to be a socially and economically disadvantaged individual on a case-by-case basis.

(2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

- (i) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
- (ii) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
- (iii) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
- (iv) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;
- (v) "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
- (vi) Women;
- (vii) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

Solicitation means, as the case may be, an invitation for Bids, a request for Proposals, a request for qualifications, a request for quotations, or such other request as defined by the City.

Recipient means any entity, public or private, to which DOT financial assistance is extended, whether directly or through another recipient, through the programs of the FAA.

Tribally-owned concern means any concern at least 51 percent owned by an Indian tribe as defined in this section.

You refers to a recipient, unless a statement in the text of this part or the context requires otherwise (i.e. , "You must do XYZ" means that recipients must do XYZ).

Section 23.5 Applicability

The City of Austin 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

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

The City of Austin will include the following assurances in all concession agreements and management contracts it executes with any firm after April 21, 2005:

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

The City of Austin 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.

2 C.F.R. Part 180, Government-wide Debarment and Suspension (Non-procurement), 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 City of Austin'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.

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

The following enforcement actions apply to firms participating in the City of Austin's ACDBE program:

- (a) 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.
- (b) 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.
- (c) 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.

- (d) 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 City of Austin's ACDBE program or otherwise violates applicable Federal statutes.

Compliance reviews: The FAA may review the City of Austin'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.

SUBPART B – ACDBE Programs

Section 23.21 ACDBE Program Updates

Since the City of Austin is a medium hub primary airport. The City is required to have an ACDBE program. As a condition of eligibility for FAA financial assistance, the City of Austin will submit its ACDBE program and overall goals to FAA according to the following schedule:

Type of Airport	Initial Program and Goal Due	Second Goal Due	Subsequent Goals Due
Large/Medium Hub Primary	January 1, 2006	October 1, 2008	Every 3 years on October 1

Until our new ACDBE program is submitted and approved the City of Austin will continue to implement our concessions DBE program that was in effect before April 21, 2005, except with respect to any provision that is contrary to 49 CFR Part 23.

This ACDBE program will be implemented at Austin Bergstrom International Airport. However, if applicable, the City of Austin will establish separate ACDBE goals at any additional location.

When City of Austin makes significant changes to its ACDBE program, the City will provide the amended program to the FAA for approval prior to implementing the changes.

Section 23.23 Administrative Provisions

Policy Statement: The City of Austin is committed to operating its ACDBE program in a nondiscriminatory manner. The City of Austin's Policy Statement is elaborated on the first page of this program.

ACDBE Liaison Officer (ACDBELO): The City of Austin has designated the following individual as our ACDBELO:

Debra Dibble, Assistant Director
Small & Minority Business Resources
4201 Ed Bluestein Blvd., Austin TX 78721
512-974-1656
debra.dibble@austintexas.gov

In that capacity, the ACDBELO is responsible for implementing all aspects of the ACDBE program and ensuring that the City of Austin complies with all provision of 49 CFR Part 23. The ACDBELO has direct, independent access to the City Manager concerning ACDBE program matters. An organizational chart

displaying the ACDBELO's position in the organization is found in *Attachment 1* (Organization Chart) to this program.

The ACDBELO is responsible for developing, implementing and monitoring the ACDBE program, in coordination with other appropriate officials. The ACDBELO has a staff of two (2) to assist in the administration of the program. The City of Austin has designated Tamela Saldana, Compliance Division Manager and Jolene Cochran, Senior Business Development Counselor as ACDBE Program Designees, to administer and manage the day to day operational matters concerning the ACDBE 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 Department of Aviation 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) and monitors results.
6. Analyzes City of Austin's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid and pre-proposal meetings.
8. Participates with the legal counsel and SMBR Director to determine compliance with good faith efforts.
9. Advises the Austin City Council and the Department of Aviation on ACDBE matters and achievement.
10. Provides ACDBEs with information and assistance in preparing bids, obtaining bonding, financing, and insurance.
11. Plans and participates in ACDBE training seminars.
12. Acts as liaison to the Unified Certification Program in Texas.
13. Provides outreach to ACDBEs and community organizations to advise them of opportunities.
14. Maintains the City of Austin's updated directory on certified ACDBEs and distinguishes them from DBEs.

Directory: The City of Austin, through the Texas Unified Certification Program (TUCP) which is administered by the Texas U.S. Department of Transportation (TXDOT), utilizes a directory maintained by TXDOT identifying all firms eligible to participate as 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 TUCP 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 TUCP revises the Directory frequently. The Directory is available as follows:

<http://www.txdot.gov/business/tucp/default.htm>. A link of the Directory may be found in *Attachment 2* (ACDBE Directory) to this program document.

Section 23.25 Ensuring Nondiscriminatory Participation of ACDBEs

The City of Austin will take measures to ensure nondiscriminatory participation of ACDBEs in concession, and other covered activities. (23.25(a))

The City of Austin 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 City of Austin's overall goal methodology, a description of the race-neutral measures it will take to meet the goals, are described in Section 23.25, Attachment 4 (Overall Goal For Concessions other than

Car Rental) and Attachment 5 (Overall Goals for Car Rentals Calculation, Consultation, Breakout of Estimated Race-Neutral & Race-Conscious Participation) of this plan. The goals are set consistent with the requirements of Subpart D. (23.25(b), (d))

If the City of Austin projects that race-neutral measures, standing 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 City of Austin 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))

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

Section 23.27 Reporting

The City of Austin will retain sufficient basic information about our ACDBE program implementation, ACDBE certification and the award and performance of agreements and contracts to enable the FAA to determine our 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 City of Austin 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 City of Austin will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 23.

When a specific ACDBE contract goal is established, the City of Austin will include a clause in the solicitation, notifying competitors of the ACDBE requirements. A competitor that fails to achieve the goal will be required to submit documentation demonstrating that it made all necessary and reasonable efforts in attempting to do so, or that it would not be economically feasible to enter into either a sublease, joint venture, partnership, or other qualifying arrangement.

Clause Notifying of ACDBE Requirements

In accordance with Regulation of the U.S. Department of Transportation, 49 CFR Part 23, the City of Austin has implemented an Airport Concession Disadvantaged Business Enterprise (ACDBE) concession plan under which qualified firms may have the opportunity to operate an airport business. An ACDBE goal of 11.06%percent for Non-Car Rental concessions and 2.43% for Car Rental Concessions, as measured by estimated annual gross receipts, has been established for this concession agreement. The proposer (bidder) shall take all necessary and reasonable steps to achieve this goal.

ACDBE participation may be in the form of one or more subleases, joint ventures, partnerships, or other legal arrangement meeting the eligibility standards in 49 CFR Part 23. In the event that the proposer qualified as an ACDBE, the goal shall be deemed to have been met.

The proposer will be required to submit information in the form of a ACDBE Compliance Plan concerning the ACDBE firm(s) that will participate in this concession, including the name and address of each firm, the annual estimated gross receipts to be earned by each named firm, a description of the legal arrangement(s) to be utilized, and the total overall estimated annual gross receipts to be earned by the concession.

If the proposer will be unable to achieve the ACDBE goal stated herein, it will be required to provide documentation in its proposal demonstrating that it took all necessary and reasonable steps in attempting to do so, or that it is not economically feasible at this time to enter into either a joint

venture, sublease, partnership, or other eligible arrangement with an ACDBE firm. The requirements of this paragraph are not intended to force the proposer to change its business structure. A proposal that fails to adequately address the foregoing requirements will be considered nonresponsive and be rejected.

The City of Austin is not required to modify or abrogate any existing concession agreement (one executed prior to April 21, 2005) during its term. When options to renew such agreements are exercised or when a material amendment is to be made, the City of Austin will assesses potential for ACDBE participation and may, if permitted by the agreement, use any means authorized to obtain a modified amount of ACDBE participation in the renewed or amended agreement.

The City of Austin may impose requirements on competitors for concession agreements as a means of achieving the overall ACDBE goals or a portion of the goals, provided that the ACDBE participation specified in the solicitation or other request is an eligible arrangement.

1. The City of Austin will bring to the attention of the U.S. 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.
2. The City of Austin will consider similar action under our own legal authorities, including responsibility determinations in future contracts. The City of Austin have listed the regulations, provisions, and contract remedies available to us in the events of non-compliance with the ACDBE regulation by a participant in our procurement activities (see *Attachment 3*).
3. The City of Austin will also implement a monitoring and enforcement mechanism to ensure that work committed to ACDBEs at contract award is actually performed by the ACDBEs. This mechanism will provide for a running tally of actual ACDBE attainments (e.g., payment actually made to ACDBE firms), including a means of comparing these attainments to commitments. This will be accomplished by:
 - A) Field Audits: On-site reviews will be conducted to include interviews, visits to project locations, and inspection of documents and/or information not available at desk audit that pertains to the bidder's/contractor's compliance requirements. Verifying actual ACDBE company participation for those scopes of work as reflected on the compliance plan shall be a critical component of the field audit.
 - B) Phone Audits: The ACDBELO shall conduct periodic desk audits to review all materials and information concerning the bidder's/contractor's compliance. Records capturing progress payments made by prime bidders/contractors shall be required on a monthly basis to ensure that ACDBE firms are being paid on time. ACDBE companies will be contacted periodically to verify payments as reported by prime bidders/contractors.
 - C) Compliance Review and Contract Close-Out
 - i. The ACDBELO shall ensure a project's goal attainment before closing a contract. Procedures for ensuring compliance may include, but are not limited to the following:
 - ii. Phone audits to verify ACDBE participation on the project.
 - iii. Review and verification of payments to ACDBEs as documented in the monthly Expenditure Report submitted to the ACDBELO.
 - iv. Addition of all invoices and other payments to ensure that prime bidder/contractor has met all payment obligations as agreed to with ACDBEs.
4. In our reports of ACDBE participation to FAA, the City of Austin will show both commitments and attainments, as required by the DOT reporting form.

SUBPART C – CERTIFICATION AND ELIGIBILITY

Section 23.31 The City of Austin will use the procedures and standards of Part 26, except as provided in 23.31, for certification of ACDBEs to participate in our concessions program and such standards are incorporated herein. The City of Austin is a member of a Unified Certification Program (UCP) administered by the Texas U.S. Department of Transportation and Small & Minority Business Resources which will make certification decisions on behalf of the City of Austin for ACDBEs. The City of Austin is authorized to certify firms as defined in the Texas Unified Certification Program (UCP).

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.

Prior to entering into a new contract, extension, or option with a currently certified ACDBE, the City of Austin will review their eligibility at that time (i.e., "as soon as possible") rather than waiting until the latest date allowed under Part 23. Our schedule for this review process will be immediately.

The City of Austin will treat 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 1,500 employees, and for ACDBE automobile dealers 350 employees.

Section 23.35 The personal net worth standard used in determining eligibility for purposes of Part 23 is \$1.32 million. The City of Austin recognizes that net worth means the net value of 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.

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 City of Austin will presume that a firm that is certified as a DBE under part 26 is eligible to participate as an ACDBE. However, before certifying such a firm, we 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 our concessions program. We are not obligated to certify a part 26 DBE as an ACDBE if the firm does not perform work relevant to our concessions program. (23.37)

The City of Austin recognizes that the provisions of part 26, sections 26.83(c)(2-6) do not apply to certifications for purposes of part 23. We will obtain resumes or work histories of the principal owners of the firm and personally interview these individuals. We will analyze the ownership of stock of the firm, if it is a corporation. We will analyze the bonding and financial capacity of the firm. We will determine the work history of the firm, including any concession contracts or other contracts it may have received. We

will compile a list of the licenses of the firm and its key personnel to perform the concession contracts or other contracts it wishes to receive. We will obtain a statement from the firm of the types of concessions it prefers to operate or the type of other contracts it prefers to perform. We will ensure that the ACDBE firm meets the applicable size standard. (23.39(a)(b))

The City of Austin 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. We recognize 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)) The City of Austin will use 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 DBE, we may continue to count the concessionaire's participation toward ACDBE goals during the remainder of the current concession agreement. We 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))

We will use the Uniform Application Form found in appendix F to part 26 with additional instructions as stated in 23.39(g) or Attachment 9 (Procedures for Removal of ACDBEs Eligibility).

Challenge to Status

As provided for in Subpart E § 26.87, any third party may present written evidence to the City of Austin challenging whether a firm's owners, who are presumed to be socially and economically disadvantaged, are truly disadvantaged.

When the City of Austin receives a written challenge to the disadvantaged status of a business owner that is certified or seeking certification, the City of Austin will make a determination of social and economic disadvantage. The City of Austin itself also may initiate an inquiry. The confidentiality of the complainant shall be protected as provided for in § 26.109(b).

Whenever a challenge is made, the City of Austin will observe the procedural guidelines in 49 CFR Part 26.87. These procedures are informal in that strict rules of evidence do not apply. While a challenge is in progress, the presumption of social and economic disadvantage continues, and if the firm has been certified, it will continue to be eligible as an ACDBE.

A final determination by the City of Austin in a challenge proceeding as stated in 49 CFR Part 26.87 may be appealed to the U.S. Department of Transportation, Departmental Office of Civil Rights, 1200 New Jersey Avenue SE., Washington, DC 20590-0001

Certification Appeals

As provided for in Subpart E §26.89, when the City of Austin denies certifications or completes decertification, it will advise the firm that an appeal may be filed with the office named below. An appeal must be in writing, dated and signed, and must be filed within 90 days after the action, unless the time frame is extended by DOT. An appeal may be made only after the firm has exhausted all other administrative procedures available from the City of Austin.

U.S. Department of Transportation
Departmental Office of Civil Rights
External Civil Rights Programs Division (S-33)
1200 New Jersey Ave., S.E.
Washington, DC 20590

The City of Austin will use the Unified Application Form found in appendix F to part 26, also included as *Attachment 8*, with additional instructions as stated in 23.39(g).

SUBPART D – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 23.41 Basic Overall Goal Requirement

The City of Austin 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 sponsor's circumstances. The sponsor 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 City of Austin need 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 City of Austin need not submit an overall goal for concessions other than car rentals. The City of Austin understands that "revenue" means total revenue generated by concessions, not the fees received by the airport from concessionaires.

The sponsor'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 sponsor consults 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 sponsor's efforts to increase participation of ACDBEs.

When submitting our overall goals, the City of Austin will identify the stakeholders that the City consulted with and provide a summary of the information obtained from the stakeholders.

Section 23.45 Overall Goals

The City of Austin is a medium hub primary airport. As a condition of eligibility for FAA financial assistance, the City of Austin will submit its overall goals according to the following schedule:

Type of Airport	Initial Goal Due	Second Goal Due	Subsequent Goals Due
Large/Medium Hub Primary	January 1, 2006	October 1, 2008	Every 3 years on October 1

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 City of Austin will submit an appropriate adjustment to our overall goal to FAA for approval at least six months before executing the new concession agreement.

The City of Austin will establish overall goals in accordance with the 2-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 City of Austin'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 City of Austin 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 City of Austin 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 concessions other than car rentals, the goal calculations, and the data the City of Austin relied on can be found in *Attachment 4* to this program.

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

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

Our projection of race-neutral participation is based upon various factors and data. For example, based on our analysis of current car rental concession contracts for fiscal year 2014, the City of Austin recorded approximately less than 1% participation by disadvantaged business enterprises for that period. In fact, prior to 2009, the City of Austin has had no recorded participation by disadvantaged business enterprises for that period. The City of Austin has determined that given the current market conditions and future concession opportunities, it can expect to maintain less than 1% participation through race-neutral measures.

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 City of Austin will use concession specific goals to meet any portion of the overall goals City of Austin 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 our overall goal that is not projected to be met through the use of race-neutral means.

The City of Austin will establish concession specific goals only on those concessions that have direct ownership arrangements (except car rentals), sublease, or subcontracting possibilities. *The City of Austin 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 City of Austin 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 City of Austin 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 City of Austin 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/proposers must make good faith efforts to meet the goal. A bidder/proposer 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 City of Austin's concession specific goals. Specifically,

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 responsive¹.

Debra Dibble, ACDBELO
Tamela Saldana, ACDBE Program Designee
Jolene Cochran, ACDBE Program Designee

The City of Austin will ensure that all information is complete and accurate and adequately document the bidder/proposer's good faith efforts before the City commit to the concession agreement with the bidder/proposer.

Information to be submitted (Compliance Plan) (26.53(b))

City of Austin treats bidder/proposer'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. The dollar amounts and/or percentages for each non-ACDBE firm participating;
5. Written and signed documentation of commitment to use an ACDBE whose participation it submits to meet a contract goal;
6. For professional services solicitations, commitment letters from each ACDBE listed on the compliance plan;
7. Written and signed confirmation from the ACDBE that it is participating in the concession as provided in the prime concessionaire's commitment; and
8. If the contract goal is not met, evidence of good faith efforts (documentation is not limited to this list):
 - Fax logs/emails and copies of documents sent.
 - Copies of written correspondence to certified firms (include names, addresses, and other identifying information).
 - Phone logs with responses (Phone contacts, alone, will not be sufficient.).
 - Lists and copies of letters sent by mail, hand delivered, or e-mailed.
 - The following additional Good Faith Efforts factors may also be considered

- Advertising in local newspapers.
- Copies of all bids/proposals received in response to Bidder contacting other Firms.
- Other communications regarding contacts with trade associations and Chambers of Commerce.

Administrative reconsideration (26.53(d))

Within 10 business days of a concessionaire being informed by the City of Austin that its compliance plan 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:

James Scarboro
City of Austin Purchasing Officer
512/974-2050
james.scarboro@austintexas.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 bidder/proposer 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 bidder/proposer will have the opportunity to meet in person with our reconsideration officials to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The reconsideration official will send the bidder/proposer a written decision on the reconsideration, explaining the basis for finding that the bidder/proposer 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 U.S. Department of Transportation.

Good Faith Efforts when an ACDBE is replaced on a concession (26.53(f))

City of Austin 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 City of Austin 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 City of Austin will require the concessionaire to obtain our 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 in the time specified, our contracting office will take appropriate measures until satisfactory action has been taken. If the concessionaire still fails to comply, the contracting officer 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 Austin 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 ____ 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 City of Austin will count the following as ACDBE participation toward overall goals for car rental as provided in 49 CFR 23.53:

1. Purchases or leases of vehicles from any vendor that is a certified ACDBE. The car rental company must also submit to the City of Austin documentation of the good faith efforts made to obtain ACDBE participation from other ACDBE providers of goods and services.
2. The entire amount of the cost charged by an ACDBE for repairing vehicles, provided that it is reasonable and not excessive as compared with fees customarily allowed for similar services.
3. The entire amount of the fee or commission charged by an ACDBE to manage a car rental concession under an agreement with the concessionaire toward ACDBE goals, provided that it is reasonable and not excessive as compared with fees customarily allowed for similar services.
4. The City of Austin will not count any portion of a fee paid by a manufacturer to a car dealership for reimbursement of work performed under the manufacturer's warranty.
5. For other goods and services, the City of Austin will count participation toward ACDBE goals as provided in Part 26, Section 26.55 and 23.55.
6. For national or regional contracts, the City of Austin will count a pro-rated share of the amount of that contract toward the goals of each airport covered by the contract. The portion of the applicable gross receipts will be the basis for making this pro-rated assignment of ACDBE participation.

Section 23.55 Counting ACDBE Participation for Concessions Other than Car Rentals

The City of Austin will count the following as ACDBE participation toward overall goals other than car rental as provided in 49 CFR 23.55:

1. Only ACDBE participation that results from a commercially useful function will be counted. The term commercially useful function has the same meaning as in Part 26, Section 26.55(c), except that the requirements of Section 26.55(c)(3) do not apply to concessions.
2. The total dollar value of gross receipts an ACDBE earns under a concession agreement and the total dollar value of a management contract or subcontract with an ACDBE toward the goal. However, if the ACDBE enters into a subconcession agreement or subcontract with a non-ACDBE, the gross receipts earned by that non-ACDBE will not be counted.
3. Only the portion of the gross receipts earned by the ACDBE under its subagreement will be counted toward the goal.
4. When an ACDBE that performs as a part of a joint venture, only that portion of the gross receipts equal to the distinct, clearly defined portion of the work of the concession that the ACDBE performs with its own forces will count towards the ACDBE goals.
5. The entire amount of fees or commissions charged by the ACDBE firm for a bona fide service, provided that the City of Austin determines this amount to be reasonable and not excessive as compared with fees customarily allowed for similar services.
6. One hundred percent of the cost of goods obtained from an ACDBE manufacturer.
7. One hundred percent of the cost of goods purchased or leased from an ACDBE regular dealer.
8. For goods purchased from an ACDBE which is not a manufacturer or regular dealer, the following will be counted:

- a. The entire amount of fees or commissions charged for assistance in the procurement of the goods, provided that this amount is reasonable and not excessive as compared with fees customarily allowed for similar services. The City of Austin will not count any portion of the cost of the goods themselves.
- b. The entire amount of fees or transportation charges for the delivery of goods required for a concession, provided that this amount is reasonable and not excessive as compared with fees customarily allowed for similar services. The City of Austin will not count any portion of the costs of the goods themselves.
- 9. Only firms certified as ACDBEs will count towards the ACDBE goals.
- 10. Firms whose ACDBE certification status has been removed will not have their participation counted. However, if an ACDBE firm certified on April 21, 2005 is decertified because on or more of its disadvantaged owners do not meet the personal net worth criterion or the firm exceeds business size standards during the performance of a contract or other agreement, the firm's participation may continue to be counted toward ACDBE goals for the remainder of the term of the contract or other agreement (but not extensions or renewals of such contracts or agreements).
- 11. Costs incurred in connection with the renovation, repair or construction of a concession facility (sometimes referred to as the 'build-out') will not be counted.
- 12. The City of Austin will not count the ACDBE participation of car rental companies toward the ACDBE achievements or towards the ACDBE goals.

Section 23.57 (b) Goal shortfall accountability. If the awards and commitments on our Unified Report of ACDBE Participation (found in Appendix A to this Part) at the end of any fiscal year are less than the overall goal applicable to that fiscal year, the City of Austin will:

- (1) Analyze in detail the reasons for the difference between the overall goal and our awards and commitments in that fiscal year;
- (2) Establish specific steps and milestones to correct the problems the City have identified in our analysis to enable us to fully meet our goal for the new fiscal year;
- (3) Submit, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraphs (b)(1) and (2) of this section to the FAA for approval.

Section 23.61 Quotas or Set-asides

The City of Austin will not use quotas or set-asides as a means of obtaining ACDBE participation.

SUBPART E – OTHER PROVISIONS

Section 23.71 Existing Agreements

The City of Austin 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 City of Austin 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 *(if applicable)*

The City of Austin will pass through applicable provisions of part 23 to private terminal owner or lessee via our agreement with the owner or lessee. The City of Austin will ensure that the owner or lessee complies with part 23. The City of Austin will obtain from the owner or lessee the goals and other elements of the ACDBE program required under part 23 and it is incorporated herein and submitted as *Attachment 10*.

The City of Austin will pass through applicable provisions of part 23 to private terminal owner or lessee via our agreement with the owner or lessee. The City of Austin will ensure that the owner or lessee complies with part 23. The City of Austin will obtain from the owner or lessee the goals and other elements of the ACDBE program required under part 23 and it is incorporated herein and submitted as *Attachment 10*.

Section 23.75 Long-Term Exclusive Agreements

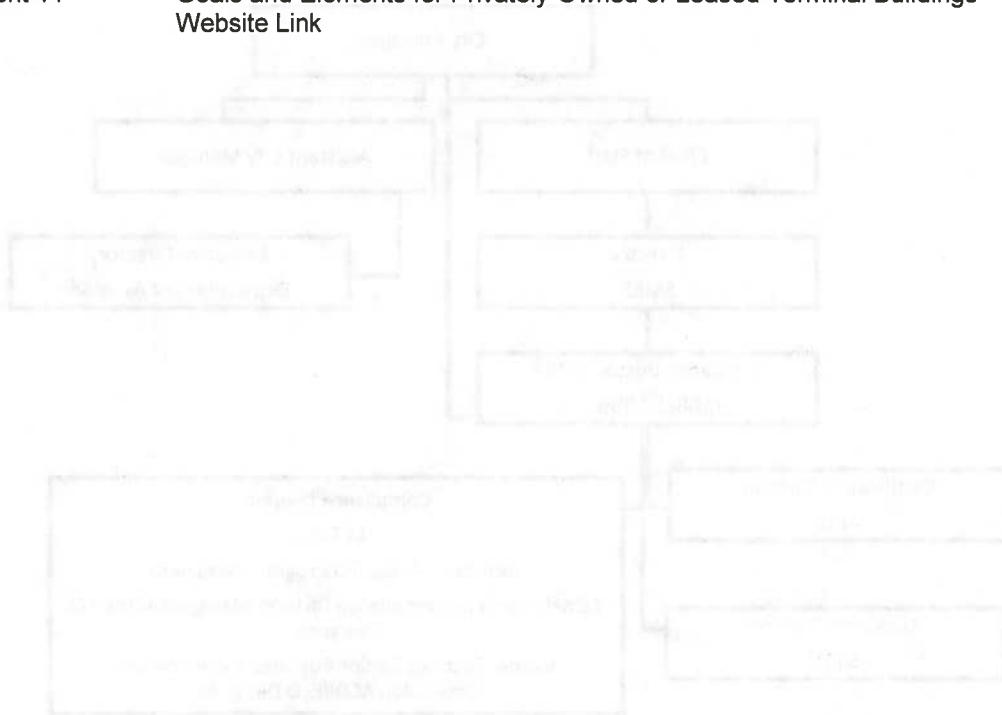
The City of Austin will not enter into a long-term exclusive agreement for concessions without prior approval of the FAA Regional Civil Rights Office. The City of Austin understands that a "long-term" agreement is one having a term of longer than 5 years. The City of Austin understand that an "exclusive" 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 City of Austin will submit detailed information to the FAA Regional Civil Rights Office for review and approval.

Section 23.79 Geographic Preferences

The City of Austin will not use a "local geographic preference," i.e., any requirement that gives an ACDBE located in one place (e.g., *your local area*) an advantage over ACDBEs from other places in obtaining business as, or with, a concession at the Austin Bergstrom International Airport.

ATTACHMENTS

Attachment 1	Organizational Chart
Attachment 2	TUCP ACDBE Directory Website Link
Attachment 3	Monitoring and Enforcement Mechanisms
Attachment 4	Overall Goal for Concessions other than Car Rental Calculation, Consultation, Breakout of Estimated Race-Neutral & Race- Conscious Participation
Attachment 5	Overall Goals for Car Rentals Calculation, Consultation, Breakout of Estimated Race-Neutral & Race- Conscious Participation
Attachment 6	Form 1 & 2 for Demonstration of Good Faith Efforts
Attachment 7	Certification Application Forms
Attachment 8	Procedures for Removal of ACDBEs Eligibility
Attachment 9	States UCP Agreement
Attachment 10	Regulations: 49 CFR Part 23 Website Link
Attachment 11	Goals and Elements for Privately-Owned or Leased Terminal Buildings Website Link



Attachment 1

Organizational Chart

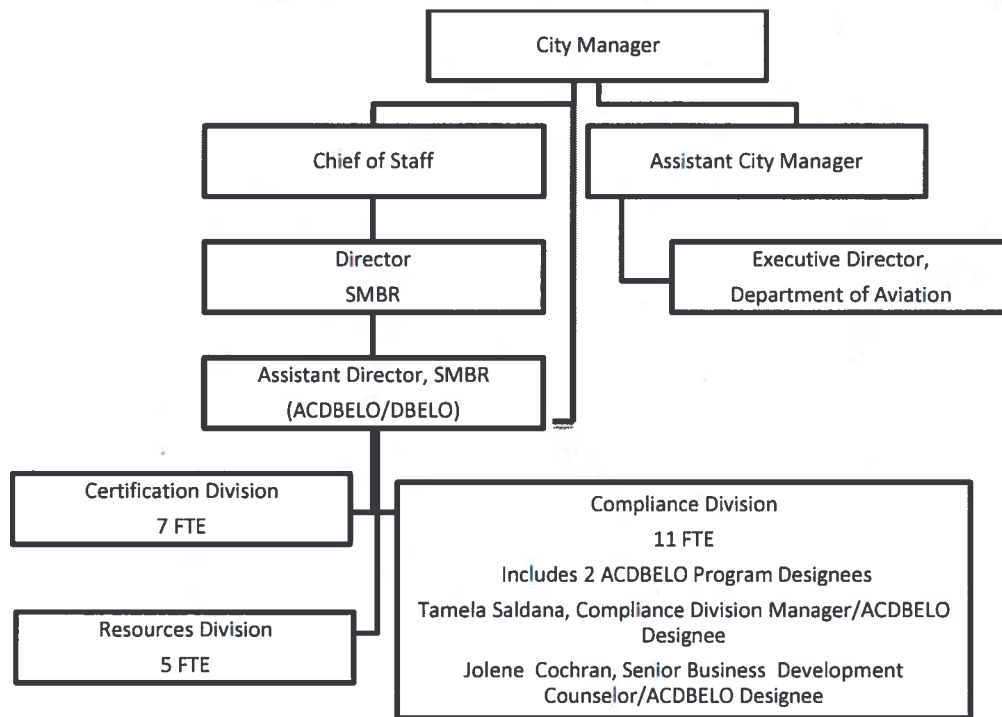
City Manager

Assistant City Manager Chief of Staff

Director, SMBR Executive Director, Department of Aviation

Assistant Director, SMBR/ACDBELO

ACDBELO Program Designees, SMBR



Austin Airport Advisory Commission

Dale Murphy, Chair Steven Hart	Ernest Saulmon, Vice Chair James Kelsey	D'Ann Johnson William McDaniel	George Farris
Executive Director Jim Smith	Airport Director Patti Edwards	ACDBE Liaison Officer Debra Dibble	

Attachment 2

TUCP ACDBE Directory Website Link

The ACDBE Directory can be found on the Texas Unified Certification website at
<https://txdot.txdotcms.com/Default.asp>

Attachment 3

Monitoring and Enforcement Mechanisms

The City of Austin has available several remedies 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.

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

1. Suspension or debarment proceedings pursuant to 49 CFR part 23;
2. Enforcement action pursuant to 49 CFR parts 26 and 31; and
3. Prosecution pursuant to 18 USC 1001.

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

In all concession solicitations for which an ACDBE goal has been established for contracts, the ACDBELO shall ensure that prospective bidders/proposers are well informed about the ACDBE terms and requirements before submitting their bids or proposals to the City of Austin. Below is a summary of the ACDBE monitoring process:

A) Pre-Bid/Proposal Conferences

In solicitations for which an ACDBE goal has been established, the ACDBELO shall attend a pre-bid/proposal conference to make a presentation explaining the following:

- The goal for the specific solicitation
- The requirements related to achieving the goal
- The requirement to submit a Compliance Plan with the bid/proposal, including all instructions and forms required to be submitted as part of the compliance plan
- The criteria for evaluating a bidder/proposer's Good Faith Efforts
- ACDBE Joint Venturing
- ACDBE Certification requirements
- The requirement for Letters of Intent with Subcontractors
- Qualifications for counting ACDBE participation towards the ACDBE goal
- ACDBE availability list to assist prospective bidders/proposers

B) Evaluation of Compliance Plans

For bids sent in response to a competitively bid solicitations, the City of Austin shall review the Bids and the compliance plans included therein and shall forward to the ACDBELO the compliance plan of the three lowest bids that it considers responsive.

For responses to Requests for Qualifications and Requests for Proposals, the City of Austin shall review the compliance plans included therein and shall forward to the ACDBELO the compliance plans of all of the respondents who are considered responsive.

The ACDBELO shall conduct the following pre-award audit activities as part of the reviewing ACDBE compliance plans:

- Verify if ACDBE is aware that their company is listed on the compliance plan.
- Verify subcontract dollar amount or percentages.
- Verify the scope of work to be undertaken by the ACDBE.
- Verify if ACDBE has received a Letter of Intent from the Prime Bidder.
- Verify ACDBE's certification status.
- Verify Good Faith Efforts if a bidder/proposer does not achieve the ACDBE goal.

The ACDBELO is responsible for determining whether a Bidder/Proposer who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive. SMBR and the ACDBELO will ensure that all information is complete, accurate and adequately documents the Bidder/Proposer's good faith efforts before the City commit to the performance of the contract by the Bidder/Proposer.

For each solicitation for which a contract goal has been established, the City's Contract Awarding Authority will require the Bidders/Proposer to submit Letters of Intent from the ACDBEs participating in the contract within three business days of being notified that they are the successful bidders, but before the contract is executed.

If the above pre-award activities are favorable, the ACDBELO shall recommend approval of the ACDBE compliance plan to the contract awarding authority. Within 7 business days of receiving the ACDBE Compliance Plan and documentation, the ACDBELO shall notify the Contract Awarding Authority in writing and the reasons for the determinations. If additional time is required to evaluate the ACDBE Compliance Plans, SMBR shall inform the Contract Awarding Authority of the reason(s) and the anticipated date for completion of the review.

C) Kick-Off Meetings

The ACDBELO shall attend Kick-Off meetings with the successful proposer/concessionaire to further explain the ACDBE goal and requirements to the prime bidder after contract award. Approval procedures and forms for Deletion, Substitution or Addition of subcontractors shall be explained and given to the prime bidder/contractor should the need arise during the contract. Field and Phone audit procedures shall also be explained to the prime bidder/contractor. The ACDBELO shall also provide phone numbers where they can be reached for assistance. The ACDBELO shall also attend any meetings held with concessionaires regarding performance and general information sessions.

D) Reviewing Request for Changes to the ACDBE Compliance Plan

The Bidder/Contractor or Consultant must seek in writing and obtain prior approval of changes to the original ACDBE Compliance Plan (or any subsequent amendments to the ACDBE Compliance Plan by way of approved Request for Change Forms) by using the Request for Change Form provided by SMBR as *Attachment 7*. The ACDBELO, or designee, has the authority to approve or deny changes to the ACDBE Compliance Plan.

- Additions – Adding new ACDBE and/or Non-ACDBE subcontractors that were not listed on approved ACDBE Compliance Plan. This includes all levels of subcontracting.
- Deletions-Deleting ACDBE and/or Non-ACDBE subcontractors approved on the original ACDBE Compliance Plan or approved Request for Change Form.
- Substitutions-Substituting ACDBE and/or Non-ACDBE subcontractors that were approved on the original ACDBE Compliance Plan or approved Request for Change Form.
- Contract Changes-Increasing/Decreasing original contract amounts (reported on the original ACDBE Compliance Plan) or approved Request for Change Form) for ACDBE and/or Non-ACDBE subcontractors.

If a bidder/contractor or consultant proposes to substitute, add or delete a subcontractor/subconsultant and either (1) the ACDBE goal was not met prior to this action; or (2) the ACDBE goal may not be met because of this action, the bidder/contractor or consultant must make good faith efforts to meet the goal.

Documentation demonstrating good faith efforts, as described in Good Faith Effort procedures under this program, must be submitted with a request for substitution, addition or deletion if the ACDBE goal is not otherwise met. The ACDBE Liaison Officer will determine whether good faith efforts have been satisfactorily met to approve the request for change to compliance plan. If good faith efforts to substitute or add an ACDBE have been made to the satisfaction of the ACDBE Liaison Officer, then the bidder/contractor may substitute or add a non-certified firm.

The written request must state specific reasons for the proposed addition, deletion or substitution of a subcontractor. The facts supporting the request must not have been known nor reasonably should have been known by the bidder/contractor and proposed subcontractor prior to the submission of the

Compliance Plan. The bidder/contractor must submit documentation to substantiate its request for a change in the Compliance Plan. Such documentation may include, but is not limited to the materials listed in Subsections A-D below:

- A. Documentation from the project manager or contract manager, City inspector or other appropriate City staff assigned to oversee the project.
- B. Correspondence between the bidder/contractor and the subcontractor.
- C. Field notes, laboratory reports, photographic evidence or other materials.
- D. A copy of the letter from the bidder/contractor to the subcontractor as required by this section.

If a bidder/contractor or consultant proposes to add an ACDBE to the Compliance Plan after the contract has been awarded, a signed letter of intent must be submitted with the request. If any requested change consists of reducing or eliminating the work of a listed ACDBE (by deletion, substitution, or decreasing of contract amount), the change will only be approved if the ACDBELO or designee concludes that the prime bidder/contractor or consultant has demonstrated good cause. Good cause includes those reasons provided at 49 CFR § 26.53 (discussed below).

Prior to submitting a request for the deletion or substitution of a subcontractor, the bidder/contractor must send a letter via certified mail to the subcontractor with a copy to SMBR informing the subcontractor of the basis for the requested change and providing an opportunity for the subcontractor to resolve the problem. The bidder/contractor must immediately request a meeting with the subcontractor in a good faith attempt to resolve any outstanding issues. If requested by either party, the City shall facilitate such a meeting and monitor the process. The bidder/contractor must verify in a sworn statement that a meeting with the subcontractor has taken place. The sworn statement must be submitted to SMBR at the same time that a Request for Change is submitted. The bidder/contractor may submit a request for change to the ACDBELO upon a showing that the certified letter has been sent as required and after the meeting with the subcontractor referenced above has occurred. However, notwithstanding the above, if the subcontractor has not responded to the bidder/contractor's letter or the bidder/contractor's request for a meeting by the eighth day after the letter was sent by certified mail, the bidder/contractor shall be allowed to submit a request for change for consideration by the ACDBELO.

Within 7 business days of receiving the Request for Change of Compliance Plan and documentation, the ACDBELO shall notify in writing all parties whether the request was approved or denied and, if denied, the basis for the denial. If additional time is required to evaluate the request for change, the ACDBELO shall notify all parties in writing the reason(s) and the anticipated date for completion of the review.

Unauthorized changes or substitutions shall be a violation of the ACDBE Procurement Program, and may constitute grounds for rejection of Bids/Proposals, termination of the executed contract for breach, and/or subject the Bidder/Proposer to Contract penalties or other sanctions.

E) Good Cause to Terminate an ACDBE Firm

49 CFR § 26.53 of the Federal Regulations has provided that good cause for "terminating" (which includes any reduction or elimination of an ACDBE's work as listed on the ACDBE Compliance Plan) a ACDBE firm includes the following reasons (this is applicable to ACDBE Program):

- i. The listed ACDBE subcontractor fails or refuses to execute a written contract;
- ii. The listed ACDBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the ACDBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime bidder/contractor;
- iii. The listed ACDBE subcontractor fails or refuses to meet the prime bidder/contractor's reasonable, nondiscriminatory bond requirements.
- iv. The listed ACDBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
- v. The listed ACDBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1,200 or applicable state law;
- vi. You have determined that the listed ACDBE subcontractor is not a responsible contractor;

- vii. The listed ACDBE subcontractor voluntarily withdraws from the project and provides to you written notice of its withdrawal;
- viii. The listed ACDBE is ineligible to receive ACDBE credit for the type of work required;
- ix. A ACDBE owner dies or becomes disabled with the result that the listed ACDBE contractor is unable to complete its work on the contract;
- x. Other documented good cause that you determine compels the termination of the ACDBE subcontractor. Provided, that good cause does not exist if the prime bidder/contractor seeks to terminate a ACDBE it relied upon to obtain the contract so that the prime bidder/contractor can self-perform the work for which the ACDBE contractor was engaged or so that the prime bidder/contractor can substitute another ACDBE or non-ACDBE contractor after contract award.

Violations to the ACDBE Program

Below are the sanctions/remedies the City of Austin will enforce in the event of noncompliance with the ACDBE regulations by a participant in procurement activities.

- A) The following violations are unlawful and may result in sanctions:
 - 1. Providing false or misleading information to the City in connection with an application for or challenge to certification, recertification or decertification as an ACDBE.
 - 2. Providing false or misleading information to the City in connection with submission of a bid, response to Request for Qualifications or proposals, Good Faith Efforts documentation, post-award compliance, or other program operations;
 - 3. Substituting ACDBE subcontractors without first receiving approval for such substitutions; or
 - 4. Committing any other violations of the provisions of the ACDBE and ACDBE Program.
- B) A bidder, proposer, contractor, subcontractor or applicant for certification is subject to being barred, suspended, or deemed non-responsive in future City solicitations and contracts for a period up to five (5) years, if it is found to have:
 - 1. Provided false or misleading information in connection with an application for ACDBE certification or recertification;
 - 2. Provided false or misleading information in connection with the submission of a bid or proposal or documentation of Good Faith Efforts, post-award compliance, or other Program operations;
 - 3. Failed to fulfill contractual goals and thereby materially breached the contract; or
 - 4. Repeatedly failed to comply in good faith with substantive provisions of the Program.
- C) When the ACDBELO or any other City official identifies a violation, such violation must be referred to the Purchasing Office for evaluation of proper sanctions. Such evaluation shall include consultation with the Law Department prior to any recommendation for sanctions.
- D) Department procedures shall be promulgated and conducted by the Purchasing Office of the Financial & Administrative Services Department.
- E) An ACDBE that repeatedly and knowingly refuses to honor bid or proposal prices is subject to being decertified by the Director, after notice and hearing.
- F) Nothing in this section shall be deemed to prevent the City Attorney from seeking criminal sanctions at municipal court or referring the matter to other appropriate law enforcement authorities, as authorized by this section.
- G) Where appropriate and lawful, the City may by Contract impose a fixed sum as a penalty to be paid by the Bidder/Proposer for an unexcused failure to meet the ACDBE goal or to otherwise comply with the Program.
- H) In addition to other sanctions available to the City, the violation of any provision to this chapter may be included as an incident of breach in each contract.
- I) For federally funded contracts administered pursuant to federal regulations, sanctions may be imposed as provided therein.

Failure to obtain prior authorization for additions, deletions, substitutions, or contract changes of ACDBE subcontractors/subconsultants or Non-ACBDE subcontractors/subconsultants as provided for in this Section is a violation. The ACDBELO may recommend to the City's Purchasing Department that the City enforce the following sanctions for each violation within a rolling twenty-four month period:

- 1st Violation: Probation for a period of up to 6 months
- 2nd Violation: Suspension for a period of up to 24 months
- 3rd Violation: Debarment for a period of up to 5 years

If the bidder/contractor engages in more than one of the above actions (i.e., unauthorized substitutions, additions, and deletions) at any given time, the ACDBELO has the discretion to determine whether such actions should be counted as multiple violations of the ACDBE Program.

In order to dispute a finding of a violation, the bidder/contractor must submit a written request for an appeal to the ACDBE Liaison Officer within 7 days of receipt of written notice of the violation. The ACDBE Liaison Officer will determine whether the grounds for an appeal are sufficient, and, if the Director so determines, shall set a date for an appeal hearing, usually within five calendar days. The appeal hearing is an informal meeting and is not an adversarial proceeding. The ACDBE Liaison Officer will determine on the basis of the information provided at the appeal hearing whether to maintain or deny the Adverse Decision. Such decision by the ACDBE Liaison Officer shall be a final decision, subject to protest, and shall be communicated to the bidder/contractor in writing within 10 calendar days of the hearing.

A bidder/contractor that is subject to an Adverse Decision after appeal may protest the Adverse Decision to the Contract Awarding Authority and request a hearing with an Independent Hearing Officer appointed by the City. The bidder/contractor shall submit the protest within five calendar days within receipt of the ACDBELO's decision.

Attachment 4

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

Amount of Goal (submit if gross receipts exceed \$200,000)

City of Austin's overall goal for concessions other than car rental during the period beginning 2015 and ending 2017 is the following: 11.06% of the total gross receipts for concessions at Austin-Bergstrom International Airport. 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.

The concession opportunities anticipated during this goal period are: food & beverage, retail including news and gift, all other personal services, massage services, shuttle services, vending machines, and florists with estimated gross receipts revenue of \$8,207,126. 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, City of Austin will submit an appropriate adjustment to the overall goal. This will be submitted to FAA for approval at least 6 months before executing the new concession agreement. (23.45(i)).

City of Austin has determined that its market area is Austin-Round Rock Metropolitan Statistical Area. This 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

Goods and Services

The City of Austin can meet the percentage goal by including the purchase from ACDBEs of goods and services used in businesses conducted at the airport. The City of Austin, 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 City of Austin can meet the percentage goal by including any business operated through a management contract or subcontract with an ACDBE. The City of Austin, 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. *[While the City of Austin realizes that this appears to go against the normal rules and rationale for goal-setting, the City understands that this method is nevertheless required by statute.]*

Step 1: 23.51(c)

The City of Austin determined the base figure for the relative availability of ACDBEs other than car rentals. The base figure was calculated as follows:

Option 1:

$$\text{Base figure} = \frac{\text{Ready, willing, and able non-car rental ACDBEs in the market area}}{\text{All ready, willing and able non-car rental concession firms in the market area}}$$

The data source or demonstrable evidence used to derive the numerator was:

TUCP DIRECTORY-

NAICS CODES: 722211, 722212, 722213, 722310, 722330, 722410, 991000
446120, 448310, 451211, 451212, 453110, 453220, 453998, 992000, 812990, 812199, 485320,
485999, 454210, 454310, 453110, 541611

The data source or demonstrable evidence used to derive the denominator was:

Census Bureau Data at [www. http://censtats.census.gov/cgi-bin/msanaic/msasect.pl](http://censtats.census.gov/cgi-bin/msanaic/msasect.pl) – NAICS
CODES: 722211, 722212, 722213, 722310, 722330, 722410, 991000
446120, 448310, 451211, 451212, 453110, 453220, 453998, 992000, 812990, 812199, 485320,
485999, 454210, 454310, 453110, 541611

When the City of Austin divided the numerator by the denominator the City arrived at the base figure of 3.69% for our overall goal for non-car rental concessions.

NAICS Code	Concession Opportunity	No. ACDBE Firms	Census Participants/ Concession Listing Participants	ACDBE Availability
722211, 722213, 722310, 722330, 722410, 991000	Food & Beverage	145	5744	2.52%
446120, 448310, 451211, 451212, 453220, 453998, 992000 812990	Retail including News Gift	89	1925	4.62%
	All Other Personal Services including Shoe Shine Services	12	6376	0.19%
812199	Massage Services	4	1495	0.27%
485320, 485999	Shuttle Services	16	1049	9.98%
541611	Administrative Management/General Management Consulting Services	395	1232	32.06%
454310	Fuel Dealers	1	40	2.50%
454210	Vending Machines	8	157	5.10%
453110	Florists	1	150	0.67%
	TOTAL	671	18168	3.69%

Step 2: 23.51(d)

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

To calculate a base figure of relative availability of ACDBEs, the City calculated the percentage of relative non-car rental ACDBE's by NAICS codes using the TUCP Directory data to establish the number of participating ACDBE's and the total number of non-car rental concession firms using the Census Bureau Data to arrive at 3.69% of available firms for the market area. Using the past participation median of 18.3% for the last five years (FY 2010-2014), the City of Austin made an adjustment to the base figure to reflect projected ACDBE participation. (The calculations of the goal $3.69\% + 18.43\% = 22.12 / 2 = 11.06\%$). The overall goal for non-car rental concessions is 11.06%.

Concession Revenues (DOORS DATA)

<i>Fiscal Year</i>	<i>Total (\$)</i>	<i>ACDBE (\$)</i>	<i>ACDBE Participation Goal</i>	<i>Percentage ACDBE Participation</i>	<i>Difference</i>
<i>FY 10</i>	<i>\$33,963,163</i>	<i>\$9,468,267</i>	<i>21%</i>	<i>27.88%</i>	<i>6.88%</i>
<i>FY 11</i>	<i>\$38,735,112</i>	<i>\$10,885,784</i>	<i>21%</i>	<i>28.10%</i>	<i>7.10%</i>
<i>FY 12</i>	<i>\$60,487,902</i>	<i>\$8,906,344</i>	<i>14%</i>	<i>14.72%</i>	<i>0.72%</i>
<i>FY 13</i>	<i>\$67,053,457</i>	<i>\$7,371,216</i>	<i>14%</i>	<i>10.99%</i>	<i>-3.01%</i>
<i>FY 14</i>	<i>\$79,715,053</i>	<i>\$8,343,818</i>	<i>14%</i>	<i>10.47%</i>	<i>-3.53%</i>
<i>Total</i>	<i>\$279,954,687</i>	<i>\$44,975,429</i>	<i>16.80%</i>	<i>18.43%</i>	<i>1.63%</i>
<i>Median Participation/ Average Difference</i>				<i>14.72%</i>	<i>1.63%</i>

Consultation with Stakeholders (23.43)

As part of the goal setting process, the City of Austin has and will continue to consult with the following stakeholders: *Department of Aviation, concessionaires at ABIA, service providers, trade associations, and local small businesses within the Austin-Round Rock MSA.*

In addition, the City of Austin will provide a public notice of the goal to its stakeholders and the community through a 45-day advertisement period, allowing for inspection and comment.

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

City of Austin will meet the maximum feasible portion of its overall goal by using race-conscious means of facilitating ACDBE participation. The City of Austin uses the following race-neutral measures to increase or assure ACDBE participation.

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. *Providing technical assistance to ACDBEs in overcoming limitations, such as inability to obtain bonding or financing;*
5. *Ensuring that competitors for concession opportunities are informed during pre-solicitation meetings about how the City of Austin's ACDBE program will affect the procurement process;*
6. *Providing information concerning the availability of ACDBE firms to bidders to assist them in obtaining ACDBE participation; and*
7. *Establishing a business development program (see 49 CFR Part 26.35); technical assistance program or taking other steps to foster ACDBE participation in concessions.*

The City of Austin projected that race-neutral participation will be based on the past participation of awarded contracts to ACDBE firms as primes.

In order to ensure that the ACDBE program is narrowly tailored to overcome the effects of discrimination, the City will report race-neutral ACDBE participation including, 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 City of Austin will maintain data separately on ACDBE achievements in those contracts with and without concession specific goals, respectively.

Attachment 5

Section 23.45: Overall Goal Calculation for Car Rentals

Amount of Goal (submit if gross receipts exceed \$200,000)

City of Austin's overall goal for car rentals during the period beginning 2015 and ending 2017 is the following: 2.43% of the total gross receipts of car rental operations at Austin-Bergstrom International Airport.

The concession opportunities anticipated during this goal period are: fuel dealers, auto body work, windshield repair, general automotive maintenance, car wash and auto detailing, other goods repair and maintenance including key cutting, insurance, custodial services, office supplies merchant wholesalers with estimated gross receipts revenue of \$1,400,617. If a new car rental 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, City of Austin will submit an appropriate adjustment to the overall goal. This will be submitted to FAA for approval at least 6 months before executing the new concession agreement. (23.45(i))

City of Austin has determined that its market area is Austin-Round Rock Metropolitan Statistical Area. This 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

Goods and Services

The City of Austin can meet the percentage goal by including the purchase from ACDBEs of goods and services used in businesses at the airport. 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.

Step 1: 23.51(c)

The City of Austin determined the base figure for the relative availability of car rental ACDBEs. The base figure was calculated as follows:

Option 1:

$$\text{Base figure} = \frac{\text{Ready, willing, and able car rental ACDBEs in the market area}}{\text{All ready, willing and able car rental firms in the market area}}$$

The data source or demonstrable evidence used to derive the numerator was:

TUCP DIRECTORY-
NAICS CODES: 441110, 454310, 424720, 811121, 811122, 811111, 488410, 811192, 811490, 524210, 561720, 424120

The data source or demonstrable evidence used to derive the denominator was:

Census Bureau Data at www.census.gov/epcd/cbp/view/cbpview.html – NAICS CODES:
441110, 454310, 424720, 811121, 811122, 811111, 488410, 811192, 811490, 524210, 561720, 424120

When the City of Austin divided the numerator by the denominator the City arrived at the base figure of 3.45% for our overall goal for car rental concessions.

NAICS Code	Concession Opportunity	No. of ACDBE Firms	Census/ Concession Listing Participants	ACDBE Availability
441110	New Car Dealers	0	621	0.00%
454310, 424720	Fuel Dealers	14	61	22.95%
811121	Auto Body Work	13	596	2.18%
811122	Windshield Repair	2	21	9.52%
811111	Gen. Auto Maintenance	20	1076	1.86%
488410	Towing Services	0	537	0.00%
811192	Car Wash and Auto Detailing	7	427	1.64%
811490	Other Goods Repair and Maintenance, including Key Cutting	0	1202	0.00%
524210	Insurance	21	1472	1.43%
561720	Custodial Services	135	290	46.55%
424120	Stationery and Office Supplies Merchant Wholesalers	13	219	5.94%
	TOTAL	225	6522	3.45%

Step 2: 23.51(d)

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

To calculate a base figure of relative availability of ACDBEs, the City of Austin calculated the percentage of relative car rental ACDBE's by NAICS codes using the TUCP Directory data to establish the number of participating ACDBE's; and the total number of car rental concession firms using the Census Bureau Data to arrive at 3.45% of available firms for the market area. Using the past participation median of 1.41% for the last five years (FY 2010-2014), the City made an adjustment of the base figure in order to reflect projected ACDBE participation. Our overall goal for car rental concessions is 2.43%

Fiscal Year	Total (\$)	ACDBE (\$)	ACDBE Participation Goal	Percentage ACDBE Participation	Difference
FY 10	\$88,487,113	\$860,856	10.00%	0.97%	-9.03%
FY 11	\$95,921,110	\$915,652	10.00%	0.95%	-9.05%
FY 12	\$100,115,356	\$1,415,216	6.00%	1.41%	-4.59%
FY 13	\$112,579,673	\$1,434,693	6.00%	1.27%	-4.73%
FY 14	\$120,708,957	\$1,351,940	6.00%	1.12%	-4.88%
Total	\$517,812,209.00	\$5,978,357.78	7.60%	1.15%	-6.45%
Median Participation/ Average Difference				1.41%	-4.59%

Consultation with Stakeholders (23.43)

As part of the goal setting process, the City of Austin has and will continue to consult with the following stakeholders: Department of Aviation, concessionaires at ABIA, service providers, trade associations, local small businesses within the Austin-Round Rock MSA.

In addition, the City of Austin will publicly notice its goal to its stakeholders and the community through a 45-day advertisement period, allowing for inspection and comment.

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

City of Austin will meet the maximum feasible portion of its overall goal by using race-conscious means of facilitating ACDBE participation. The City of Austin uses the following race-neutral measures to increase or assure ACDBE participation.

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. *Providing technical assistance to ACDBEs in overcoming limitations, such as inability to obtain bonding or financing;*
5. *Ensuring that competitors for concession opportunities are informed during pre-solicitation meetings about how the City of Austin's ACDBE program will affect the procurement process;*
6. *Providing information concerning the availability of ACDBE firms to bidders to assist them in obtaining ACDBE participation; and*
7. *Establishing a business development program (see 49 CFR Part 26.35); technical assistance program or taking other steps to foster ACDBE participation in concessions.*

The City of Austin projected that race-neutral participation will be based on the past participation of awarded contracts to ACDBE firms as primes.

In order to ensure that the ACDBE program is narrowly tailored to overcome the effects of discrimination, the City will report race-neutral ACDBE participation including, 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 City of Austin will maintain data separately on ACDBE achievements in those contracts with and without concession specific goals, respectively.

Attachment 6

Forms 1 & 2 for Demonstration of Good Faith Efforts

[Forms 1 and 2 should be provided as part of the solicitation documents.]

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

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

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

_____ The bidder/proposer (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/proposer's firm: _____

State Registration No. _____

By _____
(Signature) Title

FORM 2: LETTER OF INTENT

Name of bidder/proposer'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/proposer 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/proposer 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 7 Certification Application Forms



Appendix F

UNIFORM CERTIFICATION APPLICATION **DISADVANTAGED BUSINESS ENTERPRISE (DBE) /** **AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE)** **49 C.F.R. Parts 23 and 26**

Roadmap for Applicants

1. Should I apply?

You may be eligible to participate in the DBE/ACDBE program if:

- The firm is a for-profit business that performs or seeks to perform transportation related work (or a concession activity) for a recipient of Federal Transit Administration, Federal Highway Administration, or Federal Aviation Administration funds.
- The firm is at least 51% owned by a socially and economically disadvantaged individual(s) who also controls it.
- The firm's disadvantaged owners are U.S. citizens or lawfully admitted permanent residents of the U.S.
- The firm meets the Small Business Administration's size standard and does not exceed \$23.98 million in gross annual receipts for DBE (\$52.47 million for ACDBEs). (Other size standards apply for ACDBE that are banks/financial institutions, car rental companies, pay telephone firms, and automobile dealers.)

2. How do I apply?

First time applicants for DBE certification must complete and submit this certification application and related material to the certifying agency in your home state and participate in an on-site interview conducted by that agency. The attached document checklist can help you locate the items you need to submit to the agency with your completed application. If you fail to submit the required documents, your application may be delayed and/or denied. Firms already certified as a DBE do not have to complete this form, but may be asked by certifying agencies outside of your home state to provide a copy of your initial application form, supporting documents, and any other information you submitted to your home state to obtain certification or to any other state related to your certification.

3. Where can I send my application? INSERT UCP PARTICIPATING MEMBER CONTACT INFORMATION

4. Who will contact me about my application and what are the eligibility standards?

The DBE and ACDBE Programs require that all U.S. Department of Transportation (DOT) recipients of federal assistance participate in a statewide Unified Certification Program (UCP). The UCP is a one-stop certification program that eliminates the need for your firm to obtain certification from multiple certifying agencies within your state. The UCP is responsible for certifying firms and maintaining a database of certified DBEs and ACDBEs for DOT grantees, pursuant to the eligibility standards found in 49 C.F.R. Parts 23 and 26.

5. Where can I find more information?

U.S. DOT—<https://www.civilrights.dot.gov/> (This site provides useful links to the rules and regulations governing the DBE/ACDBE program, questions and answers, and other pertinent information)

SBA—Small Business Size Standards matched to the North American Industry Classification System (NAICS):
<http://www.census.gov/eos/www/naics/> and <http://www.sba.gov/content/table-small-business-size-standards>.

In collecting the information requested by this form, the Department of Transportation (Department) complies with the provisions of the Federal Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a). The Privacy Act provides comprehensive protections for your personal information. This includes how information is collected, used, disclosed, stored, and discarded. Your information will not be disclosed to third parties without your consent. The information collected will be used solely to determine your firm's eligibility to participate in the Department's Disadvantaged Business Enterprise Program as defined in 49 CFR §26.3 and the Airport Concession Disadvantaged Business Enterprise Program as defined in 49 CFR §23.3. You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477).

Under 49 C.F.R. §26.107, dated February 3, 1999 and January 28, 2011, if at any time, the Department or a recipient has reason to believe that any person or firm has willfully and knowingly provided incorrect information or made false statements, the Department may initiate suspension or debarment proceedings against the person or firm under 2 CFR Parts 180 and 1200, Nonprocurement Suspension and Debarment, take enforcement action under 49 C.F.R. Part 31, Program Fraud and Civil Remedies, and/or refer the matter to the Department of Justice for criminal prosecution under 18 U.S.C. 1001, which prohibits false statements in Federal programs.



oral agreement. Provide an explanation of any items shared with other firms in the space provided.

- (2) Check the appropriate box indicating whether any other firm currently has or had an ownership interest in your firm at present or at any time in the past. If you checked yes, please explain.
- (3) Check the appropriate box that indicates whether at present or at any time in the past your firm:
 - (a) ever existed under different ownership, a different type of ownership, or a different name;
 - (b) existed as a subsidiary of any other firm;
 - (c) existed as a partnership in which one or more of the partners are/were other firms;
 - (d) owned any percentage of any other firm; and
 - (e) had any subsidiaries of its own.
- (f) served as a subcontractor with another firm constituting more than 25% of your firm's receipts.

If you answered "Yes" to any of the questions in (3)(a-f), you may be asked to explain the arrangement in detail.

Section 3: MAJORITY OWNER INFORMATION

Identify all individuals or holding companies with any ownership interest in your firm, providing the information requested below (if your firm has more than one owner, provide completed copies of this section for each owner):

A. Identify the majority owner of the firm holding 51% or more ownership interest

- (1) Enter the full name of the owner.
- (2) Enter his/her title or position within your firm.
- (3) Give his/her home phone number.
- (4) Enter his/her home (street) address.
- (5) Indicate this owner's gender.
- (6) Identify the owner's ethnic group membership. If you checked "Other," specify this owner's ethnic group/identity not otherwise listed.
- (7) Check the appropriate box to indicate whether this owner is a U.S. citizen or a lawfully admitted permanent resident. If this owner is neither a U.S. citizen nor a lawfully admitted permanent resident of the U.S., then this owner is NOT eligible for certification as a DBE owner.
- (8) Enter the number of years during which this owner has been an owner of your firm.
- (9) Indicate the percentage of the total ownership this person holds and the date acquired, including (if appropriate), the class of stock owned.
- (10) Indicate the dollar value of this owner's initial investment to acquire an ownership interest in your firm, broken down by cash, real estate, equipment, and/or other investment. Describe how you acquired your business and attach documentation substantiating this investment.

B. Additional Owner Information

- (1) Describe the familial relationship of this owner to each other owner of your firm and employees.
- (2) Indicate whether this owner performs a management or supervisory function for any other business. If you

checked "Yes," state the name of the other business and this owner's function/title held in that business.

- (3) (a) Check the appropriate box that indicates whether this owner owns or works for any other firm(s) that has any relationship with your firm. If you checked "Yes," identify the name of the other business, the nature of the business relationship, and the owner's function at the firm.
 - (b) If the owner works for any other firm, non-profit organization, or is engaged in any other activity more than 10 hours per week, please identify this activity.
- (4) (a) Provide the personal net worth of the owner applying for certification in the space provided. Complete and attach the accompanying "Personal Net Worth Statement for DBE/ACDBE Program Eligibility" with your application. Note, complete this section and accompanying statement only for each owner applying for DBE qualification (i.e., for each owner claiming to be socially and economically disadvantaged).
- (b) Check the appropriate box that indicates whether any trust has been created for the benefit of the disadvantaged owner(s). If you answered "Yes," you may be asked to provide a copy of the trust instrument.
- (5) Check the appropriate box to indicate whether any of your immediate family members, managers, or employees, own, manage, or are associated with another company. Immediate family member is defined in 49 C.F.R. §26.5. If you answered "Yes," provide the name of each person, your relationship to them, the name of the company, the type of business, and whether they own or manage the company.

Section 4: CONTROL

A. Identify the firm's Officers and Board of Directors

- (1) In the space provided, state the name, title, date of appointment, ethnicity, and gender of each officer.
- (2) In the space provided, state the name, title, date of appointment, ethnicity, and gender of each individual serving on your firm's Board of Directors.
- (3) Check the appropriate box to indicate whether any of your firm's officers and/or directors listed above performs a management or supervisory function for any other business. If you answered "Yes," identify each person by name, his/her title, the name of the other business in which s/he is involved, and his/her function performed in that other business.
- (4) Check the appropriate box that indicates whether any of your firm's officers and/or directors listed above own or work for any other firm(s) that has a relationship with your firm. (e.g., ownership interest, shared office space, financial investments, equipment leases, personnel sharing, etc.) If you answered "Yes," identify the name of the firm, the individual's name, and the nature of his/her business relationship with that other firm.



B. Duties of Owners, Officers, Directors, Managers and Key Personnel

(1), (2) Specify the roles of the majority and minority owners, directors, officers, and managers, and key personnel who control the functions listed for the business. Submit resumes for each owner and non-owner identified below. State the name of the individual, title, race and gender and percentage ownership if any. Circle the frequency of each person's involvement as follows: "always, frequently, seldom, or never" in each area.

Indicate whether any of the persons listed in this section perform a management or supervisory function for any other business. Identify the person, business, and their title/function. Identify if any of the persons listed above own or work for any other firm(s) that has a relationship with this firm (e.g. ownership interest, shared office space, financial investment, equipment, leases, personnel sharing, etc.) If you answered "Yes," describe the nature of his/her business relationship with that other firm.

C. Inventory: Indicate firm inventory in these categories:

(1) Equipment and Vehicles

State the make and model, and current dollar value of each piece of equipment and motor vehicle held and/or used by your firm. Indicate whether each piece is either owned or leased by your firm or owner, whether it is used as collateral, and where this item is stored.

(2) Office Space

State the street address of each office space held and/or used by your firm. Indicate whether your firm or owner owns or leases the office space and the current dollar value of that property or its lease.

(3) Storage Space

State the street address of each storage space held and/or used by your firm. Indicate whether your firm or owner owns or leases the storage space and the current dollar value of that property or its lease. Provide a signed lease agreement for each property.

D. Does your firm rely on any other firm for management functions or employee payroll?

Check the appropriate box that indicates whether your firm relies on any other firm for management functions or for employee payroll. If you answered "Yes," you may be asked to explain the nature of that reliance and the extent to which the other firm carries out such functions.

E. Financial / Banking Information

Banking Information. State the name, City and State of your firm's bank. In the space provided, identify the persons able to sign checks on this account. Provide bank authorization and signature cards.

Bonding Information. State your firm's bonding limits (in dollars), specifying both the aggregate and project limits.

F. Sources, amounts, and purposes of money loaned to your firm, including the names of persons or firms guaranteeing the loan.

State the name and address of each source, the name of person securing the loan, original dollar amount and the current balance of each loan, and the purpose for which each loan was made to your firm. Provide copies of signed loan agreements and security agreements.

G. Contributions or transfers of assets to/from your firm and to/from any of its owners or another individual over the past two years:

Indicate in the spaces provided, the type of contribution or asset that was transferred, its current dollar value, the person or firm from whom it was transferred, the person or firm to whom it was transferred, the relationship between the two persons and/or firms, and the date of the transfer.

H. Current licenses/permits held by any owner or employee of your firm.

List the name of each person in your firm who holds a professional license or permit, the type of permit or license, the expiration date of the permit or license, and issuing State of the license or permit. Attach copies of licenses, license renewal forms, permits, and haul authority forms.

I. Largest contracts completed by your firm in the past three years, if any.

List the name of each owner or contractor for each contract, the name and location of the projects under each contract, the type of work performed on each contract, and the dollar value of each contract.

J. Largest active jobs on which your firm is currently working.

For each active job listed, state the name of the prime contractor and the project number, the location, the type of work performed, the project start date, the anticipated completion date, and the dollar value of the contract.

AIRPORT CONCESSION (ACDBE) APPLICANTS

Identify the concession space, address and location at the airport, the value of the property or lease, and fees/lease payments paid to the airport. Provide information concerning any other airport concession businesses the applicant firm or any affiliate owns and/or operates, including name, location, type of concession, and start date of the concession enterprise.

AFFIDAVIT & SIGNATURE

The Affidavit of Certification must accompany your application for certification. Carefully read the attached affidavit in its entirety. Fill in the required information for each blank space, and sign and date the affidavit in the presence of a Notary Public, who must then notarize the form.

Section 1: CERTIFICATION INFORMATION



A. Basic Contact Information

(1) Contact person and Title: _____ (2) Legal name of firm: _____

(3) Phone #: (____) _____ - _____ (4) Other Phone #: (____) _____ - _____ (5) Fax #: (____) _____ - _____

(6) E-mail: _____ (7) Firm Websites: _____

(8) Street address of firm (No P.O. Box): _____ City: _____ County/Parish: _____ State: _____ Zip: _____

(9) Mailing address of firm (if different): _____ City: _____ County/Parish: _____ State: _____ Zip: _____

B. Prior/Other Certifications and Applications

(10) Is your firm currently certified for any of the following U.S. DOT programs?

☐ DBE ☐ ACDBE Names of certifying agencies: _____

⊗ If you are certified in your home state as a DBE/ACDBE, you do not have to complete this application for other states. Ask your state UCP about the interstate certification process.

List the dates of any site visits conducted by your home state and any other states or UCP members:

Date ____ / ____ / ____ State/UCP Member: _____ Date ____ / ____ / ____ State/UCP Member: _____

(11) Indicate whether the firm or any persons listed in this application have ever been:

- (a) Denied certification or decertified as a DBE, ACDBE, 8(a), SDB, MBE/WBE firm? ☐ Yes ☐ No
(b) Withdrawn an application for these programs, or debarred or suspended or otherwise had bidding privileges denied or restricted by any state or local agency, or Federal entity? ☐ Yes ☐ No

If yes, explain the nature of the action. (If you appealed the decision to DOT or another agency, attach a copy of the decision,

Section 2: GENERAL INFORMATION

A. Business Profile: (1) Give a concise description of the firm's primary activities and the product(s) or service(s) it provides. If your company offers more than one product/service, list the primary product or service first. Please use additional paper if necessary. This description may be used in our database and the UCP online directory if you are certified as a DBE or ACDBE.

(2) Applicable NAICS Codes for this line of work include: _____

(3) This firm was established on ____ / ____ / ____ (4) I/We have owned this firm since: ____ / ____ / ____

(5) Method of acquisition (Check all that apply):

- ☐ Started new business ☐ Bought existing business ☐ Inherited business ☐ Secured concession
☐ Merger or consolidation ☐ Other (explain) _____

(6) Is your firm "for profit"? ☐ Yes ☐ No
Federal Tax ID# _____

⊗ STOP! If your firm is NOT for-profit, then you do NOT qualify for this program and should not fill out this application.



(7) Type of Legal Business Structure: (check all that apply):

- ☐ Sole Proprietorship ☐ Limited Liability Partnership
☐ Partnership ☐ Corporation
☐ Limited Liability Company ☐ Joint Venture (Identify all JV partners _____)
☐ Applying as an ACDBE ☐ Other, Describe _____

(8) Number of employees: Full-time _____ Part-time _____ Seasonal _____ Total _____
(Provide a list of employees, their job titles, and dates of employment, to your application).

(9) Specify the firm's gross receipts for the last 3 years. (Submit complete copies of the firm's Federal tax returns for each year. If there are affiliates or subsidiaries of the applicant firm or owners, you must submit complete copies of these firms' Federal tax returns).

Year _____	Gross Receipts of Applicant Firm \$ _____	Gross Receipts of Affiliate Firms \$ _____
Year _____	Gross Receipts of Applicant Firm \$ _____	Gross Receipts of Affiliate Firms \$ _____
Year _____	Gross Receipts of Applicant Firm \$ _____	Gross Receipts of Affiliate Firms \$ _____

B. Relationships and Dealings with Other Businesses

(1) Is your firm co-located at any of its business locations, or does it share a telephone number, P.O. Box, office or storage space, yard, warehouse, facilities, equipment, inventory, financing, office staff, and/or employees with any other business, organization, or entity? ☐ Yes ☐ No

If Yes, explain the nature of your relationship with these other businesses by identifying the business or person with whom you have any formal, informal, written, or oral agreement. Also detail the items shared.

(2) Has any other firm had an ownership interest in your firm at present or at any time in the past?

☐ Yes ☐ No If Yes, explain _____

(3) At present, or at any time in the past, has your firm:

- (a) Ever existed under different ownership, a different type of ownership, or a different name? ☐ Yes ☐ No
(b) Existed as a subsidiary of any other firm? ☐ Yes ☐ No
(c) Existed as a partnership in which one or more of the partners are/were other firms? ☐ Yes ☐ No
(d) Owned any percentage of any other firm? ☐ Yes ☐ No
(e) Had any subsidiaries? ☐ Yes ☐ No
(f) Served as a subcontractor with another firm constituting more than 25% of your firm's receipts? ☐ Yes ☐ No

(If you answered "Yes" to any of the questions in (2) and/or (3)(a)-(f), you may be asked to provide further details and explain whether the arrangement continues).

Section 3: MAJORITY OWNER INFORMATION



A. Identify the majority owner of the firm holding 51% or more ownership interest.

(1) Full Name: _____ (2) Title: _____ (3) Home Phone #: _____
() _____ - _____

(4) Home Address (Street and Number): _____ City: _____ State: _____ Zip: _____

(5) Gender: ☐ Male ☐ Female

(6) Ethnic group membership (Check all that apply):

- ☐ Black ☐ Hispanic
☐ Asian Pacific ☐ Native American
☐ Subcontinent Asian
☐ Other (specify) _____

(7) U.S. Citizenship:

- ☐ U.S. Citizen
☐ Lawfully Admitted Permanent Resident

(8) Number of years as owner: _____

(9) Percentage owned: _____ %

Class of stock owned: _____

Date acquired: _____

(10) Initial investment to acquire ownership interest in firm:

Type	Dollar Value
Cash	\$ _____
Real Estate	\$ _____
Equipment	\$ _____
Other	\$ _____

Describe how you acquired your business:

- ☐ Started business myself
☐ It was a gift from: _____
☐ I bought it from: _____
☐ I inherited it from: _____
☐ Other: _____

(Attach documentation substantiating your investment)

B. Additional Owner Information

(1) Describe familial relationship to other owners and employees:

(2) Does this owner perform a management or supervisory function for any other business? ☐ Yes ☐ No

If Yes, identify: Name of Business: _____ Function/Title: _____

(3)(a) Does this owner own or work for any other firm(s) that has a relationship with this firm? (e.g. ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.) ☐ Yes ☐ No

Identify the name of the business, and the nature of the relationship, and the owner's function at the firm:

(b) Does this owner work for any other firm, non-profit organization, or is engaged in any other activity more than 10 hours per week? If yes, identify this activity: _____

(4)(a) What is the personal net worth of this disadvantaged owner applying for certification? \$ _____

(b) Has any trust been created for the benefit of this disadvantaged owner(s)? ☐ Yes ☐ No

(If Yes, you may be asked to provide a copy of the trust instrument)

(5) Do any of your immediate family members, managers, or employees own, manage, or are associated with another company? ☐ Yes ☐ No If Yes, provide their name, relationship, company, type of business, and indicate whether they own or manage the company: (Please attach extra sheets, if needed): _____

Section 3: OWNER INFORMATION, Cont'd.



A. Identify all individuals, firms, or holding companies that hold LESS THAN 51% ownership interest in the firm (Attach separate sheets for each additional owner)

(1) Full Name: _____ (2) Title: _____ (3) Home Phone #: _____
() - _____

(4) Home Address (Street and Number): _____ City: _____ State: _____ Zip: _____

(5) Gender: ☐ Male ☐ Female

(6) Ethnic group membership (Check all that apply)

- ☐ Black ☐ Hispanic
☐ Asian Pacific ☐ Native American
☐ Subcontinent Asian
☐ Other (specify) _____

(7) U.S. Citizenship:

- ☐ U.S. Citizen
☐ Lawfully Admitted Permanent Resident

(8) Number of years as owner: _____

(9) Percentage owned: _____ %

Class of stock owned: _____

Date acquired: _____

(10) Initial investment to acquire ownership interest in firm:	Type	Dollar Value
	Cash	\$ _____
	Real Estate	\$ _____
	Equipment	\$ _____
	Other	\$ _____

Describe how you acquired your business:

- ☐ Started business myself
☐ It was a gift from: _____
☐ I bought it from: _____
☐ I inherited it from: _____
☐ Other _____

(Attach documentation substantiating your investment)

B. Additional Owner Information

(1) Describe familial relationship to other owners and employees:

(2) Does this owner perform a management or supervisory function for any other business? ☐ Yes ☐ No
If Yes, identify: Name of Business: _____ Function/Title: _____

(3)(a) Does this owner own or work for any other firm(s) that has a relationship with this firm? (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.) ☐ Yes ☐ No
Identify the name of the business, and the nature of the relationship, and the owner's function at the firm:

(b) Does this owner work for any other firm, non-profit organization, or is engaged in any other activity more than 10 hours per week? If yes, identify this activity: _____

(4)(a) What is the personal net worth of this disadvantaged owner applying for certification? \$ _____

(b) Has any trust been created for the benefit of this disadvantaged owner(s)? ☐ Yes ☐ No
(If Yes, you may be asked to provide a copy of the trust instrument).

(5) Do any of your immediate family members, managers, or employees own, manage, or are associated with another company? ☐ Yes ☐ No If Yes, provide their name, relationship, company, type of business, and indicate whether they own or manage: (Please attach extra sheets, if needed): _____

Section 4: CONTROL



A. Identify your firm's Officers and Board of Directors (If additional space is required, attach a separate sheet):

	Name	Title	Date Appointed	Ethnicity	Gender
(1) Officers of the Company	(a)				
	(b)				
	(c)				
	(d)				
(2) Board of Directors	(a)				
	(b)				
	(c)				
	(d)				

(3) Do any of the persons listed above perform a management or supervisory function for any other business?

☐ Yes ☐ No If Yes, identify for each:

Person: _____ Title: _____
Business: _____ Function: _____

Person: _____ Title: _____
Business: _____ Function: _____

(4) Do any of the persons listed in section A above own or work for any other firm(s) that has a relationship with this firm? (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)

☐ Yes ☐ No If Yes, identify for each:

Firm Name: _____ Person: _____
Nature of Business Relationship: _____

B. Duties of Owners, Officers, Directors, Managers, and Key Personnel

1. (Identify your firm's management personnel who control your firm in the following areas (Attach separate sheets as needed))

A = Always F = Frequently	S = Seldom N = Never	Majority Owner (51% or more)				Minority Owner (49% or less)			
		Name:	Title:	Percent Owned:		Name:	Title:	Percent Owned:	
		A	F	S	N	A	F	S	N
Sets policy for company direction/scope of operations		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bidding and estimating		A	F	S	N	A	F	S	N
Major purchasing decisions		A	F	S	N	A	F	S	N
Marketing and sales		A	F	S	N	A	F	S	N
Supervises field operations		A	F	S	N	A	F	S	N
Attend bid opening and lettings		A	F	S	N	A	F	S	N
Perform office management (billing, accounts receivable/payable, etc.)		A	F	S	N	A	F	S	N
Hires and fires management staff		A	F	S	N	A	F	S	N
Hire and fire field staff or crew		A	F	S	N	A	F	S	N
Designates profits spending or investment		A	F	S	N	A	F	S	N
Obligates business by contract/credit		A	F	S	N	A	F	S	N
Purchase equipment		A	F	S	N	A	F	S	N
Signs business checks		A	F	S	N	A	F	S	N

2. Complete for all Officers, Directors, Managers, and Key Personnel who control the following functions for the firm. (Attach separate sheets as needed).

A = Always S = Seldom F = Frequently N = Never	Officer/Director/Manager/Key Personnel				Officer/Director/Manager/Key Personnel			
	Name: _____ Title: _____ Race and Gender: _____ Percent Owned: _____				Name: _____ Title: _____ Race and Gender: _____ Percent Owned: _____			
Sets policy for company direction/scope of operations	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Bidding and estimating	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Major purchasing decisions	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Marketing and sales	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Supervises field operations	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Attend bid opening and lettings	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Perform office management (billing, accounts receivable/payable, etc.)	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Hires and fires management staff	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Hire and fire field staff or crew	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Designates profits spending or investment	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Obligates business by contract/credit	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Purchase equipment	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Signs business checks	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>

Do any of the persons listed in B1 or B2 perform a management or supervisory function for any other business? If Yes, identify the person, the business, and their title/function: _____

Do any of the persons listed above own or work for any other firm(s) that has a relationship with this firm? (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.) If Yes, describe the nature of the business relationship: _____

C. Inventory: Indicate your firm's inventory in the following categories (Please attach additional sheets if needed):

1. Equipment and Vehicles

	Make and Model	Current Value	Owned or Leased by Firm or Owner?	Used as collateral?	Where is item stored?
1.	_____	_____	_____	_____	_____
2.	_____	_____	_____	_____	_____
3.	_____	_____	_____	_____	_____
4.	_____	_____	_____	_____	_____
5.	_____	_____	_____	_____	_____
6.	_____	_____	_____	_____	_____
7.	_____	_____	_____	_____	_____
8.	_____	_____	_____	_____	_____
9.	_____	_____	_____	_____	_____

2. Office Space

Street Address	Owned or Leased by Firm or Owner?	Current Value of Property or Lease
_____	_____	_____
_____	_____	_____



3. Storage Space (Provide signed lease agreements for the properties listed)

Street Address	Owned or Leased by Firm or Owner?	Current Value of Property or Lease
_____	_____	_____
_____	_____	_____

D. Does your firm rely on any other firm for management functions or employee payroll? ☐ Yes ☐ No

E. Financial/Banking Information (Provide bank authorization and signature cards)

Name of bank: _____ City and State: _____
The following individuals are able to sign checks on this account: _____

Name of bank: _____ City and State: _____
The following individuals are able to sign checks on this account: _____

Bonding Information: If you have bonding capacity, identify the firm's bonding aggregate and project limits:
Aggregate limit \$ _____ Project limit \$ _____

F. Identify all sources, amounts, and purposes of money loaned to your firm including from financial institutions. Identify whether you the owner and any other person or firm loaned money to the applicant DBE/ACDBE. Include the names of any persons or firms guaranteeing the loan, if other than the listed owner.
(Provide copies of signed loan agreements and security agreements)

Name of Source	Address of Source	Name of Person Guaranteeing the Loan	Original Amount	Current Balance	Purpose of Loan
1. _____	_____	_____	_____	_____	_____
2. _____	_____	_____	_____	_____	_____
3. _____	_____	_____	_____	_____	_____

G. List all contributions or transfers of assets to/from your firm and to/from any of its owners or another individual over the past two years (Attach additional sheets if needed):

Contribution/Asset	Dollar Value	From Whom Transferred	To Whom Transferred	Relationship	Date of Transfer
1. _____	_____	_____	_____	_____	_____
2. _____	_____	_____	_____	_____	_____
3. _____	_____	_____	_____	_____	_____

H. List current licenses/permits held by any owner and/or employee of your firm
(e.g. contractor, engineer, architect, etc.) (Attach additional sheets if needed):

Name of License/Permit Holder	Type of License/Permit	Expiration Date	State
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____



I. List the three largest contracts completed by your firm in the past three years, if any:

Name of Owner/Contractor	Name/Location of Project	Type of Work Performed	Dollar Value of Contract
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____

J. List the three largest active jobs on which your firm is currently working:

Name of Prime Contractor and Project Number	Location of Project	Type of Work	Project Start Date	Anticipated Completion Date	Dollar Value of Contract
1. _____	_____	_____	_____	_____	_____
2. _____	_____	_____	_____	_____	_____
3. _____	_____	_____	_____	_____	_____

AIRPORT CONCESSION (ACDBE) APPLICANTS ONLY MUST COMPLETE THIS SECTION

Identify the following information concerning the ACDBE applicant firm:

<u>Concession Space</u>	<u>Address / Location at Airport</u>	<u>Value of Property or Lease</u>	<u>Fees/Lease Payments Paid to the Airport</u>

Provide information concerning any other airport concession businesses the applicant firm or any affiliate owns and/or operates, including name, location, type of concession, and start date of concession

<u>Name of Concession</u>	<u>Location</u>	<u>Type of Concession</u>	<u>Start Date of Concession</u>



AFFIDAVIT OF CERTIFICATION

This form must be signed and notarized for each owner upon which disadvantaged status is relied.

A MATERIAL OR FALSE STATEMENT OR OMISSION MADE IN CONNECTION WITH THIS APPLICATION IS SUFFICIENT CAUSE FOR DENIAL OF CERTIFICATION, REVOCATION OF A PRIOR APPROVAL, INITIATION OF SUSPENSION OR DEBARMENT PROCEEDINGS, AND MAY SUBJECT THE PERSON AND/OR ENTITY MAKING THE FALSE STATEMENT TO ANY AND ALL CIVIL AND CRIMINAL PENALTIES AVAILABLE PURSUANT TO APPLICABLE FEDERAL AND STATE LAW.

I _____ (full name printed),
swear or affirm under penalty of law that I am
_____ (title) of the applicant firm
_____ and that I

have read and understood all of the questions in this application and that all of the foregoing information and statements submitted in this application and its attachments and supporting documents are true and correct to the best of my knowledge, and that all responses to the questions are full and complete, omitting no material information. The responses include all material information necessary to fully and accurately identify and explain the operations, capabilities and pertinent history of the named firm as well as the ownership, control, and affiliations thereof.

I recognize that the information submitted in this application is for the purpose of inducing certification approval by a government agency. I understand that a government agency may, by means it deems appropriate, determine the accuracy and truth of the statements in the application, and I authorize such agency to contact any entity named in the application, and the named firm's bonding companies, banking institutions, credit agencies, contractors, clients, and other certifying agencies for the purpose of verifying the information supplied and determining the named firm's eligibility.

I agree to submit to government audit, examination and review of books, records, documents and files, in whatever form they exist, of the named firm and its affiliates, inspection of its places(s) of business and equipment, and to permit interviews of its principals, agents, and employees. I understand that refusal to permit such inquiries shall be grounds for denial of certification.

If awarded a contract, subcontract, concession lease or sublease, I agree to promptly and directly provide the prime contractor, if any, and the Department, recipient agency, or federal funding agency on an ongoing basis, current, complete and accurate information regarding (1) work performed on the project; (2) payments; and (3) proposed changes, if any, to the foregoing arrangements.

I agree to provide written notice to the recipient agency or Unified Certification Program of any material change in the information contained in the original application within 30 calendar days of such change (e.g., ownership changes, address/telephone number, personal net worth exceeding \$1.32 million, etc.).

I acknowledge and agree that any misrepresentations in this application or in records pertaining to a contract or subcontract will be grounds for terminating any contract or subcontract which may be awarded; denial or revocation of certification; suspension and debarment; and for initiating action under federal and/or state law concerning false statement, fraud or other applicable offenses.

I certify that I am a socially and economically disadvantaged individual who is an owner of the above-referenced firm seeking certification as a Disadvantaged Business Enterprise or Airport Concession Disadvantaged Business Enterprise. In support of my application, I certify that I am a member of one or more of the following groups, and that I have held myself out as a member of the group(s): (Check all that apply):

- ☐ Female ☐ Black American ☐ Hispanic American
☐ Native American ☐ Asian-Pacific American
☐ Subcontinent Asian American ☐ Other (specify) _____

I certify that I am socially disadvantaged because I have been subjected to racial or ethnic prejudice or cultural bias, or have suffered the effects of discrimination, because of my identity as a member of one or more of the groups identified above, without regard to my individual qualities.

I further certify that my personal net worth does not exceed \$1.32 million, and that I am economically disadvantaged because my ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially and economically disadvantaged.

I declare under penalty of perjury that the information provided in this application and supporting documents is true and correct.

Signature _____ (DBE/ACDBE Applicant) _____ (Date)

NOTARY CERTIFICATE



UNIFORM CERTIFICATION APPLICATION SUPPORTING DOCUMENTS CHECKLIST

In order to complete your application for DBE or ACDBE certification, you must attach copies of all of the following REQUIRED documents. A failure to supply any information requested by the UCP may result in your firm denied DBE/ACDBE certification.

Required Documents for All Applicants

- Résumés (that include places of employment with corresponding dates), for all owners, officers, and key personnel of the applicant firm
- Personal Net Worth Statement for each socially and economically disadvantaged owners comprising 51% or more of the ownership percentage of the applicant firm.
- Personal Federal tax returns for the past 3 years, if applicable, for each disadvantaged owner
- Federal tax returns (and requests for extensions) filed by the firm and its affiliates with related schedules, for the past 3 years.
- Documented proof of contributions used to acquire ownership for each owner (e.g., both sides of cancelled checks)
- Signed loan and security agreements, and bonding forms
- List of equipment and/or vehicles owned and leased including VIN numbers, copy of titles, proof of ownership, insurance cards for each vehicle.
- Title(s), registration certificate(s), and U.S. DOT numbers for each truck owned or operated by your firm
- Licenses, license renewal forms, permits, and haul authority forms
- Descriptions of all real estate (including office/storage space, etc.) owned/leased by your firm and documented proof of ownership/signed leases
- Documented proof of any transfers of assets to/from your firm and/or to/from any of its owners over the past 2 years
- DBE/ACDBE and SBA 8(a), SDB, MBE/WBE certifications, denials, and/or decertifications, if applicable; and any U.S. DOT appeal decisions on these actions.
- Bank authorization and signatory cards
- Schedule of salaries (or other remuneration) paid to all officers, managers, owners, and/or directors of the firm
- List of all employees, job titles, and dates of employment.
- Proof of warehouse/storage facility ownership or lease arrangements

Partnership or Joint Venture

- Original and any amended Partnership or Joint Venture Agreements

Corporation or LLC

- Official Articles of Incorporation (signed by the state official)
- Both sides of all corporate stock certificates and your firm's stock transfer ledger
- Shareholders' Agreement(s)
- Minutes of all stockholders and board of directors meetings

- Corporate by-laws and any amendments
- Corporate bank resolution and bank signature cards
- Official Certificate of Formation and Operating Agreement with any amendments (for LLCs)

Optional Documents to Be Provided on Request

The UCP to which you are applying may require the submission of the following documents. If requested to provide these documents, you must supply them with your application or at the on-site visit.

- Proof of citizenship
- Insurance agreements for each truck owned or operated by your firm
- Audited financial statements (if available)
- Personal Federal Tax returns for the past 3 years, if applicable, for other disadvantaged owners of the firm.
- Trust agreements held by any owner claiming disadvantaged status
- Year-end balance sheets and income statements for the past 3 years (or life of firm, if less than three years)

Suppliers

- List of product lines carried and list of distribution equipment owned and/or leased

Attachment 8

Procedures for Removal of ACDBEs Eligibility

Title 49: Transportation

PART 26 PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN U.S. DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS

§26.87 Certification Procedures to remove a DBE's eligibility

(a) *Ineligibility complaints.* (1) Any person may file with you a written complaint alleging that a currently-certified firm is ineligible and specifying the alleged reasons why the firm is ineligible. You are not required to accept a general allegation that a firm is ineligible or an anonymous complaint. The complaint may include any information or arguments supporting the complainant's assertion that the firm is ineligible and should not continue to be certified. Confidentiality of complainants' identities must be protected as provided in §26.109(b).

(2) You must review your records concerning the firm, any material provided by the firm and the complainant, and other available information. You may request additional information from the firm or conduct any other investigation that you deem necessary.

(3) If you determine, based on this review, that there is reasonable cause to believe that the firm is ineligible, you must provide written notice to the firm that you propose to find the firm ineligible, setting forth the reasons for the proposed determination. If you determine that such reasonable cause does not exist, you must notify the complainant and the firm in writing of this determination and the reasons for it. All statements of reasons for findings on the issue of reasonable cause must specifically reference the evidence in the record on which each reason is based.

(b) *Recipient-initiated proceedings.* If, based on notification by the firm of a change in its circumstances or other information that comes to your attention, you determine that there is reasonable cause to believe that a currently certified firm is ineligible, you must provide written notice to the firm that you propose to find the firm ineligible, setting forth the reasons for the proposed determination. The statement of reasons for the finding of reasonable cause must specifically reference the evidence in the record on which each reason is based.

(c) *DOT directive to initiate proceeding.* (1) If the concerned operating administration determines that information in your certification records, or other information available to the concerned operating administration, provides reasonable cause to believe that a firm you certified does not meet the eligibility criteria of this part, the concerned operating administration may direct you to initiate a proceeding to remove the firm's certification.

(2) The concerned operating administration must provide you and the firm a notice setting forth the reasons for the directive, including any relevant documentation or other information.

(3) You must immediately commence and prosecute a proceeding to remove eligibility as provided by paragraph (b) of this section.

(d) *Hearing.* When you notify a firm that there is reasonable cause to remove its eligibility, as provided in paragraph (a), (b), or (c) of this section, you must give the firm an opportunity for an informal hearing, at which the firm may respond to the reasons for the proposal to remove its eligibility in person and provide information and arguments concerning why it should remain certified.

(1) In such a proceeding, you bear the burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards of this part.

(2) You must maintain a complete record of the hearing, by any means acceptable under state law for the retention of a verbatim record of an administrative hearing. If there is an appeal to DOT under §26.89, you must provide a transcript of the hearing to DOT and, on request, to the firm. You must retain the original record of the hearing. You may charge the firm only for the cost of copying the record.

(3) The firm may elect to present information and arguments in writing, without going to a hearing. In such a situation, you bear the same burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards, as you would during a hearing.

(e) *Separation of functions.* You must ensure that the decision in a proceeding to remove a firm's eligibility is made by an office and personnel that did not take part in actions leading to or seeking to implement the proposal to remove the firm's eligibility and are not subject, with respect to the matter, to direction from the office or personnel who did take part in these actions.

(1) Your method of implementing this requirement must be made part of your DBE program.

(2) The decision maker must be an individual who is knowledgeable about the certification requirements of your DBE program and this part.

(3) Before a UCP is operational in its state, a small airport or small transit authority (*i.e.*, an airport or transit authority serving an area with less than 250,000 population) is required to meet this requirement only to the extent feasible.

(f) *Grounds for decision.* You may base a decision to remove a firm's eligibility only on one or more of the following grounds:

(1) Changes in the firm's circumstances since the certification of the firm by the recipient that render the firm unable to meet the eligibility standards of this part;

(2) Information or evidence not available to you at the time the firm was certified;

(3) Information relevant to eligibility that has been concealed or misrepresented by the firm;

(4) A change in the certification standards or requirements of the Department since you certified the firm;

(5) Your decision to certify the firm was clearly erroneous;

(6) The firm has failed to cooperate with you (see §26.109(c));

(7) The firm has exhibited a pattern of conduct indicating its involvement in attempts to subvert the intent or requirements of the DBE program (see §26.73(a)(2)); or

(8) The firm has been suspended or debarred for conduct related to the DBE program. The notice required by paragraph (g) of this section must include a copy of the suspension or debarment action. A decision to remove a firm for this reason shall not be subject to the hearing procedures in paragraph (d) of this section.

(g) *Notice of decision.* Following your decision, you must provide the firm written notice of the decision and the reasons for it, including specific references to the evidence in the record that supports each reason for the decision. The notice must inform the firm of the consequences of your decision and of the availability of an appeal to the Department of Transportation under §26.89. You must send copies of the notice to the complainant in an ineligibility complaint or the concerned operating administration that had directed you to initiate the proceeding. Provided that, when sending such a notice to a complainant other

than a DOT operating administration, you must not include information reasonably construed as confidential business information without the written consent of the firm that submitted the information.

(h) [Reserved]

(i) *Status of firm during proceeding.* (1) A firm remains an eligible DBE during the pendency of your proceeding to remove its eligibility.

(2) The firm does not become ineligible until the issuance of the notice provided for in paragraph (g) of this section.

(j) *Effects of removal of eligibility.* When you remove a firm's eligibility, you must take the following action:

(1) When a prime contractor has made a commitment to using the ineligible firm, or you have made a commitment to using a DBE prime contractor, but a subcontract or contract has not been executed before you issue the decertification notice provided for in paragraph (g) of this section, the ineligible firm does not count toward the contract goal or overall goal. You must direct the prime contractor to meet the contract goal with an eligible DBE firm or demonstrate to you that it has made a good faith effort to do so.

(2) If a prime contractor has executed a subcontract with the firm before you have notified the firm of its ineligibility, the prime contractor may continue to use the firm on the contract and may continue to receive credit toward its DBE goal for the firm's work. In this case, or in a case where you have let a prime contract to the DBE that was later ruled ineligible, the portion of the ineligible firm's performance of the contract remaining after you issued the notice of its ineligibility shall not count toward your overall goal, but may count toward the contract goal.

(3) *Exception:* If the DBE's ineligibility is caused solely by its having exceeded the size standard during the performance of the contract, you may continue to count its participation on that contract toward overall and contract goals.

(k) *Availability of appeal.* When you make an administratively final removal of a firm's eligibility under this section, the firm may appeal the removal to the Department under §26.89.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35556, June 16, 2003; 76 FR 5101, Jan. 28, 2011; 79 FR 59599, Oct. 2, 2014]

§26.88 Summary suspension of certification.

(a) A recipient shall immediately suspend a DBE's certification without adhering to the requirements in §26.87(d) of this part when an individual owner whose ownership and control of the firm are necessary to the firm's certification dies or is incarcerated.

(b)(1) A recipient may immediately suspend a DBE's certification without adhering to the requirements in §26.87(d) when there is adequate evidence to believe that there has been a material change in circumstances that may affect the eligibility of the DBE firm to remain certified, or when the DBE fails to notify the recipient or UCP in writing of any material change in circumstances as required by §26.83(i) of this part or fails to timely file an affidavit of no change under §26.83(j).

(2) In determining the adequacy of the evidence to issue a suspension under paragraph (b)(1) of this section, the recipient shall consider all relevant factors, including how much information is available, the credibility of the information and allegations given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn as a result.

(c) The concerned operating administration may direct the recipient to take action pursuant to paragraph (a) or (b) this section if it determines that information available to it is sufficient to warrant immediate suspension.

(d) When a firm is suspended pursuant to paragraph (a) or (b) of this section, the recipient shall immediately notify the DBE of the suspension by certified mail, return receipt requested, to the last known address of the owner(s) of the DBE.

(e) Suspension is a temporary status of ineligibility pending an expedited show cause hearing/proceeding under §26.87 of this part to determine whether the DBE is eligible to participate in the program and consequently should be removed. The suspension takes effect when the DBE receives, or is deemed to have received, the Notice of Suspension.

(f) While suspended, the DBE may not be considered to meet a contract goal on a new contract, and any work it does on a contract received during the suspension shall not be counted toward a recipient's overall goal. The DBE may continue to perform under an existing contract executed before the DBE received a Notice of Suspension and may be counted toward the contract goal during the period of suspension as long as the DBE is performing a commercially useful function under the existing contract.

(g) Following receipt of the Notice of Suspension, if the DBE believes it is no longer eligible, it may voluntarily withdraw from the program, in which case no further action is required. If the DBE believes that its eligibility should be reinstated, it must provide to the recipient information demonstrating that the firm is eligible notwithstanding its changed circumstances. Within 30 days of receiving this information, the recipient must either lift the suspension and reinstate the firm's certification or commence a decertification action under §26.87 of this part. If the recipient commences a decertification proceeding, the suspension remains in effect during the proceeding.

(h) The decision to immediately suspend a DBE under paragraph (a) or (b) of this section is not appealable to the US Department of Transportation. The failure of a recipient to either lift the suspension and reinstate the firm or commence a decertification proceeding, as required by paragraph (g) of this section, is appealable to the U.S. Department of Transportation under §26.89 of this part, as a constructive decertification.

[79 FR 59599, Oct. 2, 2014]

Attachment 9
States UCP Agreement

TEXAS

MEMORANDUM OF AGREEMENT

for a

**DISADVANTAGED BUSINESS
UNIFIED CERTIFICATION PROGRAM**

U.S. DEPARTMENT OF TRANSPORTATION PARTNERS

♦

**Texas Department of Transportation
City of Houston
City of Austin
Corpus Christi Regional Transportation Agency
North Central Texas Regional Certification Agency
South Central Texas Regional Certification Agency**

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**STATE OF TEXAS
MEMORANDUM OF AGREEMENT**

I UNIFIED CERTIFICATION PROGRAM

This Memorandum of Agreement (MOA) establishes a Disadvantaged Business Enterprise (DBE) Unified Certification Program (UCP) in the State of Texas in accordance with Title 49 Parts 26 and 23 of the Code of Federal Regulations (49 CFR Parts 26 and 23). The TUCP Certifying Partners are the Texas Department of Transportation (TxDOT), City of Houston, City of Austin, Corpus Christi Regional Transportation Authority (CCRTA), North Central Texas Regional Certification Agency (NCTRCA), and South Central Texas Regional Certification Agency (SCTRCA). Each Certifying Partner in Texas is required to administer a DBE Certification Program in accordance with 49 CFR Part 26 and Part 26.81. Each TUCP Certifying Partner agrees to commit sufficient resources and expertise to carry out the requirements of 49 CFR Part 26.

A. Definitions

1. TUCP Certifying Partner

A State of Texas recipient with a current DBE Program Plan approved by an appropriate USDOT oversight modal agency. This includes those entities, North Central Texas Regional Certification Agency and South Central Texas Regional Certification Agency, who are not recipients, but were formed as domestic non-profit organizations for the purposes of performing certifications on behalf of recipients and can issue or revoke DBE certifications.

2. Non-certifying TUCP Partner

A State of Texas recipient, sub-recipient or grantee with a current DBE Program Plan approved by an appropriate USDOT oversight modal agency or via a TxDOT Letter of Agreement an entity that agrees to utilize the DBEs listed in TUCP Directory for purposes of their program for certification and or compliance purposes. A Non-Certifying Partner can neither issue nor revoke DBE certification.

3. Recipient

Any public entity which receives direct USDOT financial assistance.

4. Sub-recipient

Any public entity receiving USDOT financial assistance through another recipient.

5. Grantee

Any public entity that has received USDOT assistance.

B. Organization

The TUCP shall establish an Executive Committee consisting of representatives from each of the Certifying Partner agencies, who shall be designated by the signatories to this MOA Agreement. The Executive committee will also be responsible for resolving any conflicts between certification actions between its members. The Standard Operating Procedures of the TUCP Section III-Agency Compliance, outlines the process for dealing with matters regarding the compliance with certification requirements. Nothing in this agreement should be construed to contravene the sovereignty of each participant. The contact person for the TUCP is the Texas Department of Transportation, DBE/HUB/SBE Section.

A Certifying TUCP Partner may terminate its responsibilities under this Agreement and become a Non-Certifying TUCP Partner upon a six month notice to all TUCP Partners.

C. Purpose

The objectives of the Texas UCP are as follows:

- To follow the certification procedures and standards and the non-discrimination requirements of 49 CFR Parts 26 and 23.
- To cooperate fully with all oversight, review and monitoring activities of the United States Department of Transportation (USDOT) and its operating administrations.
- Directives and guidance on DBE certification matters.
- To make all certification and decertification decisions on behalf of all TUCP Partners with respect to participation in the U.S. DOT DBE Program. Certification decisions by the TUCP shall be binding on all TUCP Certifying Partners.

- To provide a single DBE certification that will be honored by all TUCP Partners.
- To maintain a unified DBE directory containing at least the following information for each firm listed: address, phone number and approved NAICS codes. The TUCP shall make the directory available to the public electronically on the Internet as well as in print. TxDOT shall update the electronic version of the directory by including additions, deletions and other changes upon notification by the DBE and/or Certifying Partner.
- The TUCP Partners will commit adequate resources and expertise to carry out this agreement. The partners will continue to individually bear the costs of training staff, certifying firms and sharing DBE files, i.e. postage and copying costs. Travel to and from meetings will be the responsibility of individual partners.

II TUCP PROGRAM DESCRIPTION

A. Partners' Roles, Responsibilities & Obligations

All TUCP Partners agree to maintain DBE certification application files, conduct site visits, make certification decisions and handle appeals and complaints. The Certifying TUCP Partners agree to utilize the USDOT Uniform Certification Application and Affidavit.

- All decisions related to eligibility and certification must comply with 49 CFR Parts 26 and 23.
- The TUCP Certifying Partners who are recipients or sub-recipients of federal funds must have an approved DBE Program. Additionally, each Certifying Partner must have clearly defined and written processes and procedures related to the administration of its DBE Program and certification decisions.
- Each TUCP Certifying Partner must adhere to the processes and procedures as set forth in the Standard Operating Procedures.
- If a TUCP certifying partner is no longer able or willing to uphold procedures outlined in this MOA and in the TUCP SOP, then that partner shall notify each partner in writing and submit to TxDOT all certification files within 30 days to maintain proper certification coordination.
- TUCP certifying partners agree to assist and comply with FHWA in conducting partner reviews outlined in the TUCP SOP.

- Any request received by a TUCP Partner by organizations and entities to become certifying members of the TUCP will be forwarded to each TUCP Partner for review. The TUCP Certifying partners will make a recommendation and forward the request to USDOT for review and a recommendation.

B. DBE Directory Management:

TxDOT has agreed to manage the TUCP Directory and shall designate a Database Manager as agreed by signature of this MOA. Upon approval of a firm for DBE certification by the UCP Certifying Partners, the originating Certifying Partner shall submit the firm's information for inclusion in the electronic database directly to the DBE Database Manager. This information shall include at a minimum:

- Name, Street Address, P.O. Box, City, County, State, Telephone and Fax Number, E-mail address and Federal Tax Identification Number/SSN;
- Name, Sex, Ethnicity, Race and Country of Origin of qualifying DBE owner(s);
- Type of work performed by the DBE using the North American Industry Classification System (NAICS) adopted by the SBA on October 1, 2000, as amended;
- Original Certification Date;
- Name of TUCP Certifying Partner;
- Annual Review Date;

The DBE Database Manager shall assume the following responsibilities:

- Input all data and make any corrections, additions and/or deletions upon receipt of information from the Certifying TUCP Partners;
- Maintain and keep the electronic DBE database current;
- Make the electronic DBE database available to all TUCP Partners and other interested parties;
- Maintain the TUCP Website.

C. DBE Directory & Internet Access

The DBE Directory will be located on the TUCP website. In accordance with 49 CFR Part 26.31 and 23.31(b), the DBE Directory will include the following minimum information for each firm:

- Name, address and telephone number of firm;
- Contact person
- Types of work performed by the firm with appropriate six (3) digit NAICS code and description.

The TUCP DBE Directory may contain additional information, including but not limited to the following:

- Geographic Location of the Firm (i.e., county)
- Website Address of the Firm
- Fax Number & E-Mail Address of the Firm
- Annual Review Date
- Gender and Ethnicity

Each TUCP Partner by signature of this agreement agrees to submit the above information.

III TUCP PROGRAM COSTS AND FUNDING

The cost of creating and establishing the TUCP website and the electronic DBE Directory will be the responsibility of the Texas Department of Transportation. Each TUCP Partner has agreed to coordinate responding to information request or open records request for certification list or copies of the data base as appropriate.

A. Training and Resources

The TUCP Partners will conduct ongoing in-service training. The TUCP Partners will agree to rotate the duties of hosting, planning and conducting training sessions amongst the TUCP Partners.

IV CERTIFICATION PROCEDURES AND PROCESS

In addition to the following procedures, the TUCP will follow all certification procedures and standards of 49 CFR Part 26, and will implement USDOT directives and guidance concerning DBE certification matters. A Standard Operating Procedure (SOP) has been developed and will be utilized by all Certifying TUCP Partners. The SOP may be modified as needed and agreed upon by majority consensus of the Certifying TUCP Partners. If consensus can not be reached, the issue will be forwarded to FHWA – Texas Division for further guidance.

- The TUCP will utilize the USDOT approved Uniform Certification Application and other related certification documents to facilitate "one-stop shopping" for applicants.

A. Geographic & Industry Considerations

The TUCP Certifying Partners have agreed to perform the certification process for DBE program applicants within the State of Texas by geographical location and by industry. If a DBE applicant/firm works only in the highway construction industry, TxDOT agrees to process the application and/or have certification responsibility for the DBE firm. Therefore, the certifying TUCP partner to whom application is made will ascertain the geographical area of the applicant firm and/or its primary work type or industry, and take the appropriate action to either process the application or forward the application within three to five business days to the appropriate TUCP certifying partner. If a firm is an applicant interested in airport DBE certification, the TUCP certifying partner agrees to forward the application to the appropriate TUCP agency based on geographical location or process within three to five business days.

City of Austin: Geographical: Bastrop, Caldwell, Hays, Travis and Williamson

City of Houston: Geographical: Counties of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller.

Corpus Christi Regional Transportation Authority: Geographical: Counties of Aransas, Bee, Goliad, Jim Wells, Karnes, Kleberg, Live Oak, Nueces, Refugio, and San Patricio.

North Central Texas Regional Certification Agency: Geographical: Counties of Collin, Dallas, Denton, Ellis, Erath, Hood, Jack, Johnson, Kaufman, Navarro, Palo Pinto, Parker, Rockwall, Somervell, Tarrant, and Wise.

South Central Texas Regional Certification Agency: Geographical: Counties of Atascosa, Bandera, Bexar, Comal, Frio, Guadalupe, Kendall, Kerr, McMullen, Medina, and Wilson.

Texas Department of Transportation: Geographical: All other remaining counties in Texas. All heavy highway construction categories indicating TxDOT only.

B. Quality Assurance (New Certifications)

The SOP has been created to ensure consistent application of UCP program requirements among the Certifying TUCP Partners. Uniform documents have been developed for use by the Certifying TUCP Partners so that consistent information is obtained and used in certification determinations. At a minimum, there will be annual training of certification staff in order to maintain consistency in determinations.

C. Annual Review Process

By signature of this agreement, DBEs certification updates will be conducted annually using the TUCP Annual Update "No Change" Affidavit as required in the SOP and following procedures outlined in 49 CFR Part 26.87. The TUCP Partner has agreed to conduct annual reviews of certified DBEs, conduct a DBE on-site review every three years in conjunction with the DBE firm's submittal of the Annual Update Affidavit per 49 CFR Part 26.83(h) or every five (5) years for corporations and partnerships and ten (10) years for sole proprietorships.

D. Decertification Procedures

The TUCP Partner agrees to process decertifications in compliance to 49 CFR Part 26.87. Provisions exist in the TUCP Standard Operating Procedure for the Certifying TUCP Partners to accept written complaints from a third party alleging the ineligibility of a currently certified firm. The TUCP SOP outlines how those complaints will be coordinated by the receiving partner.

E. Appeals Process and Procedures

An appeals procedure has been established as part of the TUCP SOP for appeals of denial of original certification, and decertification that provides due process to the affected firm in accordance with 49 CFR Part 26.

- **Denials of Original Certifications and Decertification:** The DBE applicant has the opportunity to appeal to USDOT in accordance with 49 CFR Part 26.89. Firms that are decertified will have due process in accordance with 49 CFR Part 26.87.

F. Staff Training

Each TUCP Partner agrees to:

- Participate in annual staff training; assist with the development and coordination of training modules that support the SOP.
- Recruit instructors and determine locations for training workshops.
- Schedule joint training sessions.
- Conduct staff training to assure that all staff are knowledgeable of certification regulations and procedures as updates and changes are made to the regulations.

G. Unified DBE Directory

By signature of this MOA the TUCP Partners agrees to:

- Develop and complete parameters for Unified DBE Directory.
- Compare UCP Certifying Partners databases.
- Remove duplicate DBE firms.
- Develop common databases however nothing in this agreement excludes the certifying partners from creating and maintaining separate databases for other programmatic needs.
- Develop procedures for electronic submission of DBE firms for inclusion in the Unified DBE Directory.
- Develop and issue press release on public access to online DBE Directory (information will be maintained on TXDOT Website).

V. CHANGES TO THE MOA

This MOA can be amended by approval of the majority of the TUCP Partners. Changes to this MOA shall require a majority agreement by the TUCP Certifying Partners. In cases where there is not a majority agreement, the issue will be forwarded to USDOT for resolution and the partners agree to execute the decision of USDOT by signature of this MOA.

VI. SUMMARY

As a result of the requirements set forth in 49 CFR Parts 26 and 23, we the undersigned, agree to participate in the STATE OF TEXAS'S Unified Certification Program in accordance with the provisions of this MOA and agree to abide by its contents

EXECUTED AND DELIVERED by and between the TUCP Partners as of the effective date of this MOA.

TUCP CERTIFYING PARTNERS

City of Austin John D. [Signature] for Verano Business Park February 17, 2012
 Name John D. [Signature] Title Certification
 Agency City of Austin Division Manager

City of Houston Carlton D. Wright February 17, 2012
 Name Carlton D. Wright Title Director, DCL
 Agency City of Houston Mayor's Office of Business Opportunity

[Signature]
 Corpus Christi Regional Transportation Authority February 17, 2012
 Name George G. [Signature] Title Managing Director of
 Agency Administration

[Signature]
 North Central Texas Regional Certification Agency February 17, 2012
 Name Sharon [Signature] Title Director
 Agency [Signature]

[Signature]
 South Central Texas Regional Certification Agency February 17, 2012
 Name Blaine L. Mitchell Title Executive Director
 Agency [Signature]

Texas Department of Transportation February 17, 2012
 Name [Signature] Title Deputy Director
 Agency [Signature]

Attachment 10

Regulations: 49 CFR Part 23 Website Link

The 49 CFR Part 23 Regulation is located on the Federal Aviation Administration website under Electronic Code of Federal Regulations at **<http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=28ecdda1f691b7384756be15d36f2bec&rgn=div5&view=text&node=49:1.0.1.1.17&idno=49>**.

Attachment 11

Goals and Elements for Privately-Owned or Leased Terminal Buildings Website Link

The goals and elements for privately-owned or leased terminal buildings are addressed in our Third Party Agreement Minority Owned and Women Owned Business Procurement Program Requirements Guidebook provided in a separate attachment. The Third Party Agreement Guidebook is located at **[http://www.austintexas.gov/sites/default/files/files/Small_Minority_Business/Compliance/Third Party Agreements/Third Party Developer Guide Book.pdf](http://www.austintexas.gov/sites/default/files/files/Small_Minority_Business/Compliance/Third_Party_Agreements/Third_Party_Developer_Guide_Book.pdf)**.