

ACDBE PROGRAM – 49 CFR PART 23

Airport Concessions DBE Program

POLICY STATEMENT

Section 23.1, 23.23

Objectives/Policy Statement

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

It is the policy of the County 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 at the Airport;
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 the eligibility standards of Part 23 are permitted to participate as ACDBEs at the Airport;
5. To help remove barriers to the participation of ACDBEs in opportunities for concessions at our airport(s); and
6. To provide appropriate flexibility to our airports in establishing and providing opportunities for ACDBEs.

Marie Fiore, Administrative Services Officer II has been designated as the ACDBE Liaison Officer (ACDBELO). In that capacity, Marie Fiore 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 County in its financial assistance agreements with the Department of Transportation.

The County will disseminate this policy statement to the Sacramento County Board of Supervisors and all of the components of our organization. We will distribute this statement to ACDBE and non-ACDBE concessionaire communities in our area by the following:

1. A copy of this policy statement will be posted on the County website (www.sacairports.org).
2. A copy of this policy will be made available to each attendee of all informational and pre-bid meeting dealing with concessions opportunities.
3. This policy statement will be provided to each and every entity that enters into a concession agreement with the County.

G. Hardy Acree, Director of Airports
Sacramento County Airport System

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

Section 23.5 Applicability

The Airport is a medium hub 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 County 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 DBE program, the County 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 County acknowledges these representations are also in accordance with obligations contained in its Civil Rights, DBE and ACDBE Airport grant assurances.

The County will include the following assurances in all concession agreements and management contracts it executes with any firm after July 1, 2008:

- (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 County will comply with and is subject to the provisions of 49 CFR Part 26 (§§ 26.101 and 26.105 through 26.107).

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The County 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.

The County'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.

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

Any person who knows of a violation of this part by the County 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 County's ACDBE program:

- (a) For a firm that does not meet the eligibility criteria of subpart C 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 49 CFR Part 29.
- (b) For a firm that, in order to meet ACDBE goals or other 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 C of this part, DOT or FAA may initiate suspension or debarment proceedings against the firm under 49 CFR Part 29.
- (c) In a suspension or debarment proceeding brought under paragraph (a) or (b) of this section, the FAA may consider the fact that a purported ACDBE has been certified. However, such certification does not preclude DOT from determining that the purported ACDBE, or another firm that has used or attempted to use it to meet ACDBE goals, should be suspended or debarred.
- (d) 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.
- (e) 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 County's ACDBE program or otherwise violates applicable Federal statutes.

SUBPART B – ACDBE Programs

Section 23.21 ACDBE Program Updates

Since the County is a medium hub primary airport we are required to have an ACDBE program. As a condition of eligibility for FAA financial assistance, the County will submit ACDBE program goals to FAA as required.

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Until our new ACDBE program is submitted and approved we 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 Sacramento International Airport.

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

Section 23.23 Administrative Provisions

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

ACDBE Liaison Officer (ACDBELO): We have designated the following individual as our ACDBELO:

Marie Fiore
Administrative Services Officer II
Business Services
Sacramento County Airport System
6900 Airport Blvd.
Sacramento, CA 95837
(916) 874-0660
FioreM@saccounty.net

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

The ACDBELO is responsible for developing, implementing and monitoring the ACDBE program, in coordination with other appropriate officials. The duties and responsibilities include the following

1. Gathers and reports statistical data and other information as required by FAA or DOT.
2. Works with all divisions to set overall annual goals.
3. Ensures that bid notices and requests for proposals are available to ACDBEs in a timely manner.
4. Analyzes County's progress toward attainment and identifies ways to improve progress.
5. Participates in pre-bid meetings.
6. Advises the County and Airport System Leadership on ACDBE matters and achievement.
7. Provides ACDBEs with information and assistance in preparing bids, obtaining bonding, financing, and insurance.
8. Participates in ACDBE training seminars.
9. Acts as liaison to the Uniform Certification Program in California.

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10. Provides outreach to ACDBEs and community organizations to advise them of opportunities.

The specific duties of other airport sections/divisions with responsibilities for the ACDBE Program are listed below:

Properties: Oversees the daily operation, monitoring and compliance of concession and car rental leases.

Accounting: Prepares and provides concessions and car rental revenue reports.

Marketing and Public Relations: Maintains information regarding DBE policy and concessions opportunities on the Airport website. Responsible for collaborative creation and distribution of DBE outreach materials and coordination of public outreach efforts.

Directory: The County through the California Uniform Certification Program (UCP), maintains a directory 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 UCP revises the directory monthly. We make the directory available through a link on our website (www.sacairports.org) to www.dot.ca.gov/hq/bep/ucp .

Section 23.25 Ensuring Nondiscriminatory Participation of ACDBEs

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

1. We will follow all federal, state and local nondiscrimination laws, as well as comply with all County policies and procedures designed to ensure nondiscrimination. These laws, policies and procedures, include but are not limited to: Title VI and the regulations found at 49 CFR Parts 23 and 26.
2. We will ensure that all concessions businesses, and businesses that work with concessionaires, have a fair and equal opportunity to participate in concessions opportunities offered by the Airport.
3. We will ensure that the Airport personnel with responsibility for the administration of this program will engage in appropriate continuing education, including attendance at annual training seminars and professional conferences.

The Airport has consistently, and will continue to include the following language in all concession agreements at Sacramento International after July 1, 2008, as specified in Exhibit E, Section B, Paragraph 16, which provides:

"16. It is the policy of the Department of Transportation (DOT) that disadvantaged and minority business enterprises as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of leases as defined in 49 CFR 23.5. Consequently, these leases are subject to 49 CFR Part 23, as applicable. "LESSEE" hereby covenants and agrees that no person shall be excluded from participation in, denied the benefits of or otherwise discriminated against in connection with the award and performance of any contract, including leases, covered by 49 CFR Part 23 on the grounds of race, color, national origin or sex. "LESSEE" agrees that it will include the above clauses in all sub-leases and cause sublessees to similarly include the clauses in further sub-leases."

:

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

Pursuant to current Guidance from the United States Department of Transportation with respect to the holding by the 9th Circuit in *Western States Paving Co. v. U.S. Dept. of Transportation*, 407 F. 3d 983 (2005), the County of Sacramento shall operate a race neutral program with respect to DBE participation until such time as the State of California or the County of Sacramento has completed studies required by the 9th Circuit sufficient to support a specific DBE Goal in this business area. (Current Federal Transit Administration/ Department of Transportation Guidance exists in the Federal Register / Vol. 71, No. 56, pages 14775 – 14778.)

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

Section 23.27 Reporting

Despite the race neutral aspect of our current DBE program, the County continues to encourage DBE participation by County business associates. In the event that the Consultant or any sub-component of the Consultant qualifies as a DBE under traditional federal definitions, the Consultant shall continue to provide records of such DBE participation for County, state and federal record-keeping purposes. Under these circumstances, we request the following information:

1. The name and address of each DBE that will participate in the project.
2. A description of the work that each DBE will perform on project.
3. The dollar amount of the participation of each DBE on the first project.
4. Certification of DBE status for each DBE on the project.
5. Written and signed confirmation from the DBE that it is participating in the project as described in the Consultant's commitment.

We 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 July 1, 2008 we 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 County will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 23.

1. We will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.

2. We 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 monthly reporting of prime concessionaires.
3. In our reports of ACDBE participation to FAA, we will show both commitments and attainments, as required by the DOT reporting form.

SUBPART C – CERTIFICATION AND ELIGIBILITY

Section 23.31 DBE/ACDBE Certification

We 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. We are a member of a Unified Certification Program (UCP) administered by the State of California Department of Transportation (CalTrans) which will make certification decisions on behalf of the County for ACDBEs.

The UCP's directory of eligible DBEs will specify whether a firm is certified as a DBE for purposes of Part 26, an ACDBE for purposes of Part 23, or both.

CalTrans will review the eligibility of currently certified ACDBEs to make sure that they meet the standards of Part 23.

SUBPART D – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 23.41 Basic Overall Goal Requirement

The County 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 County will review the goals annually to make sure the goal continues to fit the County's circumstances. The County 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 County will not submit an overall goal for car rentals. Likewise, if the average annual concession revenues for concessions other than car rentals over the preceding 3 years do not exceed \$200,000, we need not submit an overall goal for concessions other than car rentals. We understand that "revenue" means total revenue generated by concessions, not the fees received by the Airport from concessionaires.

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

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businesses, the effects of discrimination on opportunities for ACDBEs, and the County's efforts to increase participation of ACDBEs.

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

Section 23.45 Overall Goals

The Airport is a *medium hub primary* airport. As a condition of eligibility for FAA financial assistance, the County will submit its goals and updates every 3 years on October 1, beginning October 1, 2011.

The County 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 County'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 County 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)

A description of the methodology to calculate the overall goal for concessions other than car rentals, the goal calculations, and the data we 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))

Pursuant to current Guidance from the United States Department of Transportation with respect to the holding by the 9th Circuit in *Western States Paving Co. v. U.S. Dept. of Transportation*, 407 F. 3d 983 (2005), the County of Sacramento shall operate a race neutral program with respect to DBE participation until such time as the State of California or the County of Sacramento has completed studies required by the 9th Circuit sufficient to support a specific DBE Goal in this business area. (Current Federal Transit Administration/ Department of Transportation Guidance exists in the Federal Register / Vol. 71, No. 56, pages 14775 – 14778.)

This section of the program will be reviewed annually when the goal calculation is reviewed under 23.41(c).

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 County 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.

Pursuant to current Guidance from the United States Department of Transportation with respect to the holding by the 9th Circuit in *Western States Paving Co. v. U.S. Dept. of Transportation*, 407 F. 3d 983 (2005), the County of Sacramento shall operate a race neutral program with respect to DBE participation until such time as the State of California or the County of Sacramento has completed studies required by the 9th Circuit sufficient to support a specific DBE Goal in this business area.

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(Current Federal Transit Administration/ Department of Transportation Guidance exists in the Federal Register / Vol. 71, No. 56, pages 14775 – 14778.)

Despite the race neutral aspect of our current DBE program, the County continues to encourage DBE participation by County business associates. In the event that the Contractor or any sub-component of the Contractor qualifies as a DBE under traditional federal definitions, the Contractor shall continue to provide records of such DBE participation for County, state and federal record-keeping purposes. Under these circumstances, we request the following information:

6. The name and address of each ACDBE that will participate under this agreement.
7. A description of the work that each ACDBE will perform under this agreement.
8. The dollar amount of the participation of each ACDBE under this agreement.
9. Certification of DBE status for each ACDBE under this agreement.
10. Written and signed confirmation from the DBE that it is participating under this agreement as described in the Contractor's commitment.

Section 23.53 Counting ACDBE Participation for Car Rental Goals

We will count ACDBE participation toward overall goals for car rentals as provided in 49 CFR 23.53 as modified, if necessary, by our waiver request if approved.

Section 23.55 Counting ACDBE Participation for Concessions Other than Car Rentals

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

Section 23.61 Quotas or Set-asides

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

SUBPART E – OTHER PROVISIONS

Section 23.71 Existing Agreements

We 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. We will use only race-neutral means to obtain a modified amount of ACDBE participation in the renewed or amended agreement.

Section 23.75 Long-Term Exclusive Agreements

We will not enter into a long-term exclusive agreement for concessions without prior approval of the FAA Regional Civil Rights Office. We understand that a “long-term” agreement is one having a term of longer than 5 years. We 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, we will submit detailed information to the FAA Regional Civil Rights Office for review and approval.

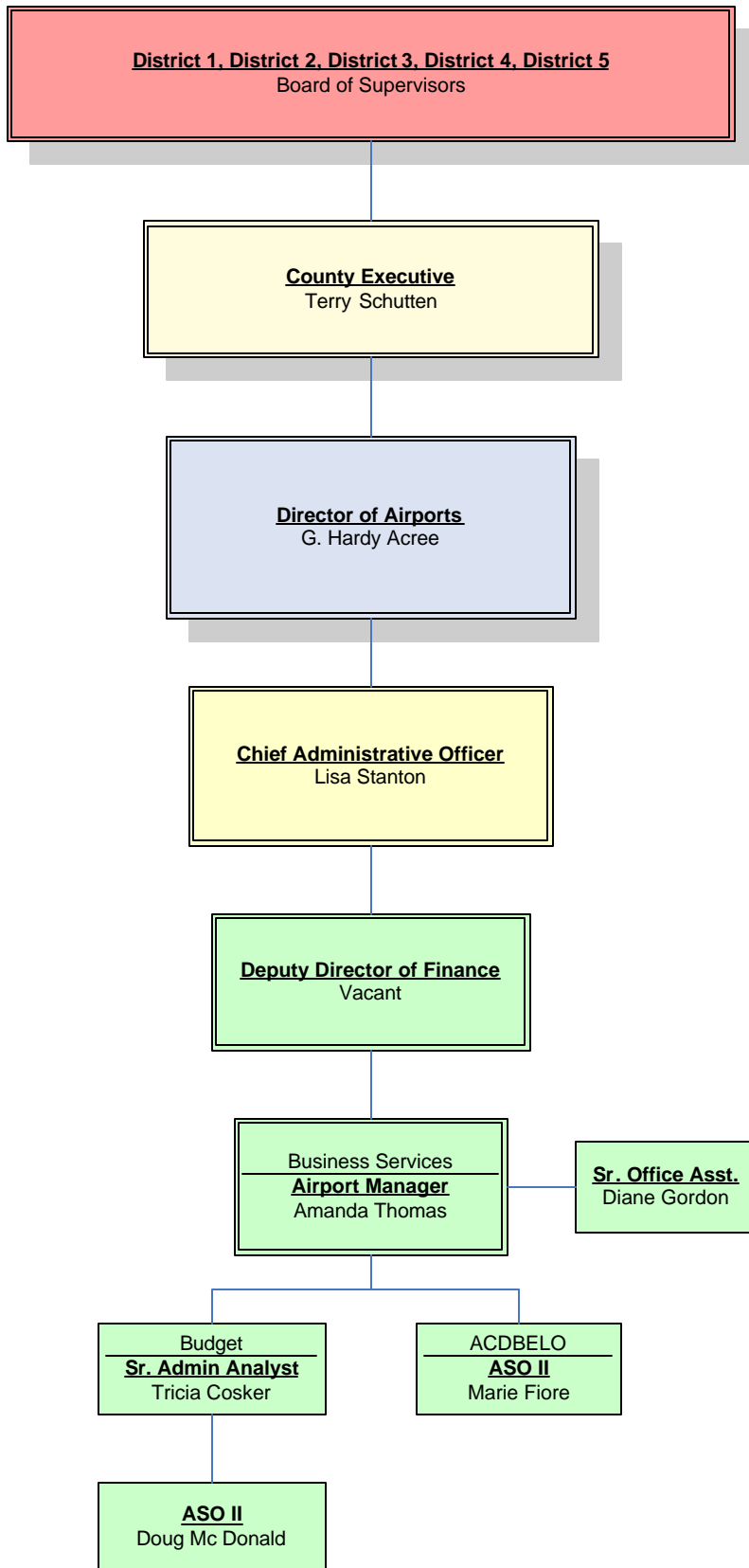
Section 23.79 Geographic Preferences

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

ATTACHMENTS

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|--------------|---|
| Attachment 1 | Organizational Chart |
| Attachment 2 | DBE Directory |
| Attachment 3 | Monitoring and Enforcement Mechanisms |
| Attachment 4 | Overall Goal for Concessions other than Car Rental Calculation,
Consultation, Breakout of Estimated Race-Neutral Participation |
| Attachment 5 | Request for a Waiver with Respect to Car Rental Goals Calculations and
Supporting Justification |
| Attachment 6 | Regulations: 49 CFR Part 23 |

Attachment 1
Organizational Chart – Sacramento County Airport System



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Attachment 2

ACDBE Directory

A complete up to date list of certified DBEs is available at <http://www.dot.ca.gov/hq/bep/ucp.htm>

Attachment 3

Monitoring and Enforcement Mechanisms

The County has available several remedies to enforce the ACDBE requirements contained in its contracts, including, but not limited to, breach of contract action, pursuant to the terms of the agreement/lease.

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

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

The County will implement various mechanisms to monitor program participants to ensure they comply with Part 23, including, but not limited to, verification of DBE certification status, request for revenue statements, and regular review of agreement terms and conditions for compliance.

Attachment 4

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

Amount of Goal

County's overall goal for concessions other than car rental during the period beginning October 1, 2008 and ending September 30, 2011 is the following: 15.06% of the total gross receipts for concessions at Sacramento 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 projected to generate estimated gross receipts revenue of \$40,777,026 (per 2006-07 revenues) annually.

The County has determined that it draws from a national market area for concessions opportunities.

Methodology used to Calculate Overall Goal

Goods and Services

The County can meet the percentage goal by including the purchases of concessionaires from ACDBEs of goods and services used in business conducted at the Airport. The County will 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

We can meet the percentage goal by including any business operated through a management contract or subcontract with an ACDBE. We, 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.

Step 1: 23.51(c)

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

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

The data source or demonstrable evidence used to derive the numerator was Census Bureau Data.

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The data source or demonstrable evidence used to derive the denominator was Census Bureau Data.

SIC Code*	Major Industry Group (SIC based)	All Firms	Minority/ Woman-owned firms
48	Communications	17,597	1,459
56	Apparel and Accessory Stores	53,890	8,272
58	Eating & Drinking Places	363,179	79,941
59	Miscellaneous Retail	274,074	28,883
60	Depository Institutions	23,498	826

*[Census Bureau Data at www.census.gov/epcd/cbp/view/cbpview.html – identification of NAICS codes used is detailed below)

COMMUNICATIONS (SIC Major Group 48)

This major group includes establishments furnishing point-to-point communications services, whether intended to be received aurally or visually; and radio and television broadcasting. This major group also includes establishments primarily engaged in providing paging and beeper services, and those engaged in leasing telephone lines or other methods of telephone transmission, such as optical fiber lines and microwave or satellite facilities, and reselling the use of such methods to others. Establishments primarily engaged in furnishing telephone answering services are classified in Services, Industry 7389.

APPAREL AND ACCESSORY STORES (SIC Major Group 56)

This major group includes retail stores primarily engaged in selling clothing of all kinds and related articles for personal wear and adornment. Not included are establishments which meet the criteria for Department Stores (SIC 531) or Miscellaneous General Merchandise Stores (SIC 539) even though most of their receipts are from the sale of apparel and apparel accessories.

EATING AND DRINKING PLACES (SIC Major Group 58)

This major group includes retail establishments engaged in selling prepared food and drinks for consumption on the premises. Also included are caterers which serve prepared food other than at the place of business and lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption. In-plant food contractors are included here as well as leased eating and drinking concessions in hotels, motels, sports arenas, and other amusement places.

MISCELLANEOUS RETAIL (SIC Major Group 59)

This major group includes retail establishments not elsewhere classified. These establishments fall into the following categories: liquor stores; used merchandise stores; miscellaneous shopping goods stores; nonstore retailers, fuel dealers, florists, cigar stores and stands, news dealers and newsstands, and miscellaneous retail stores not elsewhere classified.

DEPOSITORY INSTITUTIONS (SIC Major Group 60)

This major group includes institutions that are engaged in deposit banking or closely related functions, including fiduciary activities.

When we divided the numerator by the denominator we arrived at the base figure for our overall goal for non-car rental concessions of: 6.64%

$$\frac{119,381 \text{ minority/woman-owned firms}}{792,238 \text{ total number of firms}} = 15.06\% \text{ DBE availability}$$

Step 2: 23.51(d)

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

At this time, the County has deemed a 15.06% DBE goal to be reasonable and no adjustment will be made.

Consultation with Stakeholders (23.43)

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

Airport Minority Advisory Council
R2345 Crystal Drive, Ste. 902
Arlington, VA 22202

Black Chamber of Commerce
2251 Florin Rd. #132
Sacramento, CA 95822

Asian Pacific Chamber of Commerce
2012 H Street, Ste 202
Sacramento, CA 95811

Sacramento Urban League
3725 Marysville Blvd
Sacramento, CA 95838

Sacramento Metropolitan Chamber of Commerce
One Capitol Mall, Suite 300,
Sacramento, CA 95814

Sacramento Hispanic Chamber of Commerce
1491 River Park Dr
Sacramento, CA 95815

Response from these organizations had yet to be received at the time this report was submitted to the FAA for approval. If a response is received after this goal program is adopted, it will be forwarded to the FAA for review.

Breakout of Estimated Race-Neutral & Race Conscious Participation

Section 23.51

The County will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating ACDBE participation. The County uses the following race-neutral measures to increase ACDBE participation. We understand that we will be expected to actually take these steps, and this is not merely a paper exercise.

1. *Locating and identifying ACDBEs and other small businesses who may be interested in participating as concessionaires under 49 CFR Part 23;*
2. *Notifying ACDBEs of concession opportunities and encouraging them to compete, when appropriate;*
3. *When practical, structuring concession activities so as to encourage and facilitate the participation of ACDBEs;*
4. *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 County's ACDBE program will affect the procurement process;*
6. *Providing information concerning the availability of ACDBE firms to competitors 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.*

We estimate that, in meeting our overall goal of 15.06%, we will obtain 15.06% from race-neutral participation and 0% through race-conscious measures.

Attachment 5

Section 23.45: Overall Goal Calculation for Car Rentals

REQUEST FOR 23.13 (d) WAIVER and JUSTIFICATION

for

Establishing the Airport Concessionaires Disadvantaged Business Enterprise (ACDBE) Car Rental Goal for:

Sacramento County Airport System
Sacramento, California

In compliance with the U.S. Department of Transportation regulations 49 CFR Part 23, issued March 22, 2005, and effective April 21, 2005 ("ACDBE Regulations"), the Sacramento County Airport System respectfully request a waiver under 49 CFR 23.13(d) in order to use an alternative method to set goals for car rentals concessions.

It has been increasingly difficult to determine a geographic market area for car rentals as almost all rental car companies are national chains. DBE participation among car rental companies has historically been accomplished through the purchase and service of vehicles by DBE vendors. In researching other airports' approach to car rental goals and industry standards, the County has found this problem to be common. Information provided by the FAA that was most recently published March 5, 2008 (<http://www.naylornetwork.com/aci-nwl/update-v2.asp?projid=1202>) indicates an effort underway to nationalize the car rental DBE goal.

In the meeting between rental car companies, minority businesses and airport representatives, the FAA disclosed it would seek a national solution rather than an airport-by-airport program. Under its contemplated program, rental car companies would submit national DBE goals to the FAA for review and evaluation. The current requirement is that each individual airport establish DBE participation goals for its rental car companies. The FAA anticipates that a notice of proposed rulemaking (NPRM) will be published early next year.

At this time, we request the waiver be approved only until such time that a national DBE goal is established or until 2011, when our next DBE Concession Program update is submitted. If, at that time, no national goal has been established, we will re-evaluate our goal methodology.

We will continue to include car rental DBE participation in all DBE achievement reporting to the FAA, as required.

Attachment 6

49 CFR Part 23

The electronic Code of Federal Regulations (eCFR), Title 49 (Transportation) Part 23 (Participation Of Disadvantaged Business Enterprise In Airport Concessions) can be found at:

www.gpoaccess.gov/ECFR/