



## *Los Angeles World Airports*

### **Airport Concession Disadvantaged Business Enterprise (ACDBE) Program**

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**Airport Concession Disadvantaged Business Enterprise (ACDBE) Program**

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## ACDBE PROGRAM

### POLICY STATEMENT

#### **Section 23.1, 23.23 Objectives/Policy Statement**

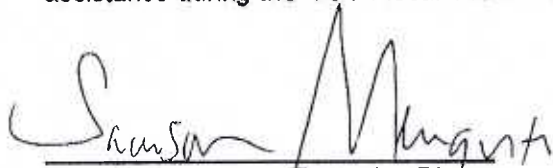
The Los Angeles World Airports of the City of Los Angeles, herein referred to as LAWA has established an Airport Concession Disadvantaged Business Enterprise (ACDBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 23. The Los Angeles International Airport (LAX) owned and operated by LAWA is a primary airport and has received federal funds authorized for airport development after January 1988 (authorized under Title 49 of the United States Code). LAWA has signed airport grant assurances that it will comply with 49 CFR Part 23.

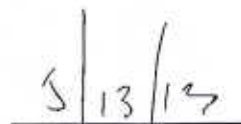
It is the policy of LAWA to ensure that ACDBEs as defined in Part 23, have an equal opportunity to receive and participate in concession opportunities. It is also our policy:

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 our airport(s);
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.

The Director of Procurement Services Division has been designated as the ACDBE Liaison Officer (ACDBELO). In that capacity, 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 LAWA in its financial assistance agreements with the Department of Transportation.

This policy statement will be available for public access on LAWA's website ([www.lawa.org](http://www.lawa.org)). The link to LAWA website will also be listed on all solicitation documents qualified for DOT assistance during the DOT Fiscal Years 2011-2014.

  
Gina Marie Lindsey, Executive Director

  
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**

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

### **Section 23.5 Applicability**

LAX 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**

LAWA 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, LAWA 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.

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

LAWA will ensure the following clause is included in all concession contract solicitations and is incorporated as part of the contract:

Pursuant to United States Department of Transportation 49 Code of Federal Regulations (CFR) Subtitle A, Part 23, it is the policy of Los Angeles World Airports (LAWA) to provide Airport Concessions Disadvantaged Business Enterprises (ACDBEs) the opportunity to compete for and participate in the performance of all LAWA contracts. Current and prospective contractors, subcontractors, lessees, permittees, and concessionaires shall assist LAWA in implementing this policy by taking the necessary measures to ensure meaningful and equitable participation by ACDBEs and to encourage and facilitate the development of new and existing ACDBEs.

LAWA shall review and, where appropriate, establish levels of participation for all Federally-funded contracts and contract amendments. LAWA also will establish annual goals in accordance with the City of Los Angeles and applicable United States Department of Transportation requirements for ACDBE participants. LAWA will develop an aggressive outreach program, consistent with and complementary to Citywide outreach effort. Additionally, LAWA's contract awarding procedures and regular compliance monitoring will be used to insure proper and full utilization of ACDBEs and achievement of contract goals.



The objective of this policy is to achieve the participation of ACDBEs at levels comparable to their availability to provide goods and services to LAWA with the ultimate goal of developing their status and expertise so that they may compete for future contracts on an equal basis with other successful non-ACDBE firms. No person, however, shall be excluded from participation in, denied the benefits of, or otherwise discriminated against, in connection with the award and performance of any contract on the basis of race, color, sex, or national origin.

### **Section 23.11 Compliance and Enforcement**

LAWA will comply with and is subject to the provisions of 49 CFR Part 26 (§§ 26.101 and 26.105 through 26.109).

LAWA 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.

LAWA 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: FAA may review LAWA's compliance with this part at any time, including but not limited to, reviews of paperwork, on-site reviews, and review of LAWA'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 LAWA 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 LAWA 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 LAWA's ACDBE program or otherwise violates applicable Federal statutes.

## **SUBPART B – ACDBE PROGRAMS**

### **Section 23.21 ACDBE Program Updates**

LAX is a large hub primary airport required to have an ACDBE program.

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

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

This ACDBE program will be implemented at LAX and LA/Ontario International Airport (LA/ONT).

Although this program document applies to all of the above Airports, as required by 23.21(c), LAWA has established separate ACDBE goals for each primary airport (Attachments 3).

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

### **Section 23.23 Administrative Provisions**

**Policy Statement:** LAWA is committed to operating its ACDBE program in a nondiscriminatory manner.

LAWA's Policy Statement is elaborated on the first page of this program.

**ACDBE Liaison Officer (ACDBELO):** LAWA has designated the following individual as our ACDBELO:

Karen Tozer, Director  
Los Angeles World Airports  
Procurement Services Division  
7301 World Way West, 4th Floor  
Tel: 424-646-5380  
Fax: 424-646-9274  
Email: [ktozer@lawa.org](mailto:ktozer@lawa.org)



In that capacity, the ACDBELO or her designee is responsible for implementing all aspects of the ACDBE program and ensuring that LAWA complies with all provision of 49 CFR Part 23. The ACDBELO has direct, independent access to the Executive Director of Los Angeles World 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. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to ACDBEs in a timely manner.
5. Identifies contracts and procurements so that ACDBE goals are included in solicitations (both race-neutral methods and contract specific goals)
6. Analyzes LAWA's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO/governing body on ACDBE matters and achievement.
9. Chairs the ACDBE Advisory Committee.
10. Provides ACDBEs with information and assistance in preparing bids, obtaining bonding, financing, and insurance; acts as a liaison to the OSD-BU-Minority Resource Center (MRC).
11. Plans and participates in ACDBE training seminars.
12. Acts as liaison to the Unified Certification Program (UCP) in California.
13. Provides outreach to ACDBEs and community organizations to advise them of opportunities.
14. Maintains LAWA's updated directory on certified ACDBEs and distinguishes them from DBEs.

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

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

The UCP revises the Directory daily. The Directory may be found in Attachment 2 to this program document (26.31).





### **Section 23.25 Ensuring Nondiscriminatory Participation of ACDBEs**

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

LAWA 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)).

LAWA's overall goal methodology and a description of the race-neutral measures will be used to meet the goals are described in Section 23.25 and Attachment 3 of this plan. The goals are set consistent with the requirements of Subpart D (23.25(b), (d)).

If LAWA projects that race-neutral measures alone, are not sufficient to meet an overall goal, it will use race-conscious measures as described in Section 23.25 (e) (1-2) and Attachment 3 and 4 of this plan (23.25(e)).

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

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

### **Section 23.27 Reporting**

LAWA 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 three years following the end of the concession agreement or other covered contract.

Beginning March 1, 2006, LAWA will submit to the FAA Regional Civil Rights Office, an annual ACDBE participation report on the form in Appendix A of Part 23. We will submit the report to the FAA Regional Civil Right Office via hard copy of the form or electronically via the DBE Office Online Reporting System (DOORS).

### **Section 23.29 Compliance and Enforcement Procedures**

LAWA will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 23.

1. LAWA 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 Section 26.107.
2. LAWA will consider similar action under our own legal authorities, including responsibility determinations in future contracts. If the concessionaire fails to maintain the level of ACDBE participation described in Concessionaire's proposal, or to make good faith effort, as determined by LAWA, LAWA shall have the right to cancel or terminate the agreement in its





entirety and all rights ensuing therefrom upon giving a thirty (30) days written notice to Concessionaire.

### **SUBPART C – CERTIFICATION AND ELIGIBILITY**

**Section 23.31** LAWA will use the procedures and standards of Part 26, except as provided in Section 23.31, for certification of ACDBEs to participate in our concessions program and such standards are incorporated herein.

LAWA is the member of a Unified Certification Program (UCP) administered by the State of California. The UCP will meet all of the requirements of this section.

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, LAWA will review their eligibility at that time (i.e., "as soon as possible") rather than waiting until the latest date allowed under Part 23.

LAWA 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 it's 1,500 employees; and for ACDBE automobile dealers it's 350 employees.

**Section 23.35** The personal net worth standard used in determining eligibility for purposes of Part 23 is \$1.32 million.

LAWA recognizes that Personal Net Worth (PNW) means the net value of the assets of an individual remaining after total liabilities are deducted. An individual's 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 PNW 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 PNW exceeding this amount is not a socially and economically disadvantaged individual, even if he/she is a member of a group otherwise presumed to be disadvantaged (See 23.3 - Personal Net Worth definition and 23.35).



LAWA will presume that a firm certified as a DBE under Part 26 is eligible to participate as an ACDBE. However, before certifying such a firm, LAWA 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. LAWA is 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).

LAWA recognizes that the provisions of Part 26, sections 26.83(c)(2-6) do not apply to certifications for purposes of Part 23. LAWA will obtain resumes or work histories of the principal owners of the firm and personally interview these individuals. LAWA will analyze the ownership of stock of the firm if it is a corporation. LAWA will analyze the bonding and financial capacity of the firm. LAWA will determine the work history of the firm, including any concession contracts or other contracts it may have received. LAWA 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. LAWA 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. LAWA will ensure that the ACDBE firm meets the applicable size standard (23.39(a)(b)).

LAWA 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, LAWA may continue to count the concessionaire's participation toward ACDBE goals during the remainder of the current concession agreement. LAWA 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)).

LAWA will use the Uniform Application Form found in Appendix F to Part 26 with additional instruction as stated in 23.39(g).

## **SUBPART D – GOALS, GOOD FAITH EFFORT, AND COUNTING**

### **Section 23.41 Basic Overall Goal Requirement**

LAWA has established an overall ACDBE goal for concessions other than car rentals. The overall goals will cover a three-year period and LAWA will review the goals annually to make sure the goal continues to fit the circumstances. LAWA will report any significant overall goal adjustments to FAA.

If the average annual concession revenues for concessions other than car rentals over the preceding three-year do not exceed \$200,000, LAWA needs not submit an overall goal for concessions other than car rentals. LAWA understands that "revenue" means total revenue generated by concessions, not the fees received by the airport from concessionaires.

LAWA'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

LAWA will consult with stakeholders before submitting the overall goals to the FAA. Stakeholders will include, but not be limited to, minority and women's business groups, community organizations, trade associations representing concessionaires currently located at the airport, as well as existing concessionaires themselves, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged businesses, the effects of discrimination on opportunities for ACDBEs, and LAWA's efforts to increase participation of ACDBEs.

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

### Section 23.45 Overall Goals

LAX is a large hub primary airport. As a condition of eligibility for FAA financial assistance, LAWA will submit its overall goals according to the following schedule:

Primary Airport Size	Region	Date Due	Period Covered	Next Goal Due
Large/Medium Hubs	All regions	October 1, 2011	2012/2013/2014	October 1, 2014 (2015/2016/2017)
Small Hubs	All regions	October 1, 2012	2013/2014/2015	October 1, 2015 (2016/2017/2018)
Non-Hubs	All regions	October 1, 2010	2011/2012/2013	October 1, 2013 (2014/2015/2016)

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

LAWA will establish overall goals in accordance with the two-step process as specified in Section 23.51. After determining the total gross receipts for the concession activity, the first step is to determine the relative availability of ACDBEs in the market area, "base figure". The second step is to examine all relevant evidence reasonably available in LAWA'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 LAWA 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, data on employment, self-employment, education, training, or union apprenticeship).

LAWA will arrange solicitations 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 LAWA relied on can be found in Attachment 3 to this program.

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

The breakout of estimated race-neutral participation can be found with the goal methodology in Attachments 3 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 (Also include this language in the DBE goal attachment)(23.25 (c)(e)(1)(iv))

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

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

LAWA needs 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, LAWA 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, LAWA 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 Effort on Concession Specific Goals (23.25(e)(1)(iii) & (iv))

To be eligible to be awarded a concession that has a concession specific goal, Bidders/Offerors must make good faith effort to meet the goal. A Bidder/Offeror may do so either by obtaining enough ACDBE participation to meet the goal or by documenting that it made sufficient good faith effort to do so (23.25(e)(1) & (iv)). Examples of good faith effort 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 LAWA concession specific goals.

#### Demonstration of Good Faith Effort (26.53(a) & (c))



LAWA's Procurement Services Division is responsible for determining whether a concessionaire who has not met the concession specific goal has documented sufficient good faith effort to be regarded as responsive.

LAWA will ensure that all information is complete and accurate and adequately documents the Bidder/Offeror's good faith effort before we commit to the concession agreement with the Bidder/Offeror.

#### Information to be Submitted (26.53(b))

LAWA treats Bidder/Offeror's compliance with good faith effort requirements as a matter of responsiveness.

Each solicitation for which a concession specific goal has been established will require the concessionaires to submit the following information:

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

#### Administrative Reconsideration (26.53(d))

Within three (3) days of being informed by LAWA that it is not responsive because it has not documented sufficient good faith effort, a concessionaire may request administrative reconsideration. Concessionaire should make this request in writing to the following reconsideration official:

Director of Procurement Services Division  
Los Angeles World Airports  
7301 World Way West, 4<sup>th</sup> Floor  
Los Angeles, CA 90045

The reconsideration official will not have played any role in the original determination that the concessionaire did not document sufficient good faith effort.

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

#### Good Faith Effort When an ACDBE is Replaced on a Concession (26.53(f))



LAWA will require a concessionaire to make good faith effort 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. LAWA will require the concessionaire to notify the ACDBELO immediately of the ACDBEs inability or unwillingness to perform and provide reasonable documentation.

In this situation, LAWA 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 effort.

If the concessionaire fails to make good faith effort, as determined by LAWA, LAWA shall have the right to cancel or terminate the agreement in its entirety and all rights ensuing therefrom upon giving a thirty (30) days written notice to concessionaire.

#### 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 LAWA 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 23.2 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 effort, as defined in Appendix A, 49 CFR Part 26 (Attachment 5), 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; and (5) If the contract goal is not met, evidence of good faith effort.

[Note: When a concession specific goal is established pursuant to LAWA's ACDBE program, the sample proposal/bid specification can be used to notify concession firms of the requirements to make good faith effort. The forms found at Attachment 5 can be used to collect information necessary to determine whether the concession firm has satisfied these requirements. A proposal/bid specification is required only when a concession specific goal is established.]

#### **Section 23.55 Counting ACDBE Participation for Concessions Other than Car Rentals**

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

#### **Section 23.57(b) What Happens if a Recipient Falls Short of Meeting its Overall Goals?**

If the awards and commitments on LAWA's Uniform 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, LAWA will:





- (1) Analyze in detail the reasons for the difference between the overall goal and LAWA's awards and commitments in that fiscal year;
- (2) Establish specific steps and milestones to correct the problems LAWA has identified in the analysis to enable LAWA to fully meet our goal for the new fiscal year;
- (3) (i) LAWA will 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. If FAA approves the report, LAWA will be regarded as complying with the requirements of this section for the remainder of the fiscal year.  
  
(ii) As an airport not meeting the criteria of paragraph (b)(3)(i) of this section, LAWA will retain analysis and corrective actions in our records for three-year and make it available to FAA, on request, for its review.
- (4) LAWA understands the FAA may impose conditions as part of its approval of our analysis and corrective actions including, but not limited to, modifications to our overall goal methodology, changes in our race-conscious/race-neutral split, or the introduction of additional race-neutral or race-conscious measures.
- (5) LAWA understands we may be regarded as being in noncompliance with this part, and therefore subject to the remedies in § 23.11 of this part and other applicable regulations, for failing to implement our ACDBE program in good faith if any of the following things occur:
  - (i) LAWA does not submit our analysis and corrective actions to FAA in a timely manner as required under paragraph (b)(3) of this section;
  - (ii) FAA disapproves LAWA's analysis or corrective actions; or
  - (iii) LAWA does not fully implement:
    - (a) The corrective actions to which LAWA has committed,
    - (b) Conditions that FAA has imposed following review of LAWA's analysis and corrective actions, or
    - (c) If information coming to the attention of FAA demonstrates that current trends make it unlikely that LAWA, as an airport, will achieve ACDBE awards and commitments that would be necessary to allow LAWA to meet our overall goal at the end of the fiscal year, FAA may require LAWA to make further good faith effort, such as modifying our race-conscious/race-neutral split or introducing additional race-neutral or race-conscious measures for the remainder of the fiscal year.

#### **Section 23.61 Quotas or Set-asides**

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



## **SUBPART E – OTHER PROVISIONS**

### **Section 23.71 Existing Agreements**

LAWA 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. LAWA will use any means authorized by Part 23 to obtain a modified amount of ACDBE participation in the renewed or amended agreement.

### **Section 23.75 Long-Term Exclusive Agreements**

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

### **Section 23.79 Geographic Preferences**

LAWA will not use a “local geographic preference”, i.e. any requirement that gives an ACDBE located in one place an advantage over ACDBEs from other places in obtaining business as, or with, a concession at our airports.



**ATTACHMENTS**

Attachment 1	Organizational Chart
Attachment 2	DBE/ACDBE Directory
Attachment 3	Overall Goal for Concessions other than Car Rental Calculation, Consultation, Breakout of Estimated Race-Neutral Participation
Attachment 4	Certification Process for Contract Review and Monitoring
Attachment 5	Form and Information for ACDBE Program and Demonstration of Good Faith Effort
Attachment 6	Certification Application Forms
Attachment 7	Procedures for Removal of ACDBEs Eligibility
Attachment 8	State's UCP Agreement
Attachment 9	Regulations: 49 CFR Part 23





**Attachment 1**

**Organizational Chart**





*Los Angeles World Airports*

**Attachment 2**

**State of California DBE Directory**

Access through the following website:

**[http://www.dot.ca.gov/hq/bep/find\\_certified.htm](http://www.dot.ca.gov/hq/bep/find_certified.htm)**



### **Attachment 3**

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

##### **Amount of Goal**

##### **Name of Recipient:**

Los Angeles World Airports (LAWA)

**Goal Period:** FY 2012-2014 (October 1, 2011 through September 30, 2014)

##### **Overall Three-Year Goal:**

Los Angeles International Airport (LAX)  
23.2%, to be accomplished through 0% RC and 23.2% RN

Los Angeles/Ontario International Airport (LA/ONT)  
14%, to be accomplished through 0% RC and 14% RN

LAWA's overall ACDBE Goal  
23.1%, to be accomplished through 0% RC and 23.1% RN

LAWA determined the market area is as follows:

- Los Angeles County
- Orange County
- Inland Empire

#### **OVERALL GOAL - THE THREE-STEP PROCESS**

##### **Concessions (Other than Car-Rental)**

Step 1: **Calculate relative ACDBE availability (ready, willing, and able)** - Through an analysis of the UCP Directories, which lists ACDBEs by NAICS category, and LAWA's Concessions Active Participants List, which identifies both ACDBE and non- ACDBE firms.

LAWA calculates the relative ACDBE availability from two data sources: The LAWA's Concessions Division Active Participants List and the UCP Directories.

**LAWA's Commercial Development Group Active Participants List-** The Active Participants is a race-neutral data source maintained by LAWA's Commercial Development Group. This data source contains all concessions firms, ACDBE and non-ACDBE, that have expressed a desire to operate concessions at LAWA in response to LAWA's recent outreach efforts. A comparison was made of those firms certified as ACDBE to the total contained within the database to obtain the base percentage that will be applied to the total gross receipts of all U.S. DOT-assisted LAWA concessions contracts.

**LAWA's base percentage of available ACDBE is 22.3%**  
**(133 Certified ACDBEs + 596 Total Participants List)**



**UCP Directories:** The source of information identifying the available ACDBE was the California Unified Certification Program. Three databases were utilized; each is an active participant approved by the California Unified Certification Program.

1. Caltrans Business Enterprise Program
2. Los Angeles County Metropolitan Transportation Authority
3. City of Los Angeles Certified Business Enterprises

The data is available in an electronic on-line format, with the capability to sort using vendor names and/or the NAICS Codes. LAWA was able to search all three databases for contractors certified in these specific areas related to airport concession activities:

- Advertising, NAICS codes 541810 & 541890
- ATM, Banking & Financial Services, NAICS Code 522320
- Baggage/Luggage Service & Sales, NAICS Code 448320
- Misc. Business Service Listing
  - ❖ Camera & Photographic Service, NAICS Code 443130
  - ❖ Janitorial Services, NAICS Codes 561720
  - ❖ Vending Machine Operators, NAICS Code 454210
  - ❖ Florist, NAICS Code 453110
  - ❖ Nail Salon, NAICS Code 812113
- Caterers, NAICS Code 722320
- Consulting Services, NAICS Code 541613
- Duty Free & Retail Stores
  - ❖ Luggage and Leather Goods Stores, NAICS Code 448320
  - ❖ Office/Computer Supplies, NAICS Code 453210
  - ❖ Cosmetics, Beauty Supplies, and Perfume Stores, NAICS Code 446120
  - ❖ Jewelry Stores, NAICS Code 448310
  - ❖ Women's Men's & Children's Clothes, NAICS Codes 448110, 448120 & 448190
- Food & Beverages Concessions
  - ❖ Full Service Restaurants, NAICS Code 722110
  - ❖ Food Service Contractors, NAICS Code 722310
  - ❖ Bakeries, NAICS Code 445291
  - ❖ Drinking Places (Alcoholic & Non Alcoholic), NAICS Codes 722213 & 722410
  - ❖ Confectionery, Nuts & Snacks, NAICS Code 45262
- Gifts, News, Florist & Souvenirs, NAICS Codes 45220 & 451212
- Internet & Telecommunications Service, NAICS Code 513322 & 513340
- Personal Health Care, NAICS Code 446199
- Shuttles, NACIS Code 485999

Using the example provided in the Federal Register, by the Federal Aviation Authority, LAWA divided the numerator, available ACDBE's, with the





denominator, our available concession contractors on the active participant list.

**ACDBE percentage of total: 22.3% availability**

**Step 2: Calculate potential ACDBE gross receipts.** The Report of ACDBE Goal Accomplishments, as submitted to the FAA for the 2011 Federal Fiscal Year showed achievement of 35.9%. In giving equal weight to the actual achievement and to the percentage of certified ACDBE firms from the Active Participant List, which is 22.3%, we arrived at a goal of 29.1%.

Neither the City of Los Angeles, nor LAWA, a proprietary department of the City, has conducted a disparity study. Since no other city, or airport within California, is of comparable size, we have not reviewed their disparity studies, as they would not be relevant. LAWA has instead analyzed raw data from our Concession DBE Accomplishment Reports.

**Calculation of the potential ACDBE revenue for LAX and LA/ONT**

**LAX:** Using the base figure of 22.3% and the previous year's LAX Concessions ACDBE achievement, which was 24.2%, LAWA averaged the two figures (**22.3% + 24.2% + 2**) and determined 23.2% for potential ACDBE participation at LAX. The current 2011 LAX gross receipts (\$546,124,862) were multiplied by the calculated average (23.2%) to show possible ACDBE gross receipts.

**LAX:**  $\$546,124,862 * 23.2\% = \$126,942,130$  projected ACDBE gross receipts.

**LA/ONT:** Using the base figure of 22.3% and the previous year's concessions ACDBE, which was 11.7%, LAWA averaged the two figures (**22.3% + 11.7% + 2**) and determined 17% for potential ACDBE participation at LA/ONT. The 2011 gross receipts total (\$13,268,911) was multiplied by the calculated average (17%) to show possible ACDBE gross receipts.

**LA/ONT:**  $\$13,268,911 * 17\% = \$2,257,648$  projected ACDBE gross receipts.

**Step 3: Project economic activity and conditions for concessions.** The proposed ACDBE goal will be for a three-year period. Our methodology factored in the current and potential airport conditions that will affect concession activity in the next three years.

**Calculating Projected Concession Activity for LAX and LA/ONT**

**LAX: potential (positive and negative) growth considerations include:**

In FY 2010 and FY 2011, numerous concession contracts were awarded at LAX that will ensure a robust ACDBE participation level for many years to come. In October 2010, multiple Retail and Food & Beverage contracts were awarded. In June 2011, additional Food & Beverage contracts were awarded. Two Terminal Concessions Manager contracts were awarded in January 2012 and June 2012. Lastly, the Duty Free Operator



contract was awarded in August 2012. Full implementation of all new concession agreements will span over the next two years.

LAWA estimates a 3% growth in total passenger enplanements over the next three years, which would result in a corresponding growth in ACDBE activity.

Potential LAX Total Activity:  $\$546,124,862 + 3\% = \$562,508,608$

Potential LAX ACDBE Activity:  $\$132,014,114 + 3\% = \$130,750,394$

For LA/ONT, potential negative impact considerations include:

- Reduction in airline flights and outright cessation of flights to LA/ONT by some airlines are projected to result in fifteen percent decrease in passenger traffic. This is expected to negatively impact concessions.

With these considerations, LAWA projects that concessions activities will decline an average of 15% per year over the next three years.

Potential LA / ONT Total Activity:  $\$13,268,911 - 15\% = \$11,278,574$

Potential LA / ONT ACDBE Activity:  $\$2,257,648 - 15\% = \$1,919,001$

**Calculating LAWA's ACDBE Goal by airport and overall:**

**LAX Goal:** The total anticipated ACDBE subcontracting gross receipts were divided by the potential LAX gross receipts. This calculated LAX ACDBE Goal is 23.2%.

LAX Goal:  $\$130,750,394 \div \$562,508,608 = 23.2\%$

**LA/ONT Goal:** The total anticipated ACDBE subcontracting gross receipts were divided by the potential gross receipts. Thus, the calculated LA/ONT ACDBE Goal is 14%.

LA/ONT Goal:  $\$4,875,145 \div \$5,735,465 = 14\%$

**Overall Goal for LAWA:** The calculation of LAWA's ACDBE goal was achieved by dividing the projected total gross receipts of both airports, LAX and LA/ONT, and dividing this total with the projected total gross receipts of the potential ACDBE contracting activity.

- Combined LAX & LA/ONT concession activity:  $\$573,787,182$  (LAX  $\$562,508,608 +$  LA/ONT  $\$11,278,574$ )
- Combined LAX & LA/ONT ACDBE activity:  $\$132,669,395$  (LAX  $\$130,750,394 +$  LA/ONT  $\$1,919,001$ )

**LAWA's overall ACDBE Goal for concessions (other than car rental): 23.1%.**



*Los Angeles World Airports*

**Attachment 4**

**Certification Process and Contract Review and Monitoring (copy attached)**

## **Certification Process for Contract Review and Monitoring:**

### **A. Identify the Contract Award/s with DBE/ACDBE Goals**

Procurement Services Division (PSD) Contract Compliance staff will review the Board Actions to identify contract award/s with DBE and ACDBE goals and proposed participation levels.

### **B. Verify the Pertinent Documentation of the Contract Awarded**

PSD Contract Compliance staff will verify the DBE and ACDBE goals, the Prime Contractor's proposed DBE and ACDBE participation levels, and the authorized contract amount in the pertinent documentation (listed below) to ensure consistent records:

- Contract - provision for DBE/ACDBE
- Board Resolution
- Board Report
- SAP Authority
- Vendor's Review Memo – source document
- Form C

### **C. Verify the DBE/ACDBE Enforcement Provision**

PSD Contract Compliance staff will verify the enforcement provision in the contract for the DBE and ACDBE programs to ensure it is included in the contract. (Except, DBE construction project/s)

### **D. Initial the Pertinent Documentation as Reviewed**

PSD Contract Compliance staff will initial the Board Report, Board Resolution, SAP Authority, and Form C to ensure that pertinent documentation of the contract are in place and reviewed. (Certifying as reviewed for consistency and accuracy of information relative to ACDBE/DBE participation, contract awarded, contract provision/s, and contract amount authorized).

### **E. Create a Contract Profile in the PSD's Database for Monitoring**

PSD Contract Compliance staff will create a contract profile in the PSD's database to start monitoring the race-neutral DBE and race-conscious ACDBE participation of the Prime Contractor and Concessionaire, respectively.

### **F. Monitoring of the Participation Level/Utilization of Subcontractors**

PSD Contract Compliance staff will review the Subcontractor Utilization Report submitted by the Prime Contractor/Concessionaire to ensure timely submission, accurate reporting of amount invoiced for the period to date, and approved subcontractors were utilized. Once reviewed, the Contract Compliance staff will initial the monthly utilization report. The Contract Compliance staff member enters the data from the Subcontractor Utilization Report into PSD's database to monitor the status of subcontractor utilization on a monthly basis.

In addition, the Contract Administrator and/or Project Manager of the contract at the Division will verify and certify the invoice and/or revenue activity report, along with the utilization report. The Division has a designated staff to perform an on-site visit to concession and/or project location for inspection.





*Los Angeles World Airports*

**Attachment 5**

**Form and Information Provided as Part of the Solicitation Documents for ACDBE  
Program Requirements and Demonstration of Good Faith Effort  
(copy attached)**

# **Airport Concessions Disadvantaged Business Enterprise (ACDBE) Program**

## **Policy Statement**

Pursuant to United States Department of Transportation 49 Code of Federal Regulations (CFR) Subtitle A, Part 23, it is the policy of Los Angeles World Airports (LAWA) to provide Airport Concessions Disadvantaged Business Enterprises (ACDBEs) the opportunity to compete for and participate in the performance of all LAWA contracts. Current and prospective contractors, subcontractors, lessees, permittees, and concessionaires shall assist LAWA in implementing this policy by taking the necessary measures to ensure meaningful and equitable participation by ACDBEs and to encourage and facilitate the development of new and existing ACDBEs.

The Department shall review and, where appropriate, establish levels of participation for all federally-funded contracts and contract amendments. The Department also will establish annual goals in accordance with City of Los Angeles and applicable United States Department of Transportation requirements for ACDBE participants. The Department will develop an aggressive outreach program, consistent with and complementary to Citywide outreach efforts. Additionally, the Department's contract awarding procedures and regular compliance monitoring will be used to insure proper and full utilization of ACDBEs and achievement of contract goals.

The objective of this policy is to achieve the participation of ACDBEs at levels comparable to their availability to provide goods and services to the Department with the ultimate goal of developing their status and expertise so that they may compete for future contracts on an equal basis with other successful non-ACDBE firms. No person, however, shall be excluded from participation in, denied the benefits of, or otherwise discriminated against, in connection with the award and performance of any contract on the basis of race, color, sex, or national origin.

## **Outreach Requirements**

The Department of Airports is committed to increasing the number of disadvantaged firms participating in Airport contracts. Bidders/proposers should strive to achieve the level of participation set for each project. Firms may participate in Department of Airports' contracts as prime contractors, member firms of a joint venture, subcontractors, or suppliers. If the established level is not met, the bidder/proposer must demonstrate that a "good faith effort" was made to secure ACDBE subcontractors sufficient to reach the set level. Prime bidders/proposers who are ACDBEs are presumed to have achieved the established level of participation.

## **Evaluating Good Faith Efforts**

It is incumbent on the bidder/proposer to submit appropriate documentation to demonstrate that a "good faith effort" was made to reach out to ACDBEs. The attached Instructions Regarding Demonstration of Good Faith Effort provide guidelines on such documentation, which must be submitted within three days of notification by the Department.

Pursuant to 49 CFR, bidders/proposers who achieve the established level of ACDBE participation may disregard the Instructions Regarding Demonstration Of Good Faith Effort. However, in order for firms to be counted toward a bidder's/proposer's ACDBE participation, they must have submitted documents for certification by the bid/proposal due date.

Bidders/proposers who do not achieve the established level of ACDBE participation and who are determined to have not made a good faith effort will be considered non-responsive for purposes of this bid/proposal.

### **Subcontractor Listing**

Your bid/proposal must also include a completed MBE/WBE/ACDBE Participation Form outlining that portion of the work which will be performed by each listed ACDBE subcontractor. The form must include the name and address of the subcontractor, the percentage of the total contract the subcontractor will perform, and the dollar amount the percentage represents. A copy of the required form is included in this section. Please note that the Participation Form is signed under penalty of perjury. Any change of subcontractor is subject to the substitution provisions outlined below.

### **Utilization Reporting Form**

An ACDBE Utilization Form for reporting the actual utilization of ACDBE firms in every contract is required to be submitted monthly by each prime contractor. A copy of this form will be provided by the Department prior to the commencement of work. Failure to submit this Utilization Form as required by the Department shall constitute a breach of contract.

### **Substitutions of ACDBE Subcontractor**

Prime contractors shall notify the Department's Procurement Services Division of the need for a substitution as soon as such need is determined, and shall not make a substitution until the Division has been notified, and the substitution has been authorized. Should the substitution result in a lower level of ACDBE participation, the prime contractor will be required to document good faith effort.

### **Certification**

A firm that wants to be considered an Airport Concessions Disadvantaged Business Enterprise for this project must be certified under the Unified Certification Program no later than the due date of the bid/proposal. If not currently certified, the company must submit all necessary documents including the Application for Certification (available at [http://www.lawa.org/welcome\\_LAWA.aspx?id=568](http://www.lawa.org/welcome_LAWA.aspx?id=568)) to the City of Los Angeles Centralized Certification Administration.

For additional clarification of the Airport Concessions Disadvantaged Business Enterprise Program, please contact the Centralized Certification Administration at (213) 847-1922.

## ATTENTION BIDDERS/PROPOSERS:

*The project you are bidding/proposing on has an anticipated ACDBE level of participation. If you intend to use ACDBE subcontractor(s) on the project, you will receive ACDBE participation credit from LAWA for using subcontractors certified as an ACDBE **only** if they have been certified by one of the following California Unified Certification Program (CUCP) agencies:*

CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS)  
[www.dot.ca.gov](http://www.dot.ca.gov)

CITY OF LOS ANGELES  
<http://bca.lacity.org>

SAN DIEGO REGIONAL AIRPORT AUTHORITY  
[www.san.org](http://www.san.org)

SAN FRANCISCO INTERNATIONAL AIRPORT  
[www.flysfo.com](http://www.flysfo.com)

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*IMPORTANT: It is your responsibility to ensure that the ACDBE subcontractors you propose to use are indeed certified with one of the above-listed CUCP agencies at the time of bid/proposal submission. Companies certified by CUCP agencies should have a letter of certification as proof of their ACDBE status. You may want to request a copy of the certification letter from the subcontractors to verify their ACDBE status. Further, you must ensure that the specific categories of work that the ACDBEs will perform on the project match the NAICS (North American Industry Classification System) codes for which they were certified in order for you to receive ACDBE participation credit from LAWA.*



## DEPARTMENT OF AIRPORTS

### INSTRUCTIONS REGARDING DEMONSTRATION OF GOOD FAITH EFFORT

It is the policy of the City of Los Angeles to provide all ACDBEs an equal opportunity to participate in the performance of all City contracts. Bidders must assist the City in implementing this policy by taking all reasonable steps to ensure that all qualified business enterprises including ACDBEs have an equal opportunity to compete for and participate in City contracts. A bidder's good faith efforts to reach out to ACDBEs will be determined from written documentation of the level of effort put into achieving the indicators. Failure to meet expected ACDBE goals will not by itself be the basis for disqualification or determination of noncompliance with this policy. **However, failure to submit supporting documentation of a good faith effort within three days of notification by the Department and/or failure to achieve a minimum of 75 out of 100 Good Faith Effort evaluation points will render the bid non-responsive and will result in its rejection.** Adequacy of a bidder's good faith effort will be determined by the Department after consideration of the indicators of good faith as set forth below.

Indicator	Points
1	0
2	10
3	10
4	9
5	15
6	10
7	5
8	10
9	26
10	5
Total	100

***Each indicator (2-10) is evaluated on a pass/fail basis, i.e., either full or zero points can be achieved for compliance with each item.***

#### **1. LEVEL OF ANTICIPATED ACDBE PARTICIPATION**

**NO POINTS**

The bidder has made a good faith effort to obtain sub-bid participation by ACDBEs which could be expected to produce a reasonable level of participation by interested business enterprises, including the ACDBE percentages set forth for this project.

**Required documentation:** Completed Subcontractor Participation Plan.

#### **2. ATTENDED PRE-BID MEETING**

**10 POINTS**

The bidder has attended the pre-bid meeting scheduled by the Department to inform all bidders of the requirements for the project for which the contract will be awarded. The Department may waive this requirement only if the bidder certifies in writing prior to the pre-bid meeting that it was already informed as to those project requirements.

**Required documentation:** a) Attend pre-bid meeting and be listed on the attendance sheet; or b) Submit a letter prior to the pre-bid meeting either by fax to 424 646-9262, or by mail to Procurement Services, 7301 World Way West, 2nd floor, Los Angeles, CA 90045.

### **3. SUFFICIENT WORK IDENTIFIED FOR SUBCONTRACTORS 10 POINTS**

The bidder has identified and selected specific work items in the project to be performed by sub-bidders/subcontractors in order to provide an opportunity for participation by ACDBEs. Upon making this determination, the bidder subdivided the total contract work requirements into smaller portions or quantities to permit maximum active participation of ACDBEs.

**Required documentation:** Proof of this must be demonstrated in either Indicator 4 or 5.

### **4. ADVERTISEMENT 9 POINTS**

Not less than ten calendar days prior to the submittal of bids, the bidder advertised for sub-bids from interested business enterprises in one or more daily or weekly newspapers, trade association publications, minority or trade oriented publications, trade journals, or other media specified by the Department

**Required documentation:** A copy of the advertisement and a proof of publication statement or other verification which confirms the date the advertisement was published.

**Note:** The advertisement must be specific to the project, not generic, and may not be a placeholder advertisement provided by the publication. It should include the City of Los Angeles project name, name of bidder, areas of work available for subcontracting, and a contact person's name and telephone number, information on the availability of plans and specifications and the bidder's policy concerning assistance to subcontractors in obtaining bonds, lines of credit and/or insurance. Consideration will be given to the wording of the advertisement to ensure that it did not exclude or seriously limit the number of potential respondents.

### **5. WRITTEN NOTICES TO SUBCONTRACTORS 15 POINTS**

The bidder has provided written notice of its interest in receiving sub-bids on the contract to those business enterprises, including ACDBEs having an interest in participation in the selected work items. All notices of interest shall be provided not less than ten calendar days prior to the date the bids are required to be submitted.

**Required documentation:** A copy of each letter sent to available ACDBEs for each item of work to be performed. If there is only one master notification, then a copy of the letter along with a listing of all recipients will suffice. Faxed copies must include the fax transmittal confirmation slip showing the date and time of transmission. Mailed letters must include copies of the metered envelopes or certified mail receipts. Letters must contain areas of work to be subcontracted, City of Los Angeles project name, name of the bidder, and contact person's name, address, and telephone number.

\* This written notice can be used to satisfy Indicators 3, 7, and 10.

## CERTIFICATION AGENCY

(Bidders should contact the following agencies to obtain current copies of MBE/WBE/ACDBE directories.)

### City of Los Angeles

Bureau of Contract Administration  
Office of Contract Compliance  
1149 S. Broadway St., 300  
Los Angeles, CA 90015

(213) 847-1922  
(213) 847-2777 FAX  
<http://bca.lacity.org>

## 6. FOLLOW-UP ON INITIAL SOLICITATION

10 POINTS

The bidder has documented efforts to follow-up initial solicitation of sub-bid interest by contacting the affected business enterprises to determine with certainty whether said enterprises were interested in performing specific portions of the project work.

**Required documentation:** A copy of telephone logs. These logs must include the name of the company called, telephone number, contact person, who did the calling, time, date, and the result of the conversation. Bidders must follow-up with all subcontractors to whom they sent letters.

## 7. PLANS, SPECIFICATIONS AND REQUIREMENTS

5 POINTS

The bidder has provided interested sub-bid enterprises with information about the plans, specifications and requirements for the selected sub-bid/subcontracting work.

**Required documentation:** Include in Indicator 4 or 5, information detailing how, where and when the bidder will make the required information available to interested subcontractors.

## 8. CONTACTED RECRUITMENT/PLACEMENT ORGANIZATIONS

10 POINTS

The bidder has requested assistance from organizations that provide assistance in the recruitment and placement of ACDBEs not less than fifteen calendar days prior to the submission of bids. Any other organizations promoting ACDBE activities not included in the following list which have been contacted, must also be listed in the required documentation.

**Required documentation:** A copy of each letter sent to outreach agencies requesting assistance in recruiting ACDBEs. Faxed copies must include the fax transmittal confirmation slip showing the date and time of transmission. Mailed letters must include copies of the metered envelopes or certified mail receipts. Letters must contain areas of work to be subcontracted, City of Los Angeles project name, name of the bidder, and contact person's name, address, and telephone number.

## RECRUITMENT/PLACEMENT ORGANIZATIONS

Business and Job Resources Center  
Los Angeles World Airports  
6053 W Century Blvd. Ste 300  
Los Angeles, California 90045  
Rose Cote, Business Outreach Coordinator

424 646-7300  
424 646-9257 FAX

Email: [rcote@lawa.org](mailto:rcote@lawa.org)

National Center for American Indian Enterprise Development  
11138 Valley Mall, Suite 200  
El Monte, CA 91731

626 442-3701  
626 442-7115 FAX  
<http://www.ncaied.org>

The Associated General Contractors of California  
Los Angeles District Office  
1906 W. Garvey Avenue South, Suite 100  
West Covina, CA 91790

626 608-5800  
626 608-5810 FAX  
<http://www.agc-ca.org>

Latin Business Association (LBA)  
120 S. San Pedro Street, Suite 530  
Los Angeles, CA 90012

213 628-8510  
213 628-8519 FAX  
<http://www.lbasa.com>

Black Business Association  
Mailing Address: P.O. Box 43159  
Los Angeles, CA 90043  
President: Earl 'Skip' Cooper, II

323 857-4600  
323 857-4610 FAX  
<http://www.bbala.org>  
E-mail: [bbala@earthlink.net](mailto:bbala@earthlink.net)

The Asian Business Association  
120 S. San Pedro Street, Suite 523  
Los Angeles, CA 90012

213 628-1ABA  
213 628-3222 FAX  
<http://www.aba-la.org/index.asp>  
Email: [info@aba-la.org](mailto:info@aba-la.org)

Engineering Contractors' Association  
8310 Florence Avenue  
Downey, CA 90240562

800 293-2240  
923-6179 FAX

National Association of Minority Contractors  
Southern California Chapter  
PO Box 43307  
Los Angeles, CA 90043  
Attn: Kevin Ramsey

310 635 3277  
310 635-0562 FAX  
<http://www.namcsc.net>  
Email: [kramsey@pacbell.net](mailto:kramsey@pacbell.net)

National Association of Women Business Owners – Los Angeles  
900 Wilshire Boulevard, Suite 404  
Los Angeles, CA 90017

213 622-3200  
213 622-6659 FAX  
<http://www.nawbola.org>  
Email: [info@nawbola.org](mailto:info@nawbola.org)

Los Angeles Urban League  
3450 Mount Vernon Drive  
Los Angeles, CA 90008

323 299-9660  
323 299-0618 FAX  
<http://www.laul.org>  
Email: [info@laul.org](mailto:info@laul.org)



Society of Hispanic Professional Engineers  
SHPE National Office  
5400 E. Olympic Blvd., Suite 210  
Los Angeles, CA 90022

323 725-3970  
323 725-0316 FAX  
<http://www.shpe.org>  
Email: [shpenational@shpe.org](mailto:shpenational@shpe.org)

The Asian American Architects/Engineers Association  
(of Southern California)  
P.O. Box 861807  
Los Angeles, CA 90086

213 896-9270  
866 276-1712 FAX  
<http://www.aaaesc.com>

#### **9. NEGOTIATE IN GOOD FAITH**

**26 POINTS**

The bidder has negotiated in good faith with interested ACDBEs and did not unjustifiably reject as unsatisfactory bids or proposals prepared by any enterprise, as determined by the Department.

**Required documentation:** a) Copies of all ACDBE/OBE bids or quotes received; and b) Summary sheet organized by work area, listing bids received and the subcontractor selected for that work area. If the bidder elects to perform a listed work area with its own work forces, they must include a bid that shows their own costs for the work.

#### **10. BOND, LINES OF CREDIT, AND INSURANCE ASSISTANCE**

**5 POINTS**

The bidder has documented efforts to advise and assist interested ACDBEs in obtaining bonds, lines of credit and insurance required by the Department or contractor.

**Required documentation:** Include in Indicator 4 or 5, information about the bidder's efforts to assist with bonds, lines of credit and insurance.

The bidders shall submit completed good faith effort documentation within three days of notification by the Department. The Department in its review of the good faith effort documentation may request additional information to validate and/or clarify that the good faith effort submission was adequate. Such information shall be submitted promptly upon request by the Department.

## SUBCONTRACTOR PARTICIPATION PLAN

Project Title: \_\_\_\_\_

BIDDER/PROPOSER COMPANY INFORMATION		PROFILE INFORMATION		Bid/PROPOSAL AMOUNT		DESCRIPTION OF PROJECT SERVICES	
NAME:	GROUP:						
ADDRESS:	ETHNICITY:						
CITY/STATE/ZIP:	GENDER:						
CONTACT NAME:	CERTIFYING AGENCY:						
TELEPHONE NO:							
EMAIL:	VENDOR OR FEDERAL ID:					NAICS:	
SUBCONTRACTOR COMPANY INFORMATION		PROFILE INFORMATION		\$ PROPOSED		% PROPOSED	
NAME:	GROUP:						
ADDRESS:	ETHNICITY:						
CITY/STATE/ZIP:	GENDER:						
CONTACT NAME:	CERTIFYING AGENCY:						
TELEPHONE NO:							
EMAIL:	VENDOR OR FEDERAL ID:					NAICS:	
NAME:	GROUP:						
ADDRESS:	ETHNICITY:						
CITY/STATE/ZIP:	GENDER:						
CONTACT NAME:	CERTIFYING AGENCY:						
TELEPHONE NO:							
EMAIL:	VENDOR OR FEDERAL ID:					NAICS:	
NAME:	GROUP:						
ADDRESS:	ETHNICITY:						
CITY/STATE/ZIP:	GENDER:						
CONTACT NAME:	CERTIFYING AGENCY:						
TELEPHONE NO:							
EMAIL:	VENDOR OR FEDERAL ID:					NAICS:	
NAME:	GROUP:						
ADDRESS:	ETHNICITY:						
CITY/STATE/ZIP:	GENDER:						
CONTACT NAME:	CERTIFYING AGENCY:						
TELEPHONE NO:							
EMAIL:	VENDOR OR FEDERAL ID:					NAICS:	
NAME:	GROUP:						
ADDRESS:	ETHNICITY:						
CITY/STATE/ZIP:	GENDER:						
CONTACT NAME:	CERTIFYING AGENCY:						
TELEPHONE NO:							
EMAIL:	VENDOR OR FEDERAL ID:					NAICS:	

## SUBCONTRACTOR PARTICIPATION PLAN

SUBCONTRACTOR COMPANY INFORMATION		PROFILE INFORMATION		\$ PROPOSED	% PROPOSED	DESCRIPTION OF PROJECT SERVICES
NAME:	GROUP:					
ADDRESS:	ETHNICITY:					
CITY/STATE/ZIP:	GENDER:					
CONTACT NAME:	CERTIFYING AGENCY:					
TELEPHONE NO:						
EMAIL:	VENDOR OR FEDERAL ID:					NAICS:
NAME:	GROUP:					
ADDRESS:	ETHNICITY:					
CITY/STATE/ZIP:	GENDER:					
CONTACT NAME:	CERTIFYING AGENCY:					
TELEPHONE NO:						
EMAIL:	VENDOR OR FEDERAL ID:					NAICS:
NAME:	GROUP:					
ADDRESS:	ETHNICITY:					
CITY/STATE/ZIP:	GENDER:					
CONTACT NAME:	CERTIFYING AGENCY:					
TELEPHONE NO:						
EMAIL:	VENDOR OR FEDERAL ID:					NAICS:
NAME:	GROUP:					
ADDRESS:	ETHNICITY:					
CITY/STATE/ZIP:	GENDER:					
CONTACT NAME:	CERTIFYING AGENCY:					
TELEPHONE NO:						
EMAIL:	VENDOR OR FEDERAL ID:					NAICS:
NAME:	GROUP:					
ADDRESS:	ETHNICITY:					
CITY/STATE/ZIP:	GENDER:					
CONTACT NAME:	CERTIFYING AGENCY:					
TELEPHONE NO:						
EMAIL:	VENDOR OR FEDERAL ID:					NAICS:
NAME:	GROUP:					
ADDRESS:	ETHNICITY:					
CITY/STATE/ZIP:	GENDER:					
CONTACT NAME:	CERTIFYING AGENCY:					
TELEPHONE NO:						
EMAIL:	VENDOR OR FEDERAL ID:					NAICS:

## SUBCONTRACTOR PARTICIPATION PLAN

SUBCONTRACTOR COMPANY INFORMATION	PROFILE INFORMATION	\$ PROPOSED	% PROPOSED	DESCRIPTION OF PROJECT SERVICES
NAME:	GROUP:			
ADDRESS:	ETHNICITY:			
CITY/STATE/ZIP:	GENDER:			
CONTACT NAME:	CERTIFYING AGENCY:			
TELEPHONE NO:				
EMAIL:	VENDOR OR FEDERAL ID:			NAICS:
NAME:	GROUP:			
ADDRESS:	ETHNICITY:			
CITY/STATE/ZIP:	GENDER:			
CONTACT NAME:	CERTIFYING AGENCY:			
TELEPHONE NO:				
EMAIL:	VENDOR OR FEDERAL ID:			NAICS:
NAME:	GROUP:			
ADDRESS:	ETHNICITY:			
CITY/STATE/ZIP:	GENDER:			
CONTACT NAME:	CERTIFYING AGENCY:			
TELEPHONE NO:				
EMAIL:	VENDOR OR FEDERAL ID:			NAICS:
NAME:	GROUP:			
ADDRESS:	ETHNICITY:			
CITY/STATE/ZIP:	GENDER:			
CONTACT NAME:	CERTIFYING AGENCY:			
TELEPHONE NO:				
EMAIL:	VENDOR OR FEDERAL ID:			NAICS:

I certify under the penalty of perjury that the information contained on this form is true and correct and that the firms listed are the subcontractors that will be utilized if this contract is awarded to the above prime contractor. I agree to comply with any applicable provisions for additions and substitutions, and I further understand and agree that any and all changes or substitutions must be authorized by LAWA Procurement Services Division prior to their implementation.

<p>Participation Level proposed by Bidder/Proposer:</p> <div style="display: flex; justify-content: space-between; align-items: center;"> <div> <input type="checkbox"/> SBE  <input type="checkbox"/> M/WBE  <input type="checkbox"/> DBE  <input type="checkbox"/> ACDBE </div> <div>_____ %</div> </div>	<p>Level of Participation stated in the Request for Bid/Proposal:</p> <div style="display: flex; justify-content: space-between; align-items: center;"> <div> <input type="checkbox"/> SBE  <input type="checkbox"/> M/WBE  <input type="checkbox"/> DBE  <input type="checkbox"/> ACDBE </div> <div>_____ %</div> </div>
---	---

SIGNATURE

DATE

NAME

TITLE

PHONE



## INSTRUCTIONS TO COMPLETE THE SUBCONTRACTOR PARTICIPATION PLAN

This form is used to report the proposed participation of Small, Minority/Woman/Other, Disadvantaged or Airport Concessions Disadvantaged Business Enterprise firms during the term of the contract. It represents the bidder's or proposer's commitment to utilize the named SBE/MBE/WBE/DBE/ACDBE firms at the percentages indicated should the contract be awarded to the bidder or proposer.

**When filling out information on this form, if additional space is required you may overwrite the field names. You may also delete or add pages, as needed.**

**Project Title** – The name or designation of the project at the time of bid or proposal.

**Bid/Proposal Amount** – Total amount bidder/proposer proposed for the project.

**Bid Number** – The Bidding number assigned by the Purchasing Office for the specific project being bid.

**Company Information** – The complete name, address, phone number (including area code), email and contact person of each SBE/MBE/WBE/DBE/ACDBE/OBE subcontractor, vendor or supplier must be provided for the bidder/proposer and proposed subcontractor. Insert the following codes (underlined) in the appropriate spaces for the bidder/proposer and all subcontractors.

- **Group** – SBE, MBE, WBE, DBE, ACDBE, OBE
- **Agency** – Certifying Agency (CUCP, City of Los Angeles, CALTRANS, Metro, SCMBDC)
- **Ethnicity** – African American, Hispanic American, Native American, Asian-Pacific Islander, Subcontinent Asian Indian, Asian American, Aleut, Eskimo, Caucasian
- **Gender** – Male, Female
- **NAICS** – North American Industry Classification System listed at <http://www.census.gov/epcd/www/naics.html>

**Please note that in order to receive participation credit, SBE/MBE/WBE/DBE/ACDBE firms must be certified.**

For information regarding the certification process, please call the Department of Public Works, Bureau of Contract Compliance (213- 847-1922).

**Please list SBE/MBE/WBE/DBE/ACDBE firms first. Any firm that is not certified as an SBE/MBE/WBE/DBE/ACDBE by one of the foregoing agencies is considered an OBE.**

**Description of Project Services** – A brief description of the work the bidder/proposer or subcontractor will perform.

**NAICS** – In order to receive credit for SBE/MBE/WBE/DBE/ACDBE participation, the subcontractor must be certified in the NAICS code for the specific work they will perform on the contract.

**Amount Proposed** – Indicate the anticipated amount to be paid the subcontractor over the term of the contract.

**Proposed Percentage** – Calculate the subcontractor's share of the contract by dividing the Subcontractors Proposed Amount by the Bid/Proposal Amount. Please note: If the subcontractor is a regular dealer/supplier as defined in Code of Federal Regulations, Title 49, Part 26.55(e), only 60 percent of the Amount Proposed can be used in this calculation.

**Signature/Date** – This form must be signed by a responsible person capable of committing the firm contractually.

**Name/Title/Phone** – Print the name and title of the person signing the form. Include the area code with his or her telephone number.

**Participation Level proposed by Bidder/Proposer** – Calculate the participation level by adding the Amounts Proposed for all SBE/MBE/WBE/DBE/ACDBE subcontractors, and divide the result by the Bid/Proposal Amount.

**Level of Participation stated in the Request for Bid/Proposal** – The SBE/MBE/WBE/DBE/ACDBE level established by PSD for the Request for Bid/Proposal.

**SPECIAL NOTE** – Firms certified as DBEs or ACDBEs may be counted toward M/WBE participation levels.



*Los Angeles World Airports*

**Attachment 6**

**ACDBE Certification Application Form**

Form can be downloaded at:

**[http://www.caltrans.ca.gov/hq/bep/business\\_forms.htm](http://www.caltrans.ca.gov/hq/bep/business_forms.htm)**



*Los Angeles World Airports*

### **Attachment 7**

#### **Procedures for Removal of ACDBEs Eligibility**

To remove your firm's ACDBE eligibility or request to change information after certification, please notify the agency that certified your firm in writing. The agency is listed on your certification document or you can access your profile from the following website:

**[http://www.dot.ca.gov/hq/bep/find\\_certified.htm](http://www.dot.ca.gov/hq/bep/find_certified.htm)**



*Los Angeles World Airports*

**Attachment 8**

**State's UCP Agreement**

Access through the following website: <http://californiaucp.org/>





*Los Angeles World Airports*

**Attachment 9**

**Regulations: Title 49 CFR Part 23**

Visit the following website for a copy:

**<http://ecfr.gpoaccess.gov/>**