

OKLAHOMA CITY AIRPORT TRUST ACDBE PROGRAM

POLICY STATEMENT

Section 23.1, 23.23 Objectives/Policy Statement

The Oklahoma City Airport Trust (Trust) 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 Trust operates a primary airport and has received federal funds authorized for airport development after January 1988 (authorized under Title 49 of the United States Code). The Trust has signed airport grant assurances that it will comply with 49 CFR Part 23.

The Trustees of the Oklahoma City Airport Trust are responsible for establishing the ACDBE policy. The Director of Airports is responsible for ensuring adherence to this policy. It is the expectation of the Trustees and the Director of Airports that all Department of Airports personnel shall adhere to the spirit as well as the letter of this policy.

It is the policy of the Trust 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;
5. To help remove barriers to the participation of ACDBEs in opportunities for concessions at our airport; and
6. To provide appropriate flexibility to our airport in establishing and providing opportunities for ACDBEs.

The Property Specialist in the Department of Airports has been designated as the ACDBE Liaison Officer (ACDBELO). In that capacity, the Property Specialist 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 Trust in its financial assistance agreements with the Department of Transportation.

The ACDBELO has disseminated this policy statement to the Trust for their approval and to all of the components of our organization. It is on file at the Administrative Offices of the Department of Airports, 7100 Terminal Drive, Unit 937, Oklahoma City, OK. It will be distributed to members of the business community that perform or are

interested in performing work on concession-related contracts as each contracting opportunity arises.

APPROVAL RECOMMENDED



Director of Airports

OKLAHOMA CITY AIRPORT TRUST

ATTEST:



Trust Secretary





Chairman 9-24-15

REVIEWED for form and legality



Assistant Municipal Counselor/
Attorney for the Trust

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

Section 23.9 Non-discrimination Requirements

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

In administering its ACDBE program, the Trust will not knowingly, 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 Trust acknowledges these representations are also in accordance with obligations contained in its Civil Rights, DBE, and ACDBE Airport grant assurances.

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

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

enters and cause those businesses to similarly include the statements in further agreements.

Section 23.11 Compliance and Enforcement

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

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

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

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

The following enforcement actions apply to firms participating in the Trust'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 2 CFR parts 180 and 1200.
- (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 D of this part, DOT or FAA may initiate suspension or debarment proceedings against the firm under 2 CFR parts 180 and 1200.
- (c) DOT may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the ACDBE program whose conduct is subject to such action under 49 CFR Part 31.

- (d) DOT may refer to the Department of Justice, for prosecution under 18 U.S.C. §§ 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of an ACDBE in the Trust's ACDBE program or otherwise violates applicable Federal statutes.

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

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

SUBPART B – ACDBE Programs

Section 23.21 ACDBE Program Updates

Since the Trust is a small hub primary airport, we are required to have an ACDBE program. As a condition of eligibility for FAA financial assistance, the Trust will submit its ACDBE program and overall goals to FAA according to 23.45(a) of this section.

Until our new ACDBE program is submitted and approved, we will continue to implement our concessions 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 Will Rogers World Airport (Airport).

When the Trust 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 Trust is committed to operating its ACDBE program in a nondiscriminatory manner. The Trust'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: Charlene Kirk, 7100 Terminal Drive, Unit 937, Oklahoma City, OK 73059-0937, (405) 316-3267, charlene.kirk@okc.gov.

In that capacity, the ACDBELO is responsible for implementing all aspects of the ACDBE program and ensuring that the Trust complies with all provisions of 49 CFR Part 23. The ACDBELO has direct, independent 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. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to ACDBEs in a timely manner.
5. Identifies contracts and procurements so that ACDBE goals are included in solicitations (both race-neutral methods and contract specific goals).
6. Analyzes the Trust's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid/proposal meetings.
8. Advises the CEO/governing body on ACDBE matters and achievement.
9. Plans and participates in ACDBE training seminars/conferences.
10. Acts as liaison to the Uniform Certification Program in Oklahoma.
11. Provides outreach to ACDBEs and community organizations to advise them of opportunities.

Directory: The Trust, through the Oklahoma Unified Certification Program (UCP), has access to a certified directory database identifying all firms eligible to participate as DBEs and ACDBEs. The certified directory database provides the user with the firm's name, person/owner, address, phone number(s), email and/or web address, NAICS number, and the type of work the firm has been certified to perform as an ACDBE.

The UCP ensures that the certified directory database 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 makes any changes to the current database necessary to meet the requirements of this paragraph.

The UCP revises the Directory monthly, and it is available at <http://www.okladot.state.ok.us/>.

Section 23.25 Ensuring Nondiscriminatory Participation of ACDBEs

The Trust will take the following measures to ensure nondiscriminatory participation of ACDBEs in concession, and other covered activities: (23.25(a))

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

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

The Trust will require businesses subject to ACDBE goals at the Airport (except car rental companies) to make good faith efforts to explore all available options to meet goals, to the maximum extent practicable, through direct ownership arrangements with ACDBEs. The Trust will not use set-asides or quotas as a means of obtaining ACDBE participation. (23.25 (f) and (g))

Section 23.27 Reporting

The Trust will retain sufficient basic information about its ACDBE program implementation, ACDBE certification, and the award and performance of agreements and contracts to enable the FAA to determine the compliance with Part 23. This data will be retained for a minimum of 3 years following the end of the concession agreement or other covered contract:

Beginning March 1, 2006, 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 Trust will undertake 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 consider similar action under our own legal authorities, including responsibility determinations in future contracts. We have listed the contract remedies available to us in the events of non-compliance with the ACDBE regulation by a participant in our procurement activities. See Attachment 3. (26.37)
3. 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 by ACDBE firms), including a means of comparing these attainments to commitments. This will be accomplished by communication with the ACDBEs and making any observations or obtaining any documentation deemed necessary to verify the ACDBE's actual participation.
4. 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 We are a member of a Unified Certification Program (UCP) administered by The Oklahoma Department of Transportation, which will make ACDBE certification decisions on behalf of the Trust, and which uses 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 by reference.

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

Prior to entering into a new contract, extension, or option with a currently certified ACDBE, we will review their eligibility by checking the UCP's certified directory database. Our plan for this review process will be to review each new ACDBE, through the UCP's certified directory database, as they contract or propose to contract with us.

We will presume that a firm that is certified as a DBE under Part 26 is eligible to participate as an ACDBE. However, before accepting the certification of such a firm, we will ensure that the disadvantaged owners of a DBE certified under Part 26 are able to control the firm with respect to its activity in our concessions program. We understand that the UCP is not obligated to certify a Part 26 DBE as an ACDBE if the firm does not do work relevant to a concessions program. (23.37)

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

We will use the certification standards, as applied by the UCP, of Part 23 to determine the ACDBE eligibility of firms that provide goods and services to concessionaires. (23.39(i))

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

SUBPART D – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 23.41 Basic Overall Goal Requirement

The Trust 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 Trust will review the goals annually to make sure the goal continues to fit the current circumstances. The Trust 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, we need not submit an overall goal for car rentals. Likewise, if the average annual concession revenues for concessions other than car rentals over the preceding 3 years do not exceed \$200,000, 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 Trust'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 Trust consults with stakeholders before submitting the overall goals to the FAA. Stakeholders will include, but not be limited to, minority and women’s business groups, community organizations, trade associations representing concessionaires currently located at the Airport, as well as existing concessionaires themselves, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged businesses, the effects of discrimination on opportunities for ACDBEs, and the Trust’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 Trust is a small hub primary airport. As a condition of eligibility for FAA financial assistance, the Trust 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, 2017	2018/2019/2020	October 1, 2021 2021/2022/2023
Small Hubs	All regions	October 1, 2015	2016/2017/2018	October 1, 2019 2019/2020/2021
Non-Hubs	All regions	October 1, 2016	2017/2018/2019	October 1, 2020 2020/2021/2022

If a new concession opportunity arises at a time that falls between the normal submission dates above and the estimated average of annual gross revenues are anticipated to be \$200,000 or greater, the Trust will submit an appropriate adjustment to the overall goal to FAA for approval at least 90 days before issuing the solicitation for the new concession opportunity.

The Trust 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, or the "base figure." The second step is to examine all relevant evidence reasonably available in the Trust'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 Trust would expect in the absence of discrimination. Evidence may include, but is not limited to past participation by ACDBEs, a disparity study, evidence from related fields that affect ACDBE opportunities to form, grow, and compete (such as statistical disparities in ability to get required financing, bonding, insurance; or data on employment, self-employment, education, training, and union apprenticeship).

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

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

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

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

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

The Trust will use concession specific goals to meet any portion of the overall goals that the Trust 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.

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

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

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

If the concession specific goal applies to purchases and/or leases of goods and services, the Trust will calculate the goal by dividing the estimated dollar value of such purchases and/or leases from ACDBEs by the total estimated dollar value of all purchases to be made by the concessionaire. (23.25(e)(1)(ii))

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

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

Demonstration of good faith efforts (26.53(a) & (c))

The management staff of the Airport, as assigned by the Director of Airports based upon their expertise in a particular type of concession is responsible for determining whether a concessionaire who has not met the concession specific goal has documented sufficient good faith efforts to be regarded as responsive.

The Trust will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before committing to the concession agreement with the bidder/offeror.

Information to be submitted (26.53(b))

The Trust 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. Written and signed confirmation from the ACDBE that it is participating in the concession as provided in the prime concessionaire's commitment; and
6. If the contract goal is not met, evidence of good faith efforts.

Administrative reconsideration (26.53(d))

Within ten (10) days of being informed by the Trust that it is not responsive because it has not documented sufficient good faith efforts, a concessionaire may request administrative reconsideration. Concessionaire should make this request in writing to the following reconsideration official: Mark Kranenburg, 7100 Terminal Drive, Unit 937, Oklahoma City, OK 73159, 405-316-3260, mark.kranenburg@okc.gov. The reconsideration official will not have played any role in the original determination that the concessionaire did not document sufficient good faith efforts.

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

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

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

In this situation, we will require the concessionaire to obtain our prior approval of the substitute ACDBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

If the concessionaire fails or refuses to comply in the time specified, our contracting office will follow the procedures outlined in each agreement, which requires written notice of a default by the concessionaire. If the concessionaire still fails to comply, the contracting officer may issue a termination for default proceeding.

Sample Proposal/Bid Specification:

The requirements of 49 CFR Part 23, regulations of the U.S. Department of Transportation, applies to this concession. It is the policy of the Trust to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this concession will be conditioned upon satisfying the requirements of this proposal/bid specification. These requirements apply to all concessions firms and suppliers, including those who qualify as an ACDBE. An ACDBE concession specific goal of ____ percent of annual gross receipts has been established for this concession. The concession firm shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 6), to meet the concession specific goal for ACDBE participation in the performance of this concession.

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

Section 23.53 Counting ACDBE Participation for Car Rental Goals

We will count ACDBE participation toward overall goals for car rentals as provided in 49 CFR 23.53.

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 23.57 (b) Goal shortfall accountability. If the awards and commitments on our 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, we will:

- (1) Analyze in detail the reasons for the difference between the overall goal and our awards and commitments; and
- (2) Establish specific steps and milestones, when necessary, to correct the problems we have identified in our analysis to enable us to fully meet our set goal.

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 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

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.

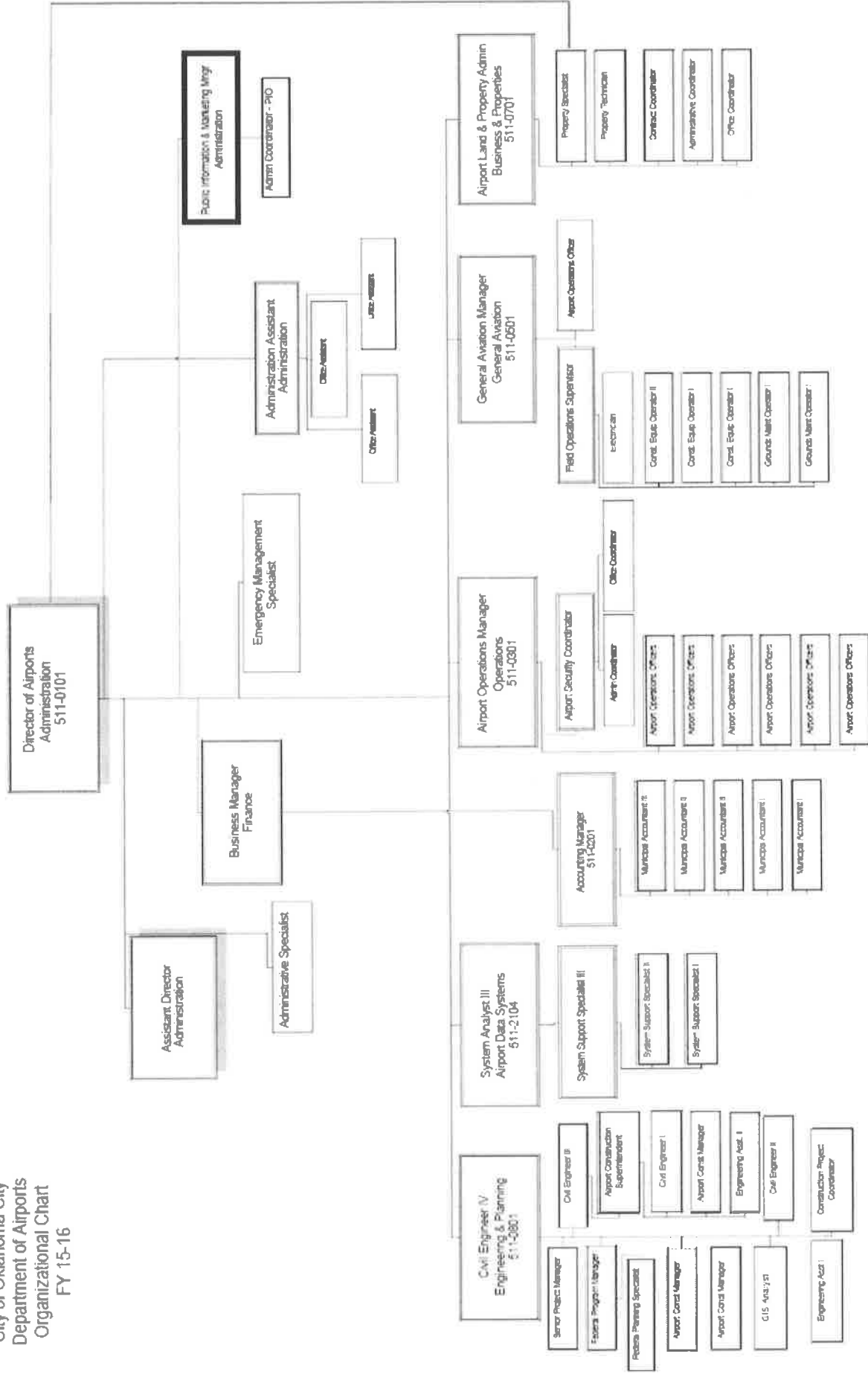
Section 23.79 Geographic Preferences

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

ATTACHMENTS

Attachment 1	Organizational Chart
Attachment 2	DBE/ACDBE Certified Directory Database (http://www.okladot.state.ok.us/)
Attachment 3	Monitoring and Enforcement Mechanisms
Attachment 4	Overall Goal for Concessions other than Car Rental Calculation, Consultation, Breakout of Estimated Race-Neutral & Race-Conscious Participation
Attachment 5	Overall Goals for Car Rentals Calculation, Consultation, Breakout of Estimated Race-Neutral & Race-Conscious Participation
Attachment 6	Form 1 & 2 for Demonstration of Good Faith Efforts
Attachment 7	Regulations: 49 CFR Part 23

Attachment 1



Attachment 2

Oklahoma Department of Transportation
Civil Rights Division, External Programs
Disadvantaged Business Enterprise (DBE)
200 N.E. 21st Street, Room 1-C-5
Oklahoma City, Oklahoma 73105
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Trinia Mullins, ADA/504/508 Coordinator	(405) 521-4140	tmullins@odot.org
Lauren Carter, Administrative Programs Officer	(405) 521-3186	ldcarter@odot.org

DBE Certified Directory Database State DOT website
(<http://www.okladot.state.ok.us/>)

Attachment 3

Sample Monitoring and Enforcement Mechanisms

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

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

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

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

1. We will insert the following provisions into concessions agreements and management contracts:
 - A. In the event that Contractor shall fail to perform, keep, and observe any of the terms, covenants, or conditions herein contained on the part of the Contractor to be performed, kept and observed, Trust may give written notice to Contractor to use due diligence to correct such condition or default; and, if Contractor shall not commence and use diligence to correct such condition or default for thirty (30) days after receipt of such notice, Trust may, after the lapse of thirty (30) days notice and prior to the correction or curing of such default or condition, terminate this Agreement by giving ten (10) days notice and the term hereby demised shall thereupon cease and expire at the end of such ten (10) days in the same manner and effect as if it were the expiration of the term. Except as to any rental payments under this Agreement, no default on the part of the Contractor shall be deemed to continue so long as Contractor shall have promptly taken action to correct the same and shall be diligently prosecuting such action. In any case where Trust shall be entitled hereunder to terminate this Agreement for failure of the Contractor to correct or cure a default after due notice as hereinabove provided in this paragraph, Trust may, as an alternative to termination of the Agreement, perform the obligation imposed under this Agreement for the account of and at the expense of the Contractor, and the same shall be paid by Contractor as additional rent within thirty (30) days following the date of receipt by Contractor of an invoice for the said reasonable expense.
 - B. Contractor shall observe and comply with any and all present and future requirements of the constituted public authorities and with all federal,

state, or local statutes, ordinances, regulations, and standard rules applicable to Contractor or Trust for the intended use of the Airport premises, including by way of example, but not of limitation, all general rules and regulations promulgated from time to time by the Director of Airports of the City of Oklahoma City in connection with the administration of the Airport.

2. We will implement our compliance and monitoring procedures by reviews, to be conducted at least annually, of the percentages of gross revenues allocable to ACDBEs. At any time a contractor fails to reach its contractually required goal, said contractor will be required to substantiate its good faith efforts to return to compliance. These reports will be required on a quarterly basis until compliance is achieved or until it is determined that the contractor's efforts are insufficient and the procedures described in "Good Faith Efforts on Concession Specific Goals (23.25(e)(1)(iii), (iv))" above are implemented.

Attachment 4

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

Amount of Goal

The Trust's overall goal for concessions other than car rental during the period beginning October 1, 2015, and ending September 30, 2018, is the following: 11% per year of the total gross receipts for concessions at Will Rogers World Airport.

The Trust has determined that its market area is equivalent to the Oklahoma City Metropolitan Statistical Area. This is the geographical area in which the substantial majority of firms which seek to do concessions business with the Airport are located and the geographical area in which the firms receive a substantial majority of concessions related revenues are located. However, in the case of certain concession opportunities, this area may be widened to include the entire state or nation, dependent upon circumstances.

At this time there is no new concession opportunities anticipated during this goal period. We will, however, endeavor to provide ACDBEs with any and all opportunities to obtain these concessions as required by Part 23.

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

If a new concession opportunity arises prior to the end of this goal period and the estimated average of annual gross revenues are anticipated to be \$200,000 or greater, the Trust will submit to the FAA an appropriate adjustment to the overall goal. This will be submitted to FAA for approval at least 90 days before issuing the solicitation for the new concession opportunity. (23.45(i))

Methodology used to Calculate Overall Goal

Because the Trust is currently obligated under several contracts, the two largest of which will not expire during this three-year period and which together account for 85% of non-rental car concession revenue, calculation of goals under the two-step formula is rendered moot. Therefore, it is our intention to keep the overall goal at 11% during this goal-setting period.

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

The Trust will use concession specific goals to meet any portion of the overall goals that the Trust 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.

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

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

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

If the concession specific goal applies to purchases and/or leases of goods and services, the Trust 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))

Consultation (23.43)

Prior to submitting this goal to the FAA, the ACDBE liaison officer contacted stakeholders including Oklahoma Minority Supplier Development Council, the Urban League of Greater Oklahoma City, Oklahoma Native American Business Development Center, and current concessionaires, to discuss ACDBE opportunities at the Airport and ways that we can be accessible to them and their constituents. Unfortunately, they are not currently aware of any of their clientele or associates who operate concession-type activities, as their contact lists lean toward building-trade providers.

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

The Trust will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating ACDBE participation. The Trust uses the following race-neutral measures. 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. Ensuring that competitors for concession opportunities are informed during pre-solicitation meetings about how the Trust's ACDBE program will affect the procurement process; and
5. Providing information concerning the availability of ACDBE firms to competitors to assist them in obtaining ACDBE participation.

We estimate that, in meeting our overall goal of 11%, we will obtain 1% from race-neutral participation and 10% through race-conscious measures.

The following is a summary of the basis of our estimated breakout of race-neutral and race-conscious ACDBE participation:

1. For the past few years, we have maintained the 1% race-neutral goal which is due in part to one ACDBE who is certified in the State of Oklahoma, and has been an Airport concessionaire participant since 2007. However, in the past year we reached a goal of .84% (\$20,985.64/\$2,477,163). This reflects a slight decrease of .26% in percentage participation, which can be attributed to the fact that the revenues and contributions from the ACDBE remains fairly static while the prime concessionaire's sales continue to increase;
2. ACDBE participation on concession leases that did not have an ACDBE requirement would have amounted to 2.3% (\$57,366.25/\$2,477,163) of the total ACDBE concession revenues to the Trust had the concessionaires been properly certified; and
3. There is one other ACDBE who is certified in the state of Oklahoma, and that participant is an Airport concessionaire pursuant to a race-conscious measure;

We project that race-neutral measures, standing alone, are not sufficient to meet an overall goal and will use the following race-conscious measures to meet the overall goal:

1. Establish concession specific goals for particular concession opportunities;
2. Negotiate with potential concessionaires to include ACDBE participation through direct ownership arrangements or measures in the operation of the concession; and

3. With prior FAA and Trust Attorney approval, investigate any other methods that take a competitor's ability to provide ACDBE participation into account in awarding a concession.

In order to ensure that our ACDBE program will be narrowly tailored to overcome the effects of discrimination, if we use concession specific goals, we will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual ACDBE participation (see 26.51(f)), and we will track and report race-neutral and race conscious participation separately. For reporting purposes, race-neutral ACDBE participation includes, but is not necessarily limited to, the following: ACDBE participation through a prime contract that an ACDBE obtains through customary competitive procurement procedures, ACDBE participation through a subcontract on a prime contract that does not carry ACDBE goal, ACDBE participation on a prime contract exceeding a concession specific goal, and ACDBE participation through a subcontract from a prime contractor that did not consider a firm's ACDBE status in making the award.

We will maintain data separately on ACDBE achievements in those contracts with and without concession specific goals, respectively.

Attachment 5

Section 23.45: Overall Goal Calculation for Car Rentals

Amount of Goal

The Trust's overall goal for car rentals during the period beginning October 1, 2015, and ending September 30, 2018, is the following: 10% of the total gross receipts of car rental operations at Will Rogers World Airport. However, the current rental car agreement does not call for any ACDBE participation; therefore, none is anticipated for the duration of the agreement through September 30, 2018.

The Trust has determined that its market area is different for the potential participation from the car rental companies/franchisees themselves and from the possible vendors that they may use. If it is necessary to meet future goals, we anticipate meeting our goal through participation by the car rental companies' purchases of goods rather than services, and the market for some of these services is probably national.

The concession opportunities anticipated during this goal period is the opening of 9 rental car counters in the Trust's new Consolidated Rental Car (ConRAC) facility which is anticipated to open for business in early 2016. This goal period will also allow the Trust the opportunity to revisit the ACDBE requirements which may include participation by purchases of cars and/or services. (23.45(i)).

Methodology used to Calculate Overall Goal

Goods and Services

We can meet the percentage goal by including the purchase from ACDBEs of goods and services used in businesses at the Airport. The dollar value from purchases of goods and services from ACDBEs may be added to the numerator, and the dollar value from purchases of goods and services from all firms (ACDBEs and non-ACDBEs) may be added to the denominator.

Step 1: 23.51(c)

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

Option 1:

0 (Base figure)	=	0	(Ready, willing, and able car rental ACDBEs in the market area)
<hr/>			
		0	(All ready, willing, and able car rental firms in the market area)

The data source or demonstrable evidence used to derive the numerator was the Oklahoma Department of Transportation's web site, which identifies no local certified car rental ACDBEs.

The data source or demonstrable evidence used to derive the denominator was a list of eligible concessionaires in the local market and the Census Bureau's County Business Pattern data base (NAICS Code 532111). In order to provide the most appropriate service to Airport customers, our current contract requires Bidders to be a nationally recognized car rental company or an authorized franchisee. Judging from previous year's participation, there do not appear to be any local owners/franchisees who meet the criteria.

When we divided the numerator by the denominator, we arrived at the base figure for our overall goal for car rental concessions of 0% under the current contracts, which do not require any ACDBE participation.

In the future, our entire goal may be met through the concessionaires' purchases of goods and services from DBEs. Because we have not yet begun discussions/investigations regarding any agreements that the concessionaires' may have with DBEs, we do not have any way to estimate the current concessionaires' potentially eligible purchases, as they may be dependent upon their existing purchase contracts. During this goal period we will be consulting with current and future concessionaire's to request information regarding their current situations. If necessary, we will revise our goals based upon their answers to information they provide during discussions and/or informational meetings. We would require the concessionaire to achieve at least a 10% goal for purchases of goods and services from DBEs.

Consultation with Stakeholders (23.43)

Prior to submitting this goal to the FAA, the ACDBE liaison officer consulted with stakeholders including Oklahoma Minority Supplier Development Council, the Urban League of Greater Oklahoma City, Oklahoma Native American Business Development Center, and current concessionaires. We discussed ACDBE opportunities at the Airport and ways that we can be accessible to them and their constituents. Unfortunately, they are not currently aware of any of their clientele or associates who operate relevant activities, as their contact lists lean toward building-trade providers.

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

The Trust will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating ACDBE participation. The Trust uses the following race-neutral means to increase ACDBE participation:

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

We estimate that, in meeting our overall goal of 10%, we will obtain 0% from race-neutral participation and 10% through race-conscious measures. This estimate was derived from the fact that no past participation has occurred in the absence of race-conscious measures. This estimate may change however, once we are able to ascertain the amount of race-neutral participation already taking place through the purchases of goods and services by concessionaires.

Since we project that race-neutral measures, standing alone, are not sufficient to meet an overall goal, we will use the following race-conscious measures to meet the overall goal:

1. Establish concession specific goals for the rental car concession opportunities that may occur during this goal period;
2. Negotiate with potential concessionaires to include ACDBE participation, through direct ownership arrangements or measures, in the operation of the concession; and
3. With prior FAA and Trust Attorney approval, investigate any other methods that take a competitor's ability to provide ACDBE/DBE participation into account in awarding a concession.

In order to ensure that our ACDBE program will be narrowly tailored to overcome the effects of discrimination, if we use concession specific goals, we will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual ACDBE participation (see 26.51(f)); and we will track and report race-neutral and race conscious participation separately. For reporting purposes, race-neutral ACDBE participation includes, but is not necessarily limited to, the following: ACDBE participation through a prime contract that an ACDBE obtains through customary competitive procurement procedures; ACDBE participation through a subcontract on a

prime contract that does not carry ACDBE goal; ACDBE participation on a prime contract exceeding a concession specific goal; and ACDBE participation through a subcontract from a prime contractor that did not consider a firm's ACDBE status in making the award.

We will maintain data separately on ACDBE achievements in those contracts with and without concession specific goals, respectively.

Attachment 6

Forms 1 & 2 for Demonstration of Good Faith Efforts

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

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

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

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

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____ Title _____
(Signature)

FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of ACDBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed/goods or services to be supplied by ACDBE/DBE firm:

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

Affirmation

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

By _____
(Signature) (Title)

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

(Submit this page for each ACDBE subcontractor/DBE supplier.)