

BURBANK-GLENDALE-PASADENA AIRPORT AUTHORITY
ACDBE PROGRAM POLICY STATEMENT

Section 23.1, 23.23 Objectives/Policy Statement

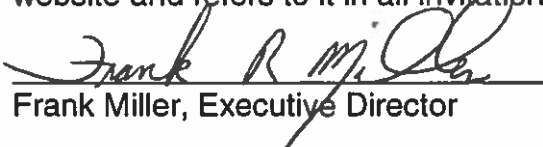
The Burbank-Glendale-Pasadena Airport Authority (BGPAA) has established an Airport Concession Disadvantaged Business Enterprise (ACDBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 23 (Part 23). The BGPAA is a primary airport and has received federal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

It is the policy of the BGPAA to ensure that ACDBEs, as defined in Part 23, have an equal opportunity to receive and participate in concession opportunities at the Hollywood Burbank Airport (Airport). It is also the BGPAA's policy:

1. To ensure nondiscrimination in the award and administration of opportunities for concessions;
2. To create a level playing field on which ACDBEs can compete fairly for opportunities for concessions;
3. To ensure that the ACDBE program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet Part 23 eligibility standards are permitted to participate as ACDBEs at the Airport;
5. To help remove barriers to the participation of ACDBEs in opportunities for concessions at the Airport; and
6. To provide appropriate flexibility to the Airport in establishing and providing opportunities for ACDBEs.

Scott Kimball, Director Business and Properties, has been designated as the ACDBE Liaison Officer (ACDBELO). In that capacity, Scott Kimball 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 BGPAA in its financial assistance agreements with the DOT.

BGPAA has disseminated this policy statement throughout the organization. BGPAA has distributed this statement to ACDBE and non-ACDBE concessionaire communities around the airport by publishing the statement in local newspapers including minority newspapers. In addition, the BGPAA maintains a copy of this policy statement on its website and refers to it in all invitations to bid.


 Frank Miller, Executive Director

04/11/19
 Date

BURBANK-GLENDALE-PASADENA AIRPORT AUTHORITY
ACDBE PROGRAM

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 BGPAA will use terms in this program that have the meanings defined in Part 23 Section 23.3 and in 49 CFR Part 26 (Part 26) Section 26.5 where applicable.

Section 23.5 Applicability

The BGPAA has received a grant for airport development after January 1988 that was authorized under Title 49 of the United States Code.

Section 23.9 Non-discrimination Requirements

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

In administering this program, the BGPAA 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 Part 23 with respect to individuals of a particular race, color, sex, or national origin.

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

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

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

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

Section 23.11 Compliance and Enforcement

The BGPAA is subject to the compliance and enforcement provisions of Part 26 (§§ 26.101 and 26.105 through 26.109).

The BGPAA will comply with Part 23 or be subject to formal enforcement action under Part 26 Section 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. Sections 47106(d), 47111(d), and 47122.

The BGPAA's compliance with all requirements of Part 23 is enforced through the procedures of Title 49 of the United States Code, including 49 U.S.C. Sections 47106(d), 47111(d), and 47122, and implementing regulations.

Compliance reviews: The FAA may review the BGPAA's compliance with Part 23 at any time, including but not limited to, reviews of paperwork, on-site reviews, and review of the BGPAA'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 Part 23 by the BGPAA may file a complaint under 14 CFR Part 16 with the FAA Office of Chief Counsel.

The following enforcement actions apply to firms participating in this program:

- (a) For a firm that does not meet the eligibility criteria of subpart C of Part 23 and that attempts to participate as an ACDBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a lack of business integrity or honesty, the DOT may initiate suspension or debarment under 2 CFR Parts 180 and 1200.
- (b) For a firm that, in order to meet ACDBE goals or other ACDBE program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or representations or under circumstances indicating a lack of business integrity or honesty, another firm that does not meet the eligibility criteria of subpart C of Part 23, the DOT may initiate suspension or debarment proceedings under 2 CFR Parts 180 and 1200.
- (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 ACBDE has been certified. However, such certification does not preclude the 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) The 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) The DOT may refer to the Department of Justice, for prosecution under 18 U.S.C. Section 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of an ACDBE in this program or otherwise violates applicable federal statutes.

SUBPART B – ACDBE PROGRAMS

Section 23.21 ACDBE Program Updates

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

TYPE OF AIRPORT	INITIAL PROGRAM AND GOAL DUE	SECOND GOAL DUE	SUBSEQUENT GOALS DUE
LARGE/MEDIUM HUB PRIMARY	OCTOBER 1, 2017	OCTOBER 1, 2020	EVERY 3 YEARS ON OCTOBER 1

Until a new ACDBE program is submitted and approved, the BGPAA will continue to implement our ACDBE program that was in effect previously, except with respect to any provision that is contrary to Part 23.

This ACDBE program will be implemented at the Airport.

When the BGPAA makes significant changes to this program, the BGPAA will provide the amended program to the FAA for approval prior to implementing the changes.

Section 23.23 Administrative Provisions

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

ACDBE Liaison Officer (ACDBELO): The BGPAA has designated the following individual as the ACDBELO:

Scott Kimball
Director Business and Properties
Burbank-Glendale-Pasadena Airport Authority
2627 Hollywood Way
Burbank, CA 91505
Telephone: (818) 565-1374
Email: skimball@bur.org

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

The ACDBELO is responsible for developing, implementing and monitoring the ACDBE program, in coordination with other appropriate officials. The ACDBELO has a staff of one to assist in the administration of this program. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by the FAA or the DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all airport 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 BGPAA progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the Executive Director/BGPAA Commission on ACDBE matters and achievement.
9. Provides ACDBEs with information and assistance in preparing bids, obtaining bonding, financing, and insurance; acts as a liaison to the OSDBU-Minority Resource Center (MRC).
10. Plans and participates in ACDBE training seminars.
11. Acts as liaison to the Unified Certification Program (UCP) in California.
12. Provides outreach to ACDBEs and community organizations to advise them of opportunities.
13. Maintains the BGPAA updated directory on certified ACDBEs and distinguishes them from DBEs.

Directory: The BGPAA, through the California Unified Certification Program (UCP), maintains a directory identifying all firms eligible to participate as ACDBEs. The

Directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as an ACDBE.

The UCP revises the Directory annually. The BGPAA makes the Directory available as follows: www.californiaucp.org.

Section 23.25 Ensuring Nondiscriminatory Participation of ACDBEs

The BGPAA will take the following measures to ensure nondiscriminatory participation of ACDBEs in concessions, and other covered activities (Part 23 § 23.25(a)).

1. Locating and identifying ACDBEs and other small business that may be interested in participating as concessionaries;
2. Notifying ACDBEs of concession opportunities and encouraging them to compete when appropriate;
3. When practical, structuring concession activities so as to encourage and facilitate the participation of ACDBEs;
4. Providing technical assistance to ACDBEs in overcoming limitations, such as inability to obtain bonding or financing;
5. Ensuring that competitors for concession opportunities are informed during pre-solicitation meetings about how this program will affect the procurement process;
6. Providing information concerning the availability of ACDBE firms to competitors to assist them in obtaining ACDBE participation; and

The BGPAA 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. (Part 23 § 23.25(c))

The BGPAA's overall goal methodology and a description of the race-neutral measures the BGPAA will use to meet the goals are described in Part 23 Section 23.25 and in Attachment 4 of this program. The goals are set consistent with the requirements of Subpart D of Part 23. (Part 23 § 23.25(b), (d))

If the BGPAA projects that race-neutral measures alone are not sufficient to meet an overall goal, then the BGPAA will use race-conscious measures as described in Part 23 Section 23.25 (e) (1-2) and in Attachment 4 of this program. (23.25(e))

The BGPAA 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. (Part 23 § 23.25(f))

Section 23.27 Reporting

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

The BGPAA 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 BGPAA will take the following monitoring and enforcement mechanisms to ensure compliance with Part 23.

1. The BGPAA will bring to the attention of the DOT any false, fraudulent, or dishonest conduct in connection with the program, so that the 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 Part 26 Section 26.107.
2. The BGPAA will consider similar action under its own legal authorities, including responsibility determinations in future contracts. The BGPAA has listed the regulations, provisions, and contract remedies available to it in the event of non-compliance with the ACDBE regulation by a participant in BGPAA's procurement activities (See Attachment 3). (Part 23 § 26.37)
3. The BGPAA 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. payments actually made to ACDBE firms), including a means of comparing these attainments to commitments. This will be accomplished by annual audits of all types of concession activities.

SUBPART C – CERTIFICATION AND ELIGIBILITY

Section 23.31 The BGPAA will refer all concessionaires seeking ACDBE certification to the City of Los Angeles Department of Public Works who would be qualified to make certification decision using the procedures and standards of Part 26, except as provided in Part 23 Section 23.31.

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.

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

The BGPAA *recognizes that Personal net worth* means the net value of the assets of an individual remaining after total liabilities are deducted. An individual's personal net worth (PNW) does not include the following:

- (1) The individual's ownership interest in an ACDBE firm or a firm that is applying for ACDBE certification;
- (2) The individual's equity in his or her primary place of residence; and
- (3) Other assets that the individual can document are necessary to obtain financing or a franchise agreement for the initiation or expansion of his or her ACDBE firm (or have in fact been encumbered to support existing financing for the individual's ACDBE business) to a maximum of \$3 million. The effectiveness of this paragraph (3) of this definition is suspended with respect to any application for ACDBE certification made or any financing or franchise agreement obtained after June 20, 2012. (Part 23 § 23.3)

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

Any person who has a personal net worth exceeding this amount is not a socially and economically disadvantaged individual, even if a member of a group otherwise presumed to be disadvantaged. (See Part 23 §§ 23.3 - *Personal Net Worth* definition and 23.35)

The BGPAA will presume that a firm that is certified as a DBE under Part 26 is eligible to participate as an ACDBE. The BGPAA 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 the BGPAA concessions program.

The BGPAA acknowledges that a prime contractor includes a firm holding a prime contract with an airport concessionaire to provide goods or services to the concessionaire or a firm holding a prime concession agreement with the BGPAA. The BGPAA 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). (Part 23 § 23.39(c) (d)).

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 Personal Net Worth standard, and the firm in all other respects remains an eligible DBE, the BGPAA may continue to count the concessionaire's participation toward ACDBE goals during the remainder of the current concession agreement. The BGPAA 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. (Part 23 § 23.39(e))

The BGPAA will use the Uniform Application Form found in Appendix F to Part 26 with additional instruction as stated in Part 23 Section 23.39(g).

SUBPART D – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 23.41 Basic Overall Goal Requirement

The BGPAA 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 BGPAA will review the goals annually to make sure the goal continues to fit our circumstances. The BGPAA will report any significant overall goal adjustments to the FAA.

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

BGPAA’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 BGPAA 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 our efforts to increase participation of ACDBEs.

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

Section 23.45 Overall Goals

The Airport is a medium hub primary airport. As a condition of eligibility for FAA financial assistance, the BGPAA 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, 2020 (2021/2012/2023)

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 BGPAA will submit an appropriate adjustment to our overall goal to the FAA for approval at least six months prior to executing the new concession agreement.

The BGPAA will establish overall goals in accordance with the 2-Step process as specified in Part 23 Section 23.51. After determining the total gross receipts for the concession activity, the first step is to determine the relative availability of ACDBEs in the market area, "base figure". The second step is to examine all relevant evidence reasonably available in the BGPAA'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 BGPAA 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 BGPAA 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 Part 26 Section 26.39.

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

A description of the methodology to calculate the overall goal for concessions other than car rentals, the goal calculations, and the data the BGPAA relied on can be found in Attachment 6 to this program.

Projection of Estimated Race-Neutral & Race-Conscious Participation (Part 23 §§ 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 5 and 6 to this program. This section of the program will be reviewed annually when the goal calculation is reviewed under Part 23 Section 23.41(c).

Concession Specific Goals (Also include this language in the DBE goal attachment) (Part 23 § 23.25 (c), (e) (1) (iv))

The BGPAA 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.

The BGPAA will establish concession specific goals only on those concessions that have direct ownership arrangements (except car rentals), sublease, or subcontracting possibilities. Car rental firms are not required to change their corporate structure to provide for direct ownership arrangements. In the case of a car rental goal, where it appears that all or most of the goal is likely to be met through the purchases by car rental companies of vehicles or other goods or services from ACDBEs, one permissible alternative is to structure the goal entirely in terms of purchases of goods and services.

The BGPAA 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 BGPAA will calculate the goal as a percentage of the total estimated annual gross receipts from the concession. (Part 23 § 23.25(e) (1) (i))

If the concession specific goal applies to purchases and/or leases of goods and services, the BGPAA 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. (Part 23 § 23.25(e) (1) (ii))

Good Faith Efforts on Concession Specific Goals (Part 23 § 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. (Part 23 § 23.25(e) (1) (iv)). Examples

of good faith efforts are found in Appendix A to Part 26. The procedures applicable to Part 26 Sections 26.51 and 26.53 apply to the BGPAA's concession specific goals.

Section 26.53 Good Faith Efforts Procedures

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

The ACDBELO 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 responsive¹.

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

Information to be submitted (Part 23 § 26.53(b))

The BGPAA treats bidder/offeror's compliance with good faith effort requirements as a matter of responsiveness.

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

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

¹ 23.25(e) (1) (iv) The administrative procedures applicable to contract goals in part 26, § 26.51-53, apply with respect to concession-specific goals. *[A bidder/offeror must, in order to be responsible and/or responsive, make good faith efforts to meet the goal. The bidder can meet this requirement in either of two ways. First, the bidder can meet the goal, documenting commitments for participation by ACDBE firms sufficient for this purpose. Second, even if it doesn't meet the goal, the bidder can document adequate good faith efforts. This means that the bidder must show that it took all necessary and reasonable steps to achieve an ACDBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient ACDBE participation, even if it were not fully successful.]*

Administrative Reconsideration (26.53(d))

Within five days of being informed by the BGPAA 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: David Freedman, Director, Business, Property & Administrative Services, Burbank-Glendale-Pasadena Airport Authority 2627 Hollywood Way Burbank, CA 91505 (818) 565-1314. 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. The BGPAA 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 DOT.

Good Faith Efforts when an ACDBE is replaced on a concession (Part 23 § 26.53(f))

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

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

If the concessionaire fails or refuses to comply within the specified time the BGPAA's contracting office will begin default proceedings until satisfactory action has been taken. If the concessionaire continues to fail 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 BGPAA to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this concession will be conditioned upon satisfying

the requirements of this proposal/bid specification. These requirements apply to all concessions firms and suppliers, including those who qualify as an ACDBE. An ACDBE concession specific goal of ____ percent of *(annual gross receipts; value of leases and/or purchases of goods and services)* has been established for this concession. The concession firm shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 6), to meet the concession specific goal for ACDBE participation in the performance of this concession.

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

Section 23.53 Counting ACDBE Participation for Car Rental Goals

The BGPAA will count ACDBE participation toward car rental goals as provided in Part 23 Section 23.53.

Section 23.55 Counting ACDBE Participation for Concessions Other than Car Rentals

The BGPAA will count ACDBE participation toward overall goals other than car rental as provided in Part 23 Section 23.55.

Section 23.57 If the awards and commitments on the 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, the BGPAA will:

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

Section 23.61 Quotas or Set-asides

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

SUBPART E – OTHER PROVISIONS

Section 23.71 Existing Agreements

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

Section 23.73 Privately-Owned or Leased Terminal Buildings

The BGPAA will pass through applicable provisions of Part 23 to a private terminal owner or lessee via our agreement with the owner or lessee. The BGPAA will ensure that the owner or lessee complies with Part 23. The BGPAA will obtain from the owner or lessee the goals and other elements of the ACDBE program required under Part 23.

Section 23.75 Long-Term Exclusive Agreements

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

Section 23.79 Geographic Preferences

The BGPAA 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 the airport.

ATTACHMENTS

- Attachment 1 Organizational Chart
- Attachment 2 DBE/ACDBE Directory
- Attachment 3 Monitoring and Enforcement Mechanisms
- Attachment 4 Breakout of Estimated Race-Neutral & Race- Conscious Participation
- Attachment 5 Overall Goals Calculation for Car Rentals
- Attachment 6 Overall Goals Calculation for Concessions Other Than Car Rentals
- Attachment 7 Form 1 & 2 for Demonstration of Good Faith Efforts
- Attachment 8 ACDBE Certification Application Forms
- Attachment 9 Procedures for Removal of ACDBEs Eligibility
- Attachment 10 Regulations: 49 CFR Part 23
- Attachment 11 Public Participation

Attachment 2

California DBE Directory

The website to view all a current list of Certifying Agencies along with certified ACDBEs is available at www.dot.ca.gov/hq/bep/ucp.htm.

Attachment 3

Monitoring and Enforcement Mechanisms

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

1. Breach of contract action, pursuant to the terms of the contract;
2. Breach of contract action, pursuant to common law; and
3. California False Claims Act (California Government Code Section 12650 et seq.)

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 Part 23
2. Enforcement action pursuant to 49 CFR Part 31; and
3. Prosecution pursuant to 18 USC 1001.

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

1. The BGPAA will insert the following provisions into concessions agreements and management contracts:
 - A. Concessionaire shall comply with the provisions of Exhibit ___ attached hereto and by this reference made a part hereof regarding nondiscrimination, as Authority may amend from time to time. In addition, Concessionaire shall undertake an affirmative action program as required by 14 Code of Federal Regulations Part 152, Subpart E, to insure that no person shall, on the ground of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered by said subpart. Further, Concessionaire shall comply with the applicable provisions of 49 Code of Federal Regulations Part 23, Disadvantage Business Enterprises in Airport Concessions.
2. The BGPAA will implement the following additional monitoring and compliance procedures:
 - A. Audits to be performed, as applicable, of financial, operational, and certified payroll records including any other applicable documents maintained by concessionaire.

3. The BGPAA will implement our compliance and monitoring procedures as follows:
 - A. Annual and/or semi-annual audits based on the type of concession will be undertaken at the concessionaires offices located on airport premises or in an airport conference room for the purposes of monitoring and enforcement of its compliance with Part 23.

Attachment 4

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

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

The BGPAA understand that the BGPAA will be expected to actually take these steps, and this is not merely a paper exercise.

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

The BGPAA estimate that, in meeting its overall goal of 35.45%, the BGPAA will obtain 100% from race-neutral participation and 0% through race-conscious measures.

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

1. *The BGPAA will establish concession-specific goals for particular concession opportunities.*
2. *The BGPAA will negotiate with potential concessionaires to include ACDBE participation through direct ownership arrangements or measures, in the operation of the concession.*
3. *With prior FAA approval, the BGPAA will use other methods that take a competitor's ability to provide ACDBE participation into account in awarding a concession.*

In order to ensure that the ACDBE program will be narrowly tailored to overcome the effects of discrimination, if the BGPAA use concession specific goals the BGPAA will adjust the estimated breakout of race-neutral and race-conscious participation as

needed to reflect actual ACDBE participation (see 26.51(f)) and the BGPAA 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.

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

Attachment 5

Section 23.45: Overall Goal Calculation for Car Rentals

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

BGPAA's overall goal for car rentals during the period beginning October 1, 2017 and ending September 30, 2020 is the following: 7.93% of the total gross expenditures for car rental operations at the Hollywood Burbank Airport.

BGPAA does not anticipate that there will be any new rental car concession opportunities available during this goal period. If a new car rental concession opportunity arises prior to the end of this goal period and the estimated average of annual gross revenues are anticipated to be \$200,000 or greater, the BGPAA will submit an appropriate adjustment to the overall goal. This will be submitted to the FAA for approval at least six months before the execution of the new concession agreement. (Part 23 § 23.45 (l)).

The BGPAA has determined that its market area is nationwide. This is the geographical area in which a 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 concession related revenues are located.

Methodology used to Calculate Overall Goal

Goods and Services

The BGPAA will meet the percentage goal by tabulating the good and services that are purchased from ACDBEs and that are used at the airport. The dollar value from purchases of goods and services from ACDBEs will be the numerator, and the dollar value from purchases of goods and services from all firms (ACDBEs and non-ACDBEs) will be the denominator.

Step 1: 23.51(c)

The BGPAA determined the base figure that will be utilized to calculate the overall goal will be the value derived from dividing the dollar value of goods and services purchased from ACDBEs by the total dollar value of all goods and services purchased by the rental car concessionaires. The base figure was calculated as follows:

$$\text{Base Figure} = \frac{\text{Dollar value of goods and services purchased from ACDBEs}}{\text{Total dollar value of all goods and services purchased}}$$

The data source, or demonstrable evidence, used to determine ACDBE participation is taken from reports provided by each rental car concessionaire currently operating here at the airport. The reports provide details specifically pertaining to gross payments made to ACDBE or DBE vendors in relation to the total spend for all payments made to vendors by each rental car concessionaire. Figures from each current rental car concessionaire for the last three federal fiscal years can be found below:

RAC	Period Start	Period End	Total Vendors Paid for BUR	Total ACDBE Vendors Paid for BUR	ACDBE Participation
Hertz/ Thrifty	10/1/2014	9/30/2015	\$168,824,742.00	\$754,199.00	0.45%
EHI (Alamo,National, Enterprise)	10/1/2014	9/30/2015	\$4,992,899.47	\$818,653.46	16.40%
Avis	10/1/2014	9/30/2015	\$16,076,470.87	\$6,481,625.29	40.32%
Payless	10/1/2014	9/30/2015	\$469,911.20	\$53,487.93	11.38%
Fox	10/1/2014	9/30/2015	\$992,186.00	\$129,100.00	13.01%
Midway	10/1/2014	9/30/2015	\$754,730.79	\$535,583.88	70.96%
DTG	10/1/2014	9/30/2015	\$73,925.48	\$441.50	0.60%
Budget	10/1/2014	9/30/2015	\$10,552,644.78	\$4,184,560.91	39.65%

Total \$202,737,510.59 \$12,957,651.97 6.39%

RAC	Period Start	Period End	Total Vendors Paid for BUR	Total ACDBE Vendors Paid for BUR	ACDBE Participation
Hertz/ Thrifty	10/1/2015	9/30/2016	\$23,708,445	\$764,601	3.23%
EHI (Alamo,National, Enterprise)	10/1/2015	9/30/2016	\$5,037,414.68	\$921,644	18.30%
Avis	10/1/2015	9/30/2016	\$4,042,888.19	\$693,233.16	17.15%
Payless	10/1/2015	9/30/2016	\$1,034,413.84	\$415,174.79	40.14%
Fox	10/1/2015	9/30/2016	\$954,709.59	\$288,208.37	30.19%
Midway	10/1/2015	9/30/2016	\$12,333,472.64	\$422,685.73	3.43%
DTG	10/1/2015	9/30/2016	\$4,795,764.05	\$188,531	3.93%
Budget	10/1/2015	9/30/2016	\$11,959,943.63	\$3,482,171.81	29.12%

Total \$63,867,051.62 \$7,176,249.86 11.24%

RAC	Period Start	Period End	Total Vendors Paid for BUR	Total AGDBE Vendors Paid for BUR	AGDBE Participation
Hertz/ Thrifty	10/1/2016	9/30/2017	\$21,826,549	\$1,979,041	9.07%
EHI (Alamo,National, Enterprise)	10/1/2016	9/30/2017	\$4,897,227.68	\$800,544.09	16.35%
Avis	10/1/2016	9/30/2017	\$12,463,419.38	\$5,260,228.74	42.21%
Payless	10/1/2016	9/30/2017	\$2,190,877.26	\$918,482.76	41.92%
Fox	10/1/2016	9/30/2017	\$2,709,110	\$183,366.87	6.77%
Midway	10/1/2016	9/30/2017	\$10,750,258.27	\$307,188.63	2.86%
DTG	10/1/2016	9/30/2017	\$726,552.20	\$72,814.20	10.02%
Budget	10/1/2016	9/30/2017	\$101,445,079.56	\$3,949,683.82	3.89%

Total \$157,009,073.35 \$13,471,350.11 8.58%

The BGPAA does not anticipate any major changes that would increase or decrease concession revenues over next three years. Therefore, the base goal of 7.93% is the cumulative ACDBE participation of \$33,605,251.94, or the total amount paid to ACDBE vendors for the period of October 1, 2014 through September 30, 2017 divided by the cumulative total paid to all vendors, \$423,613,635.56 for the period of October 1, 2014 through September 30, 2017.

Step 2: 23.51 (d)

After calculating a base figure of the relative availability of ACDBEs, BGPAA took into account other factors and evidence that could potentially justify that an adjustment was needed to the Step 1 base figure.

Examining the past two federal fiscal years, the BGPAA can see that the airport was able to obtain a ACDBE participation level, through race neutral measures, of 11.24% and 8.58% respectively which are both higher than the base goal of 7.93%. Because the past two federal fiscal years have been higher than the base goal, the BGPAA feels comfortable in establishing and adopting the Step 1 base figure as its overall goal for this three year goal period.

Attachment 6**Section 23.45: Overall Goal Calculation for Concessions Other Than Car Rentals****Amount of Goal**

Name of Recipient: Hollywood Burbank Airport

Goal Period: October 1, 2018 and ending September 30, 2020

Overall Three-Year Goal:

35.45%, to be accomplished through 0% RC and 35.45% RN

The BGPAA has determined that its market area is as follows:

Company	Market Area
Vending Services	Greater Los Angeles, Ventura, Kern and San Bernardino Counties of CA
Food & Beverage Service	Greater Los Angeles, Ventura, Kern and San Bernardino Counties of CA
News/Gifts	Greater Los Angeles, Ventura, Kern and San Bernardino Counties of CA
Pet Store	Greater Los Angeles, Ventura, Kern and San Bernardino Counties of CA
Airport Advertising	Greater Los Angeles, Ventura, Kern and San Bernardino Counties of CA

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.

Overall Three-Year Goal:

100%, to be accomplished through Race Neutral measures.

Base of Goal

To calculate the base of the goal, the BGPAA considered the previous 3 years of gross concession receipts and the projected potential concession revenue (gross receipts) 3 years into the future including upcoming new opportunities.

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

Fiscal Year	Concessions Revenue (Excluding Car Rental)
2015	\$16,370,169.48
2016	\$17,356,370.85
2017	\$20,269,716.90
Total	\$53,996,257.23
Average	\$17,998,752.41

The BGPAA estimates that revenues to existing concessions will grow by 0% over the next three years. There will be no new concessionaire space available in the upcoming 3 years. Upon completion of the planned terminal construction process, growth opportunities will be reevaluated and possibly included in the next goal submittal.

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

Methodology used to Calculate Overall Goal

Step 1: 23.51(c)

The BGPAA determined the base figure for its goal as follows:

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

NAICS	Type of Concession	Los Angeles, Ventura, Kern and San Bernardino County DBE/ACDBE Firms	Los Angeles, Ventura, Kern and San Bernardino County All Firms
454210	Vending Machine Operations	6	76
722513	Limited-Service Restaurants	47	11,027
453220	Gift, Novelty & Souvenir Stores	58	767
453910	Pet Store	6	397
541850	Display Advertising	6	101
Total		123	12,368

Therefore, the base goal is $123 / 12,368 = 0.009\%$. The data source for the numerator was the California Department of Transportation, Office of Business & Economic Opportunity DBE/ACDBE Database (<https://ucp.dot.ca.gov/licenseForm.htm>). The data source for the denominator was the US Census Bureau's fact finder (<https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml>).

Step 2: 23.51(d)

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

While there is a low percentage of ACDBE firms available in the MCS, BGPAA has historically been able to achieve ACDBE participation due to the fact that the current food and beverage concessionaire is 100% ACDBE. Therefore past history participation was used to adjust the base figure. The data used to determine the adjustment to the base figure was:

Past History Participation

Data used to determine the adjustment to the base figure was the median of historical ACDBE accomplishments:

Federal Fiscal Year	ACDBE Goals			Accomplishments		
	RC	RN	Total	RC	RN	Total
FFY15	0.00%	74.00%	74.00%	0.00%	86.20%	86.20%
FFY16	0.00%	74.00%	74.00%	0.00%	70.90%	70.90%
FFY17	0.00%	74.00%	74.00%	0.00%	69.79%	69.79%

Arranging this historical data from low to high, the median is 70.90%

To arrive at an overall goal, we added our Step 1 base figure with our Step 2 median figure and then averaged the total arriving at an overall goal of 35.45%. We feel this participation can be achieved during this 3-year period. While the current food and beverage concessionaire is an ACDBE, if that contract were to end, not be renewed, or their ACDBE status change, the likelihood of being able to achieve future participation would decrease, therefore a 35.45% goal for the period is reasonable.

Goal Accomplishment Alternatives

Goods and Services

The BGPAA can meet the percentage goal by including the purchase from ACDBEs of goods and services used in businesses conducted at the airport. The BGPAA, and the businesses at the airport, shall make good faith efforts to explore all available options to achieve, to the maximum extent practicable, compliance with the goal through direct ownership arrangements, including joint ventures and franchises.

The dollar value from purchases of goods and services from ACDBEs may be added to the numerator, and the dollar value from purchases of goods and services from all firms (ACDBEs and non-ACDBEs) may be added to the denominator.

Management Contract or Subcontract

The BGPAA can meet the percentage goal by including any business operated through a management contract or subcontract with an ACDBE. The BGPAA, and the businesses at the airport, will add the dollar amount of a management contract or subcontract with an ACDBE to the total participation by ACDBEs in airport concessions (both the numerator AND the denominator) and to the base from which the airport's percentage goal is calculated. However, the dollar amount of a management contract or subcontract with a non-ACDBE and the gross revenue of business activities to which the management contract or subcontract pertains will not be added to this base in either the numerator or denominator. *While the BGPAA realize that this appears to go against the normal rules and rationale for goal-setting, the BGPAA understand that this method is nevertheless required by statute.*

Attachment 7

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 utilization on this contract.

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

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____
(Signature) Title

FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of ACDBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by ACDBE firm:

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

Affirmation

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

By _____
(Signature) (Title)

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

(Submit this page for each ACDBE subcontractor.)

Attachment 8

ACDBE Certification Application Form

The application form for ACDBE Certification can be found on the California Department of Transportation website at http://www.dot.ca.gov/hq/bep/business_forms.htm .

Attachment 9

Procedures for Removal of ACDBEs Eligibility

The BGPAA will follow the procedures outlined in 49 CFR Part 26 Section 26.87 if a ACDBE is no longer eligible to be certified as an ACDBE and is subject to removal.

Attachment 10

Regulations: 49 CFR Part 23

<http://www.ecfr.gov/cgi-bin/text-idx?SID=24a5a6c21132eb30fcaa135dc4d385a&mc=true&node=pt49.1.23&rgn=div5>

Attachment 11**Public Participation**

In conjunction with BGPAA's submission of this goal to the FAA, the BGPAA will undertake consultation sessions(s) with stakeholders from the food and beverage, airport advertising, news and gift industries as well as DBEs and small businesses to obtain their input and to notify them of any potential space that may become available within the limited terminal space for concession activities. The BGPAA will also include local area chamber of commerce and similar organizations in such consultations. A report of the efforts undertaken, participation, and feedback received will be submitted with the goals.