

HILLSBOROUGH COUNTY AVIATION AUTHORITY
AIRPORT CONCESSION DISADVANTAGED
BUSINESS ENTERPRISE (ACDBE) POLICY AND PROGRAM



HILLSBOROUGH COUNTY AVIATION AUTHORITY
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Revised March 7, 2024~~September 2, 2021~~

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POLICY STATEMENT

I. OBJECTIVES/POLICY STATEMENT (Sections 23.1, 23.23)

The Hillsborough County Aviation Authority (Authority) is committed to a program for the participation of Airport Concession Disadvantaged Business Enterprises (ACDBEs) in concession-related contracting opportunities (Program or ACDBE Program) in accordance with U.S. Department of Transportation's (DOT) 49 CFR Part 23, effective April 21, 2005, as may be amended. The Authority 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 Authority has signed airport grant assurances that it will comply with 49 CFR Part 23.

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

1. To ensure nondiscrimination in the Authority's award and administration of opportunities for concessions at the Airport;
2. To create a level playing field on which ACDBEs can compete fairly for opportunities for concessions at the Airport;
3. To ensure that the ACDBE Program is narrowly tailored in accordance with the Regulations and other applicable law;
4. To ensure that only firms that fully meet eligibility requirements of this Program 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 Authority in establishing and providing opportunities for ACDBEs at the Airport.

The ~~Director of Government Affairs & Community Relations~~~~Assistant General Counsel, Business Diversity~~ has been designated as the ACDBE Liaison Officer (ACDBELO). In that capacity, the ACDBELO is responsible for implementing all aspects of the ACDBE Program. Implementation of the ACDBE Program is accorded the same priority as compliance with all other legal obligations incurred by the Authority in its financial assistance agreements with the DOT.

The Authority has disseminated this policy statement to its Board of Directors and has also made this policy statement available on the Authority's website, www.TampaAirport.com, to all Authority personnel and to members of the business community that perform or are interested in performing work on Authority concession-related contracts.

SUBPART A - GENERAL REQUIREMENTS

I. OBJECTIVES (Section 23.1)

The objectives of this ACDBE program are found in the policy statement on the first page of this Program.

II. DEFINITIONS (Section 23.3)

The terms used in this Program shall have the meaning defined in 49 CFR, Section 23.3 and Section 26.5 or in the Authority's Disadvantaged Business Enterprise (DBE) Policy and Program, where applicable.

III. APPLICABILITY (Sections 23.5 and 23.21)

The Airport is a primary airport and the Authority, as a recipient of federal financial assistance from the Federal Aviation Administration (FAA) of the DOT for airport development after January 1988, is required to implement an ACDBE Program in accordance with the ACDBE regulations (Regulations).

IV. NON-DISCRIMINATION REQUIREMENTS (Section 23.9)

- A. The Authority will not 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 the Regulations on the basis of race, color, sex or national origin.
- B. In administering its ACDBE Program, the Authority will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing the accomplishment of the objectives of the ACDBE Program with respect to individuals of a particular race, color, sex or national origin.
- C. The Authority acknowledges these representations are also in accordance with obligations contained in its Civil Rights, DBE and ACDBE airport grant assurances.
- D. The Authority will take all necessary and reasonable steps to ensure nondiscrimination in the award and administration of contracts and agreements covered by 49 CFR Part 23. The following language will be included in all concession-related contracts the Authority executes with any firm after April 21, 2005:

“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.

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.”

V. COMPLIANCE AND ENFORCEMENT (Section 23.11)

- A. The Authority will comply with and is subject to the provisions of 49 CFR Part 26 (§§ 26.101 and 26.105 through 26.1097).
- B. The Authority will comply with Part 26 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.
- C. The Authority’s compliance with all requirements of these provisions 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.
- D. Compliance Reviews: The FAA may review the Authority’s compliance with these provisions at any time, including but not limited to, reviews of paperwork, on-site reviews, and review of the Authority’s monitoring and enforcement mechanism, as appropriate. The FAA Office of Civil Rights may initiate a compliance review based on complaints received.
- E. Any person who knows of a violation of these provisions by the Authority may file a complaint under 14 CFR Part 16 with the FAA Office of Chief Counsel.
- F. The following enforcement actions apply to firms participating in the Authority’s ACDBE Program:

1. For a firm that does not meet the eligibility criteria of 49 CFR Part 23, Subpart C 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 DOT or the FAA may initiate suspension or debarment proceedings against the firm under 49 CFR Part 29.
2. 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 serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria of 49 CFR Part 23, Subpart C, DOT or FAA may initiate suspension or debarment proceedings against the firm under 49 CFR Part 29.
3. In a suspension or debarment proceeding brought under paragraph 1 or 2 of this section, the FAA may consider the fact that a purported ACDBE has been certified. However, such certification does not preclude DOT from determining that the purported ACDBE, or another firm that has used or attempted to use it to meet ACDBE goals, should be suspended or debarred.
4. 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.
5. 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 Authority's ACDBE Program or otherwise violates applicable Federal statutes.

SUBPART B – ACDBE PROGRAMS

I. ACDBE PROGRAM UPDATES (Section 23.21)

- A. Since the Authority is a large hub primary airport, it is required to have an ACDBE Program. As a condition of eligibility for FAA financial assistance, the Authority will submit its ACDBE Program and overall goals to FAA every three years by October 1.

- B. When the Authority makes significant changes to its ACDBE Program, it will provide the amended program to the FAA for approval prior to implementing the changes.

II. ADMINISTRATIVE PROVISIONS (Section 23.23)

- A. Policy Statement: The Authority is committed to operating its ACDBE Program in a nondiscriminatory manner. The Authority's Policy Statement is elaborated on the first page of this Program.
- B. ACDBE Liaison Officer (Section 23.23)

The Authority has designated the DBE Liaison Officer to also serve as the ACDBELO who is:

~~Director of Government Affairs & Community Relations Assistant General
Counsel, Business Diversity~~

Hillsborough County Aviation Authority

P. O. Box 22287

Tampa, FL 33622-2287

Telephone: (813) 554-1450; Email: DBEProgram@tampaairport.com

In this capacity, the ACDBELO is responsible for implementing all aspects of the ACDBE Program and ensuring that the Authority complies with all provisions of 49 CFR Part 23. The ACDBELO has direct, independent access to the Chief Executive Officer (CEO) concerning ACDBE Program matters. An organizational chart displaying the ACDBELO's position in the organization is found in Attachment 1 to this Program.

The ~~Assistant General Counsel, Business Diversity as the~~ ACDBELO, is responsible for developing, implementing and monitoring the ACDBE Program, in coordination with other appropriate officials. The ACDBELO has a staff of ~~three~~ two to assist in the administration of this Program: the Senior Manager, Business Diversity, Business Diversity Compliance Specialist and the Business Diversity Specialist.

- C. Responsibilities of the ACDBELO (Section 23.23)

The ACDBELO will be the primary person responsible for implementing all aspects of this Program, and will work closely with the Senior Manager, Business Diversity and all other divisions of the Authority who are responsible for making decisions relative to the Authority's concession-related contracting opportunities.

The ACDBELO has the following responsibilities:

1. Gathers and reports statistical data and other information as required by DOT/FAA.
2. Identifies contracts and procurements so that ACDBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
3. Analyzes the Authority's progress toward goal attainment and identifies ways to improve progress.
4. Develops, monitors and evaluates the ACDBE Program, and prepares supplemental written procedures and guidelines to implement the program, as needed.
5. Advises the Authority on ACDBE matters and achievement.
6. Reports to the CEO and Board on ACDBE matters and achievement, as needed.

D. The Senior Manager, Business Diversity's specific duties and responsibilities will include, but not be limited to the following:

1. Reviews third party contracts and purchase requisitions for compliance with this Program.
2. Works with other members of the Authority to set overall goals.
3. Ensures that applicable bids, requests for proposals, and other solicitation notices are available to ACDBEs in a timely manner.
4. Participates in the contract proposal and award process, including recommending specific contract goals when appropriate; reviews contract specifications; attends pre-proposal conferences and evaluates proposals to determine whether the proposer has met the ACDBE goal or made adequate good faith effort to do so.
5. Plans and participates in ACDBE training seminars.
6. Monitors specific contract performance and actual ACDBE participation.

7. Monitors overall ACDBE participation, adjusts overall goals and means of achievement, and assesses areas of over-concentration of ACDBE participation.
 8. Acts as liaison to the Florida Unified Certification Program (FLUCP).
 9. Provides outreach to ACDBEs and community organization to advise them of opportunities.
 10. Maintains the Authority's listing of certified ACDBEs included in the FLUCP directory and distinguishes them from DBEs.
 11. Participates in the Airport Minority Advisory Committee annual conferences and other organizations working on common issues pertaining to the Program.
 12. Maintains all appropriate records and documentation of the Program.
- E. Directory: The Authority, through the FLUCP, maintains a directory identifying all firms eligible to participate as ACDBEs. The directory lists the firm's name, address, phone number, and the type of work the firm has been certified to perform as an ACDBE. The FLUCP revises the directory every 24 hours. The Authority makes the directory available through the Authority's website, www.TampaAirport.com.
- F. ~~e-Procurement Portal:Supplier Portal Registration Database:~~ eProcurement Portal Supplier Portal Registration Database: The Authority's ~~eProcurement Portal Supplier Portal Registration Database~~ is a listing of those companies that are interested in bidding on Authority contracts as suppliers, prime contractors, and/or subcontractors. The Senior Manager, Business Diversity as well as the Procurement Department will encourage all potential suppliers or vendors, including ACDBEs, DBEs, and woman and minority-owned business enterprises, to register on the Authority's Database to facilitate greater supplier diversity. The Database is used by the Authority to obtain pricing for goods and services and to collect data on potential suppliers to enhance the Authority's contracting efforts. The ~~PortalDatabase~~ is also used by companies to identify prime contractors and subcontractors. The ~~PortalDatabase~~ is posted on the Authority's website at www.TampaAirport.com. All companies registered in the ~~PortalDatabase~~ can access purchase orders, submit invoices, view payments, update their profile, and respond to online solicitation opportunities.
- G. All entries in the ~~PortalDatabase~~ are performed by the registering supplier and can be updated as often as necessary depending on company's need. The

Authority does not enter or update information on a company in the [Portal.Database](#).

III. ENSURING NONDISCRIMINATORY PARTICIPATION OF ACDBEs (Section 23.25)

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

1. Identify opportunities for ACDBEs on all concession and management agreements and ensure the availability of qualified ACDBEs who are ready, willing and able to provide their services; review proposed agreements in order to identify opportunities for participation by certified ACDBEs; determine the level of participation on the basis of historic and actual ACDBE participation on previous agreements and the availability of certified ACDBEs.

2. In all concession and management agreements entered into with the Authority, the agreement signed by the concessionaire and each subconcession agreement the concessionaire signs with a subconcessionaire must assure the Authority that:

“The concessionaire and subconcessionaire will not discriminate on the basis of race, color, national origin, or sex in the performance of this agreement. The concessionaire will carry out applicable requirements of 49 CFR Part 23 in the award and administration of agreements. Failure by the concessionaire to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the Authority deems appropriate.”

B. The Authority 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)).

C. In accordance with 49 CFR Part 23, Section 23.25, the Authority’s overall goal methodology and description of the race-neutral measures it will take to meet the goals are described in Attachments 3 and 4 of this Program. The goals are set consistent with the requirements of 49 CFR Part 23, Subpart D (23.25(b), (d)).

D. If the Authority projects that race-neutral measures, standing alone, are not sufficient to meet an overall goal, it will use race-conscious measures as

described in 49 CFR Part 23, Section 23.25 (e) (1-2) and Attachments 3 and 4 of this Program.

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

IV. REPORTING (Section 23.27)

- A. The Authority 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 Authority's compliance with Part 23. This data will be retained for a minimum of three years following the end of the concession agreement or other covered contract.
- B. The Authority will submit an annual participation report on ACDBE participation to the FAA Regional Civil Rights Office.

V. THE AUTHORITY'S COMPLIANCE AND ENFORCEMENT PROCEDURES (Section 23.29)

- A. In the event of a concessionaire's non-compliance with the Authority's ACDBE Policy and Program or failure to meet the prescribed ACDBE goal set forth in an agreement, or to establish a good faith effort to do so, the Authority, after due process, will impose such contract sanctions as the Authority, the FAA or both may determine to be appropriate.
- B. If at any time the Authority has reason to believe that the concessionaire is in default of this Policy and Program, the Authority may, in addition to pursuing any other available legal remedy, terminate, suspend or cancel the agreement in whole or in part; and/or suspend or debar the concessionaire from eligibility to contract with the Authority in the future or to receive bid packages, request for proposal packages, or other solicitations unless the concessionaire demonstrates, within a reasonable time as determined by the Authority, its compliance with the terms of this Policy and Program or its good faith efforts to comply.
- C. The Authority's monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 23 are found at Attachment 2.
- D. The Authority will bring to the attention of the DOT 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.

- E. The Authority will consider similar action under its own legal authorities, including responsibility determinations in future contracts. The Authority has listed the regulations, provisions, and contract remedies available to it in the events of non-compliance with the ACDBE regulation by a participant in its procurement activities (see Attachment 2).
- F. In the Authority's reports of ACDBE participation to FAA, it will show both commitments and attainments, as required by the DOT reporting form.

SUBPART C – CERTIFICATION, ELIGIBILITY, DENIAL AND REMOVAL OF CERTIFICATION
(Sections 23.31 through 23.39)

I. CERTIFICATION

Except as provided in 49 CFR Section 23.31, the Authority will use the procedures and standards of Part 26 and the Authority's DBE Policy and Program, Section 3 – Determining Eligibility, to certify ACDBEs to participate in its concessions program and such standards are incorporated herein. The Authority is a member of the FLUCP administered by the Florida Department of Transportation and the Senior Manager, Business Diversity will make certification decisions on behalf of the Authority for ACDBEs.

II. ELIGIBILITY

- A. The FLUCP directory of eligible DBEs will specify whether a firm is certified as a DBE for purposes of Part 26, and ACDBE for purposes of Part 23, or both.
- B. The Authority reviews the following information annually on all currently certified ACDBEs: no change declaration and previous year's business tax return(s).
- C. The Authority will treat a firm as a small business eligible to be certified as an ACDBE if its gross receipts averaged over the firm's previous three fiscal years do not exceed \$56.42 million. The size standard for banks and other financial institutions is \$1 billion in assets, \$75.23 million for car rental companies, 1,500 employees for pay telephone companies, and 350 employees for automobile dealers. (23.33) The personal net worth standard used in determining eligibility for purposes of Part 23 is \$1.32 million or as adjusted by Part 23 (23.35). The Authority recognizes that in calculating personal net worth, the following

exclusions apply: the individual's ownership interest in an ACDBE firm or a firm that is applying for ACDBE certification; the individual's equity in his or her primary place of residence; and 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, to a maximum of \$3 million. 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.

- D. The Authority will presume that a firm that is certified as a DBE under Part 26 is eligible to participate as an ACDBE. However, before certifying such a firm, the Authority 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 Authority's concessions program. The Authority is not obligated to certify a Part 26 DBE as an ACDBE if the firm's work is not relevant to the Authority's concessions program. (23.37).
- E. The Authority recognizes that the provisions of Part 26, Sections 26.83(c) (2) – (6) do not apply to certifications for purposes of Part 23. The Authority will obtain resumes or work histories of the principal owners of the firm and personally interview these individuals. The Authority will analyze the ownership of stock of the firm, if it is a corporation, and the bonding and financial capacity of the firm. The Authority will determine the work history of the firm, including any concession contracts or other contracts it may have received and will compile a list of the licenses of the firm and its key personnel to perform the concession contracts or other contracts it wishes to receive. The Authority will obtain a statement from the firm of the types of concessions it prefers to operate or the type of other contracts it prefers to perform and will ensure that the ACDBE firm meets the applicable size standard. (23.39(a)(b)).
- F. The Authority 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 Authority. The Authority recognizes 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)).
- G. The Authority will use the certification standards of Part 23 to determine the ACDBE eligibility of firms that provide goods and services to concessionaires. (23.39(i)).
- H. 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 ACDBE, the Authority will continue to count the concessionaire's participation toward ACDBE goals during the remainder of the current concession agreement. The Authority 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)).

- I. The Authority will use the Uniform Application Form found in Appendix F to Part 26 with additional instructions as stated in Part 23 (23.39(g)).

III. DENIAL OF CERTIFICATION

A firm may appeal the decision denying certification by the Senior Manager, Business Diversity. Such appeal must be made in writing no later than 90 days after the date of final decision and submitted in accordance with 49 CFR Part 26.89 and Authority's DBE Policy and Program, Section 9-USDOT Certification Appeal Procedures and Enforcement Actions to:

U. S. Department of Transportation
Departmental Office of Civil Rights
External Civil Rights Programs Division (S-33)
1200 New Jersey Ave., S.E.
Washington, DC 20590
~~Telephone (202) 366-1930~~
~~Alt Phone (800) 532-1169~~
~~Fax (202) 366-7228~~

IV. REMOVAL OF CERTIFICATION

Procedures for removal of certification are contained in Attachment 6 which is attached hereto and incorporated herein.

SUBPART D – GOALS, GOOD FAITH EFFORTS, AND COUNTING

I. BASIC OVERALL GOAL REQUIREMENT (Section 23.41)

- A. The Authority will establish two separate overall ACDBE ~~goals;~~goals: one for car rentals and another for concessions other than car rentals. The overall goals will cover a three-year period and the Authority will review the goals annually to make sure the goals continue to fit the Authority's circumstances. The Authority will report any significant overall goal adjustments to the FAA.

- B. If the average annual concession revenues for car rentals over the preceding three years do not exceed \$200,000, the Authority will not need to submit an overall goal for car rentals. Likewise, if the average annual concession revenues for concessions other than car rentals over the preceding three years do not exceed \$200,000, the Authority will not need to submit an overall goal for concessions other than car rentals. The Authority understands that revenue means total revenue generated by concessions, not the fees received by the Airport from concessionaires.
- C. The Authority's overall goals will provide for participation by all certified ACDBEs and will not be subdivided into group-specific goals, except to divide into car rental and other than car rental as noted in paragraph A. above.

II. CONSULTATION IN GOAL SETTING (Section 23.43)

- A. The Authority consults with stakeholders to review the overall goals submitted 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 Authority's efforts to increase participation of ACDBEs.
- B. The Authority will conduct meetings with stakeholders, including trade and minority/women business organizations, ACDBE firms and current concessionaires prior to soliciting any new opportunity.

III. OVERALL GOALS (Section 23.45)

- A. If a new concession opportunity arises during the three-year time period of an overall goal with an estimated average of annual gross revenues anticipated to be \$200,000 or greater, the Authority will submit an appropriate adjustment to its overall goal to FAA for approval at least six months before executing the new concession agreement.
- B. The Authority will establish overall goals in accordance with the two-step process as specified in Section 23.51. After determining the total gross receipts for the concession activity, the first step is to determine the relative availability of ACDBEs in the market area, base figure. The second step is to examine all relevant evidence reasonably available in the Authority'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 Authority would expect in the absence of discrimination. Evidence may include, but is not limited to, past participation by ACDBEs, a disparity study, and 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).

- C. A description of the methodology to calculate the overall goal for concessions other than car rentals, the goal calculations, and the data the Authority relied on can be found in Attachment 3 to this Program.
- D. A description of the methodology to calculate the overall goal for car rentals, the goal calculations, and the data the Authority relied on can be found in Attachment 4 to this Program.

IV. PROJECTION OF ESTIMATED RACE-NEUTRAL & RACE-CONSCIOUS PARTICIPATION (Section 23.45(f) and Section 23.25(d-e))

The breakout of estimated race-neutral and race-conscious participation can be found with the goal methodology in Attachments 3 and 4 to this Program. This section of the Program will be reviewed annually when the goal calculation is reviewed under 23.41(c).

V. CONCESSION SPECIFIC GOALS (Section 23.25 (c) (e) (1) (iv))

- A. The Authority will use concession specific goals to meet any portion of the overall goals the Authority 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 the Authority's overall goal that is not projected to be met through the use of race-neutral means.
- B. The Authority will establish concession specific goals only on those concessions that have direct ownership arrangements (except car rentals), sublease, or subcontracting possibilities.
- C. The Authority will not need to 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.)
- D. If the objective of a concession specific goal is to obtain ACDBE participation through direct ownership with an ACDBE, the Authority will calculate the goal as

a percentage of the total estimated annual gross receipts from the concession. (23.25(e)(1)(i))

- E. If the concession specific goal applies to purchases and/or leases of goods and services, the Authority 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))

VI. GOOD FAITH EFFORTS ON CONCESSION SPECIFIC GOALS (Section 23.25(e) (1) (iii), (iv))

- A. 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 Authority's concession specific goals. Specifically:

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

- a. The Senior Manager, Business Diversity 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.
- b. The Senior Manager, Business Diversity will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before it commits to the concession agreement with the bidder/offeror.

2. Information to be submitted (Section 26.53(b))

- a. The Authority treats bidder/offeror's compliance with good faith effort requirements as a matter of responsiveness.
- b. Each solicitation for which a concession specific goal has been established will require the concessionaires to submit the following information on the forms in Attachment 5:

- (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 percentage 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.
- c. To be considered responsive to the ACDBE requirements, firms proposed to participate as ACDBEs must be certified at the time bids/proposals are opened by the Authority.
- d. In determining whether or not the apparent successful bidder/offeror has made such good faith efforts, some of the factors the Authority will consider are the following:
- (1) Whether the bidder/offeror attended any pre-solicitation or pre-bid/proposal meetings scheduled by the Authority to inform certified ACDBEs of contracting and subcontracting opportunities.
 - (2) Whether the bidder/offeror advertised at least ten days prior to bid opening or proposal submission in newspapers of general circulation, trade associations, and minority-focus media concerning subcontracting opportunities.
 - (3) Whether the bidder/offeror provided written notice by certified mail at least ten days prior to bid/proposal opening to a reasonable number of specific certified ACDBEs that their interest in the contract was being solicited.
 - (4) Whether the bidder/offeror followed up initial solicitations of interest by contacting certified ACDBEs to determine with certainty whether the certified ACDBEs were interested.
 - (5) Whether the bidder/offeror selected portions of the work to be performed by certified ACDBEs in order to increase

the likelihood of meeting the ACDBE goals including, where appropriate, breaking down contracts into economically feasible units to facilitate ACDBE participation.

- (6) Whether the bidder/offeror provided interested certified ACDBEs with adequate information about the plans, specifications or requirements of the contract.
- (7) Whether the bidder/offeror negotiated in good faith with interested certified ACDBEs, not rejecting certified ACDBEs as unqualified without sound reasons after a thorough investigation of their capabilities.
- (8) Whether the bidder/offeror made efforts to assist interested certified ACDBEs in obtaining bonding, lines of credit, or insurance required by the Authority or bidder/offeror.
- (9) Whether the bidder/offeror effectively used the services of available minority community organizations; minority contractor groups; local, state and federal minority business assistance offices; and other organizations that provide assistance in the recruitment and placement of certified ACDBEs.
- (10) Whether the scope of work submitted by the bidder/offeror to any certified ACDBE concessionaire, certified ACDBE subconcessionaire, certified ACDBE supplier, certified ACDBE sub-supplier, and so on, either directly or indirectly, was intended to achieve, in whole or in part, the specified ACDBE participation.
- (11) Whether the replies or quotes from certified ACDBEs in response to scopes of work submitted to them by concessionaires, either directly or indirectly, were fair and responsive.
- (12) Whether the bidder/offeror fairly represented the ACDBE quotations in the formulation of the concessionaire's bid as shown on the concessionaire's bid tabulation or other work documents to support the concessionaire's bid.

(13) Whether all other bidders/offerors achieved the ACDBE goal.

B. Administrative Reconsideration (Section 26.53(d))

1. Within five days of being informed by the Authority that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. The bidder/offeror should make this request in writing to:

Vice President of Procurement
Hillsborough County Aviation Authority
Tampa International Airport
P. O. Box 22287
Tampa, Florida 33622

Attn: Vice President of Procurement

Email: vpofprocurementdirectorofprocurement@tampaairport.com

2. The Vice President of Procurement will assign a Director of Procurement or other senior Procurement official not responsible for the particular solicitation to conduct the administrative reconsideration. The Reconsideration Official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.
3. As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with the Authority's Reconsideration Official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The Reconsideration Official will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder/offeror did or did not meet the goal or make adequate good faith efforts to do so. In the event a bidder/offeror protests the decision of the Reconsideration Official, the bidder/offeror must submit a formal bid protest of the decision in accordance with the Authority's Policy P512 Procurement Protests, which is available on the Authority's website. The result of the reconsideration process is not administratively appealable to the USDOT.

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

1. The Authority will monitor the compliance and good faith efforts of concessionaires in meeting the requirements of this Program. The Authority will have access to the necessary records to examine such information as may be appropriate for the purpose of investigating and determining compliance with this Program, including, but not limited to, records, records of expenditures, contracts between concessionaire and the ACDBE participant, and other records pertaining to the ACDBE participation plan. The extent of ACDBE participation will be reviewed prior to the exercise of any renewal, extension or material amendment to the agreement to consider whether an adjustment in the ACDBE requirements is warranted. Without limiting the requirements of the agreement, the Authority reserves the right to review and approve all sub-leases or subcontracts, in advance of their commencement, utilized by the concessionaire for the achievement of its goals.
2. The Authority will require that a prime concessionaire not terminate for convenience an ACDBE listed in the ACDBE Report and then perform the work of the terminated ACDBE by itself or by an affiliate without written prior consent of the Authority. When an ACDBE is terminated or fails to complete its work on the contract for any reason, the prime concessionaire must make good faith efforts to find another ACDBE to substitute for the original ACDBE. These good faith efforts will be directed at finding another ACDBE to perform the same estimated gross receipts (or in the case of a car rental concession, to sell the same dollar amount of vehicles and other goods and services) under the contract as the ACDBE that was terminated to the extent needed to meet the established contract goal.
3. The Authority will include in each prime concessionaire contract a provision for appropriate administrative remedies or default that the Authority will invoke if the prime concessionaire fails to comply with these requirements, including the right to terminate the contract.
4. The Authority will also implement a monitoring and enforcement mechanism to ensure that work committed to ACDBEs at contract award is actually performed by the ACDBEs. This mechanism will provide for a running tally of actual ACDBE attainments (e.g., payment actually made to ACDBE firms), including a means of comparing these attainments to commitments. This will be accomplished by observation and monthly reporting of gross receipts. In carrying out these monitoring and enforcement activities, the Authority will analyze its organization structure and staff resources needed to ensure compliance with these ACDBE regulations and recommend additional staff as needed.

D. Sample Proposal/Bid Specification

1. All invitations to bid, RFP's or RFQ's will state, in substantive part, that "The requirements of 49 CFR Part 23, regulations of the USDOT, applies to this concession. It is the policy of the Authority 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 will make good faith efforts, as defined in Appendix A, 49 CFR Part 26, to meet the concession specific goal for ACDBE participation in the performance of this concession.

The concession firm will be required to submit a Letter of Intent which will include 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."

VII. COUNTING ACDBE PARTICIPATION FOR CAR RENTAL GOALS (Section 23.53)

The Authority will count ACDBE participation toward overall goals for car rental as provided in 49 CFR 23.53.

VIII. COUNTING ACDBE PARTICIPATION FOR CONCESSIONS OTHER THAN CAR RENTALS (Section 23.55)

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

IX. QUOTAS OR SET-ASIDES (Section 23.61)

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

SUBPART E – OTHER PROVISIONS

I. EXISTING AGREEMENTS (Section 23.71)

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

II. LONG-TERM EXCLUSIVE AGREEMENTS (Section 23.75)

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

III. GEOGRAPHIC PREFERENCES (Section 23.79)

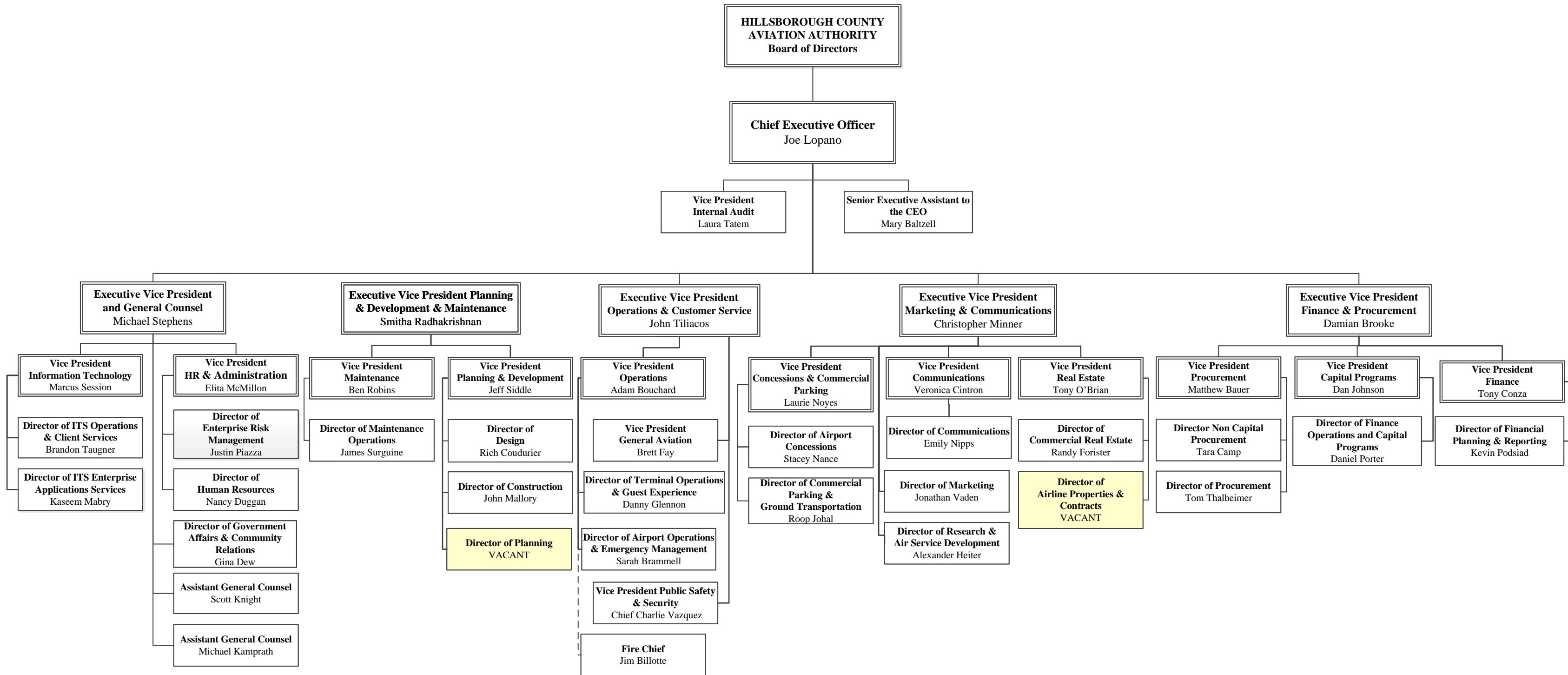
The Authority will not use a “local geographic preference”, i.e., any requirement that gives an ACDBE located in one place an advantage over ACDBEs from other places, in obtaining business as, or with, a concession at the Airport.

Gary W. Harrod, [Vice](#) Chairman
Hillsborough County Aviation Authority

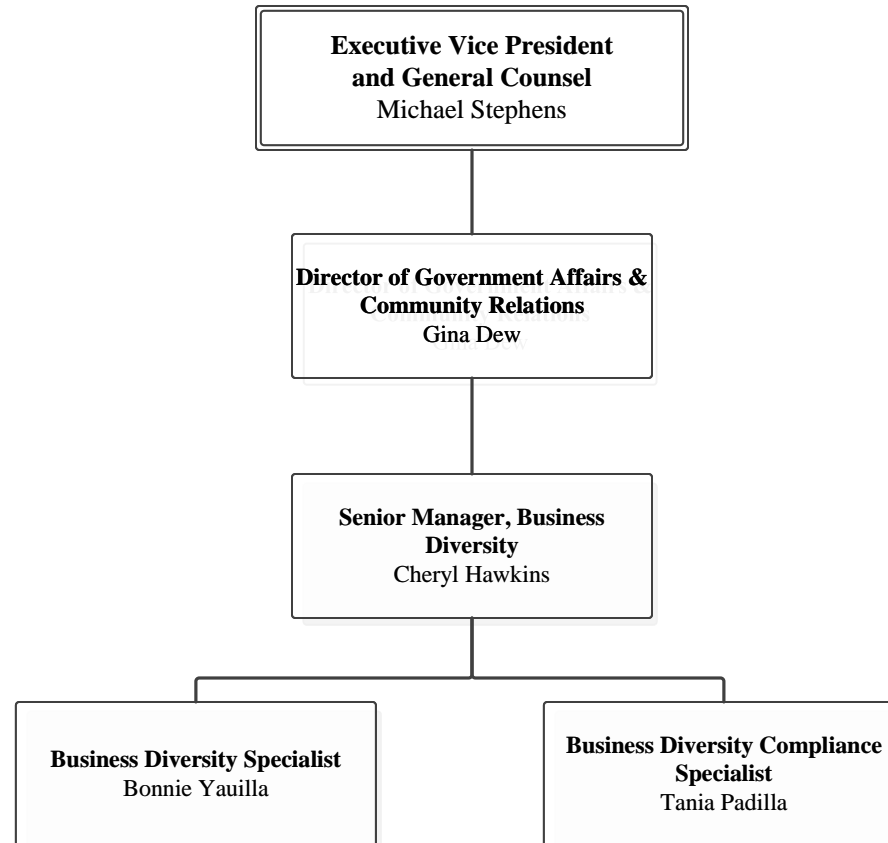
ATTACHMENTS

Attachment 1	Organizational Charts
Attachment 2	Monitoring and Enforcement Mechanisms
Attachment 3	Overall Goal Calculation for Concessions other than Car Rental
Attachment 4	Overall Goal Calculation for Car Rental Concessions
Attachment 5	Sample ACDBE Assurance and Participation Forms - Goal
Attachment 6	Procedures for Removal of ACDBE's Eligibility

HILLSBOROUGH COUNTY AVIATION AUTHORITY



Ethics, Diversity & Compliance



Attachment 2

Monitoring and Enforcement Mechanisms

The Authority has available the following remedy to enforce the ACDBE requirements contained in its contracts: breach of contract action, pursuant to the default and termination terms of the contract.

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

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

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

1. The Authority will monitor the compliance and good faith efforts of concessionaires in meeting the requirements of this Program. The Authority will have access to the necessary records to examine such information as may be appropriate for the purpose of investigating and determining compliance with this Program, including, but not limited to, records, records of expenditures, contracts between concessionaire and the ACDBE participant, and other records pertaining to the ACDBE participation plan. The extent of the ACDBE participation will be reviewed prior to the exercise of any renewal, extension or material amendment to the agreement to consider whether an adjustment in the ACDBE requirement is warranted. Without limiting the requirements of the agreement, the Authority reserves the right to review and approve all sub-leases or subcontracts, in advance of their commitment, utilized by the concessionaire for the achievement of its goals.
2. The Authority 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., gross revenues generated by ACDBEs and/or payments made to ACDBE firms), including a means of comparing these attainments to commitments. This will be accomplished by observation and monthly reporting of gross receipts. In carrying out these monitoring and enforcement activities, the Authority will analyze its organization structure and staff resources needed to ensure compliance with these ACDBE regulations and recommend additional staff as needed.

3. The Authority will insert paragraph 1 above into its concession agreements and management contracts.
4. The Authority will monitor for compliance all car rental, other than car rental, concessions and management companies for each month submitted quarterly by following these procedures:
 - A. Each company is required to submit a monthly gross receipts report to Finance. Finance in turn uploads these reports into Propworks software system whereby revenue data is uploaded into the Airport's Business Diversity Management System.
 - B. The Senior Manager, Business Diversity verifies that ACDBEs utilized are currently certified with the Florida UCP.
 - C. The Senior Manager, Business Diversity creates a monthly ACDBE report that compares the gross receipts for each company and previous year.
 - D. Reports are distributed to the DBE Liaison Officer.

Attachment 3

OVERALL GOAL CALCULATION FOR CONCESSIONS OTHER THAN CAR RENTAL

Federal Fiscal Years 2024 – 2026

**Tampa International Airport
Hillsborough County Aviation Authority**

Airport Sponsor: Hillsborough County Aviation Authority

Goal Period: From: October 1, 2023
Through: September 30, 2026

ACDBE Goal for Terminal Concessions: (excluding rental cars)	26.9%
Race-Conscious ACDBE Goal:	26.9%
Race-Neutral ACDBE Goal:	0.0%

Introduction

Tampa International Airport (the “Airport”) is owned and operated by the Hillsborough County Aviation Authority (the “Authority”). Pursuant to the requirements of 49 CFR Part 23 (the “Regulation”), the Authority is required to develop an overall three-year goal for non-car rental concessions every three years.

Amount of Goal

The Authority’s overall goal for concessions other than car rental during the period beginning **October 1, 2023**, and ending **September 30, 2026**, is **26.9%**. The goal is expressed as a percentage of the total estimated gross receipts for non-car rental concessions at the Airport.

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

The Authority determines the market area for each concession opportunity as it arises based on factors specific to the opportunity. The market area is defined as the geographical area in which the substantial majority of firms which seek to do the specific concessions business with the airport are located and the geographical area in which the firms receive a substantial majority of concessions related receipts are located.

Methodology Used to Calculate Overall Goal

Overall goals have been determined by consolidating the total estimated gross receipts and estimated ACDBE gross receipts for concession agreements that are or will become effective during the goal period. Goals for each new concession are determined through an analysis of the opportunity, potential for ACDBE participation and the relative availability of ACDBE firms in the relevant geographic region who are ready, willing and able to perform under the agreement. Gross receipts have been projected in consideration of the effects of COVID-19 and its impact on the travel industry.

In accordance with 49 CFR Part 23.51(c) ACDBE goals for specific opportunities are determined as follows:

Step 1: 23.51(c)

The Authority determines the base figure for the relative availability of ACDBEs for the specific opportunity. The base figure may be calculated in a number of ways, depending upon what is most appropriate for the specific opportunity.

Examples are as follows:

Option 1: Ready, willing, and able ACDBEs in the appropriate trade in the determined market area divided by all ready, willing and able companies in the appropriate trade in the determined market area.

The data source or demonstrable evidence used to derive the numerator may be either the DBE/ACDBE directory (23.51(c)(1)) or an active participant list (23.51(c)(2)).

Option 2: Disparity Study -There are no relevant disparity studies for concessions from the Authority's geographic area at this time. In the future, the Authority may elect to utilize a disparity study should one become available.

Option 3: Goal of another sponsor –The Authority may use the goal of another airport or DOT sponsor in the same, or substantially similar market if their overall goal is in compliance with 49 CFR Part 23. There are currently no other similar sponsors in the market area.

Option 4: Alternative Methods –The Authority may elect to use other methods to determine the base figure, however it must be based on demonstrable evidence of local market conditions and be designed arrive at a goal that is rationally related to the relative availability of ACDBEs in the market area.

Step 2: 23.51(d)

After calculating a base figure of the relative availability of ACDBEs, the Authority will examine evidence to determine what adjustment, if any, is needed to the base figure in order to arrive at the overall goal.

In accordance with 23.51(d), any adjustment will be designed to reflect as accurately as possible the ACDBE participation the Authority would expect in the absence of discrimination. In addition, the Authority will document the basis on which the base figure was adjusted using the specific data, if any.

Concession Agreements

Tampa International Airport's ACDBE Overall Goal for fiscal years 2024-2026 has been set by consolidating contract goals for each concession category as described below:

Food/Beverage: Food/Beverage concessions at the airport are operated under six contracts, expiring in 2027, 2028, and 2029. An ACDBE goal analysis was conducted prior to the award of the new concession agreements and resulted in a goal of 29.0% for all food/beverage operations. Since none of the Food/Beverage contracts are expiring during this goal period, the established contract goal for each concession will continue throughout the three-year goal period and apply to all food/beverage operations.

News/Gift/Specialty Retail/Duty Free: Retail concessions at the airport are operated under five contracts. None of the retail agreements expire during this three-year goal period. Current goals for news/gift and specialty retail agreements are set between 23.0% and 30% for retail concessions, averaging 25.5%. The current goals will continue throughout the three-year goal period.

Foreign Currency Exchange: The foreign currency exchange concession contract ceased operation in 2020 as a result of the Covid-19 pandemic and has not yet been replaced. It is expected to be resolicited and recommence operations in FY 2025-2026. Given the uncertainty of the industry and the fact that there are no ACDBEs in this industry in the Florida UCP DBE/ACDBE Directory other than one firm located in Los Angeles, the Authority anticipates that this concession will not have ACDBE participation. A goal analysis for the concession will be conducted prior to the solicitation.

Luggage Carts: The luggage cart contract expires in January 2025. The concession currently contains an 11.0% ACDBE goal and is expected to continue with the goal throughout the goal period.

Ground Transportation: Ground transportation concessions consist of taxis and shared ride limos. An ACDBE participation goal of 5% of trips has been set for the taxi concession. The concession reports only per-trip fees for this agreement. The Authority assumes that 5% of trips equate to 5% of fees and has carried this goal throughout the three-year goal period. There is currently no concession agreement for shared ride limos.

Security Bin Advertising: The security bin advertising contract will expire in March 2027, after this three-year goal period. The current contract has no ACDBE goal and will continue without a goal for the duration of this goal period.

Advertising: The current advertising concession contract will expire in March 2024. The agreement currently includes an ACDBE goal of 8.7% based on gross receipts. It is anticipated that the goal will continue throughout the three-year goal period. A goal analysis will be conducted when the concession is resolicited.

Summary

Based on the above description of each non-rental car concession at the airport, the Authority estimated gross receipts for each concession for each year and weighted and consolidated the data to develop the overall three-year goal. The forecasts were developed in consideration of historical information, projected enplanements, and data from various industry resources, including the International Air Transport Association (IATA) and the Federal Aviation Administration (FAA). These forecasts represent the Authority's best efforts to develop a current assessment, based on data available at the time this report was compiled. Actual results may differ significantly from forecasts due to the current unpredictability of such factors.

Table 1 below provides the estimated gross receipts for each year of the three-year goal period.

Table 1. Concessions Projected Gross Receipts - FY 2024 - 2026				
Concession	Projected 2024	Projected 2025	Projected 2026	Projected 2024-2026
Food/Beverage	\$117,322,742	\$123,188,879	\$129,348,323	\$369,859,944
News/Gift/Specialty/Duty Free	\$61,586,631	\$64,665,963	\$67,899,261	\$194,151,854
Foreign Currency Exchange	\$0	\$1,500,000	\$1,575,000	\$3,075,000
Luggage Cart	\$766,870	\$805,214	\$845,474	\$2,417,558
Ground Transportation	\$655,691	\$688,476	\$722,899	\$2,067,066
Security Bin Advertising	\$211,200	\$221,760	\$232,848	\$665,808
Advertising	\$2,983,000	\$3,132,150	\$3,288,758	\$9,403,908
Total Projected Gross Receipts	\$183,526,134	\$194,202,441	\$203,912,563	\$581,641,138

ACDBE goals by category have been applied to the projected gross receipts by industry from Table 1 above with the following result:

Table 2. Concessions Receipts and Goals - FY 2024 - 2026			
Concession	Estimated Gross Receipts	ACDBE % Goal	ACDBE Goal \$
Food/Beverage	\$369,859,944	29.0%	\$107,259,384
News/Gift/Specialty/Duty Free	\$194,151,854	25.5%	\$49,508,723
Foreign Currency Exchange	\$3,075,000	0.0%	\$0
Luggage Cart	\$2,417,558	11.0%	\$265,931
Ground Transportation	\$2,067,066	5.0%	\$103,353
Security Bin Advertising	\$665,808	0.0%	\$0
Advertising	\$9,403,908	8.0%	\$818,140
Total Projected Gross Receipts	\$581,641,138	27.2%	\$157,955,531

Overall Weighted Base ACDBE Goal

Using the above information, the Authority has calculated a weighted ACDBE base goal of 27.2% for FYs 2024-2026. The base figure for the overall ACDBE goal was calculated by taking the ACDBE estimated three-year gross receipts value of \$157.9 million and dividing it by the total estimated three-year gross receipts value of \$581.6 million.

STEP 2: ADJUSTMENTS

The ACDBE regulation provides for a Step 2 adjustment of the developed base goal for a variety of factors, including the current capacity of ACDBEs to perform work in the concession program, as measured by the volume of work ACDBEs have performed in recent years. Table 3 below provides the ACDBE achievement for the most recent five-year period.

Table 3. Past History of ACDBE Participation			
Year	Total Gross Receipts	ACDBE Gross Receipts	% Achievement
FY 2022	\$145,650,724	\$40,178,234	27.6%
FY 2021	\$93,140,468	\$24,532,892	26.3%
FY 2020	\$83,174,456	\$23,422,375	28.2%
FY 2019	\$147,073,493	\$38,952,362	26.5%
FY 2018	\$128,322,304	\$33,840,002	26.4%

Adjusting the base goal for the adjusted past history results in the following:

$$\begin{aligned} \text{Base goal of 27.2\% + Median ACDBE Participation (2018-2022) of 26.5\%} &= 53.7\% \\ 53.7\% \div 2 &= 26.9\% \end{aligned}$$

There is no other relevant data to support an adjustment to the base goal. Therefore, the proposed overall ACDBE goal for the three-year period commencing October 1, 2023, and ending September 30, 2026, is 26.9%.

Proposed Overall Three-Year Goal for FY 2024-2026 = 26.9%

Breakout of Estimated Race-Neutral & Race Conscious Participation

Section 23.51

The ACDBE goals set forth in this document have been set as race-conscious goals in the current agreements. As these contracts will continue throughout the three-year goal period, the ACDBE goals expressed herein have been implemented as race-conscious goals. In the event future opportunities become available, efforts will be made to utilize race neutral methods to achieve any established goal to the maximum extent practicable.

The Authority will use the following race-neutral measures to increase ACDBE participation. The Authority understands that it 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 Airport's ACDBE program will affect the procurement process;*
6. *Providing information concerning the availability of ACDBE firms to proposers to assist them in obtaining ACDBE participation.*

Consultation with Stakeholders (23.43)

Approximately 99.5% of concession gross receipts will be generated over the three-year goal period by continuing contracts. Stakeholder consultations were held as each opportunity became available. Since the goals have already been set for each of these contracts, further stakeholder consultation would have no impact. The Authority will conduct meetings with stakeholders, including trade and minority/women business organizations, ACDBE firms and current concessionaires prior to soliciting any new opportunity.

New Opportunities

If a new concession opportunity arises prior to the end of this goal period and the estimated average of annual gross receipts are anticipated to be \$200,000 or greater, the Authority will submit an appropriate adjustment to the overall goal. This will be submitted to FAA for approval prior to executing the new concession agreement. (23.45(i)).

Goods and Services

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

Joint Venture Agreements

The Authority can also meet the percentage goal by including any business operated through a joint venture agreement that includes a certified ACDBE as one of the participants. In July 2008, the FAA issued Guidance for counting ACDBE participation in joint venture agreements (the "Guidance"). The Airport will count such participation in strict accordance with the Guidance.

Attachment 4

OVERALL GOAL CALCULATION FOR CAR RENTALS CONCESSIONS

Federal Fiscal Years 2024-2026

Tampa International Airport
Hillsborough County Aviation Authority

Introduction

Tampa International Airport (the "Airport") is owned and operated by the Hillsborough County Aviation Authority (the "Authority"). Pursuant to the requirements of 49 CFR part 23 (the "Regulation"), the Authority is required to develop an overall three-year goal for car rental concessions every three years.

Amount of Goal

The Authority's overall goal for ACDBE participation in car rental concessions at Tampa International Airport during the period beginning **October 1, 2023**, and ending **September 30, 2026**, is **2.8%**.

Background Information

There are currently eight (8) rental car companies operating at Tampa International Airport out of a consolidated car rental facility, hereafter referred to as Rental Car Center ("RCC") operated by an RCC third-party operator. Purchases for FY 2022, including purchases made directly by car rental firms and those made by the RCC third-party operator, were approximately \$192.2 million and are estimated at approximately \$636.2 million for the three-year period. The projections used in the preparation of the car rental ACDBE concession goal, including purchasing forecasts, represent the Authority's best efforts to develop a current assessment, based on data available at the time this report was compiled.

49 CFR Part 23 provides the following guidance for establishing concession goals:

§23.51(a) Your objective in setting a goal is to estimate the percentage of the base calculated under §§23.47–23.49 that would be performed by ACDBEs in the absence of discrimination and its effects.

(1) This percentage is the estimated ACDBE participation that would occur if there were a "level playing field" for firms to work as concessionaires for your airport.

(2) In conducting this goal setting process, you are determining the extent, if any, to which the firms in your market area have suffered discrimination or its effects in connection with concession opportunities or related business opportunities.

(3) You must complete the goal-setting process separately for each of the two overall goals identified in §23.41 of this part.

(b)(1) Each overall concessions goal must be based on demonstrable evidence of the availability of ready, willing and able ACDBEs relative to all businesses ready, willing and able to participate in your ACDBE program (hereafter, the “relative availability of ACDBEs”).

(2) You cannot simply rely on the 10 percent national aspirational goal, your previous overall goal, or past ACDBE participation rates in your program without reference to the relative availability of ACDBEs in your market.

(3) Your market area is defined by 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 which receive the substantial majority of concessions-related gross receipts are located. Your market area may be different for different types of concessions.

Counting Participation in Car Rentals

As provided and permitted by 49 CFR Part 23, the Authority has elected to set the Car Rental concession goal based on the purchase of goods/services. The regulation provides for counting ACDBE participation for car rentals as follows:

§23.53 How do car rental companies count ACDBE participation toward their goals?

(a) As a car rental company, you may, in meeting the goal the airport has set for you, include purchases or leases of vehicles from any vendor that is a certified ACDBE.

(b) As a car rental company, if you choose to meet the goal the airport has set for you by including purchases or leases of vehicles from an ACDBE vendor, you must also submit to the recipient documentation of the good faith efforts you have made to obtain ACDBE participation from other ACDBE providers of goods and services.

(c) While this part does not require you to obtain ACDBE participation through direct ownership arrangements, you may count such participation toward the goal the airport has set for you.

(d) The following special rules apply to counting participation related to car rental operations:

(1) Count the entire amount of the cost charged by an ACDBE for repairing vehicles, provided that it is reasonable and not excessive as compared with fees customarily allowed for similar services.

(2) Count the entire amount of the fee or commission charged by an ACDBE to manage a car rental concession under an agreement with the concessionaire toward ACDBE goals, provided that it is reasonable and not excessive as compared with fees customarily allowed for similar services.

(3) Do not count any portion of a fee paid by a manufacturer to a car dealership for reimbursement of work performed under the manufacturer's warranty.

(e) For other goods and services, count participation toward ACDBE goals as provided in part 26, §26.55 and §23.55 of this part. In the event of any conflict between these two sections, §23.55 controls.

(f) If you have a national or regional contract, count a pro-rated share of the amount of that contract toward the goals of each airport covered by the contract. Use the proportion of your applicable gross receipts as the basis for making this pro-rated assignment of ACDBE participation.

Example to paragraph (f): Car Rental Company X signs a regional contract with an ACDBE car dealer to supply cars to all five airports in a state. The five airports each account for 20 percent of X's gross receipts in the state. Twenty percent of the value of the cars purchased through the ACDBE car dealer would count toward the goal of each airport.

Market Area

The Car Rental Concessions at Tampa International Airport are currently operated by eight (8) different companies. Based on the types of goods/services purchased by these firms (e.g., auto repair, insurance, fuel, etc.), the Authority has determined that the market area for the purchase of goods and services is the state of Florida for purchases of goods/services that must be provided on-site and national for other purchases. Vehicle purchases have not been reported; therefore, the Authority has excluded vehicle purchases from the calculation.

Goal-Setting Step 1

The regulation provides the following examples of potential approaches for accomplishing Step 1, determining the base figure, as follows:

23.51(c) Step 1. You must begin your goal setting process by determining a base figure for the relative availability of ACDBEs. The following are examples of approaches that you may take toward determining a base figure. These examples are provided as a starting point for your goal setting process. Any percentage figure derived from one of these examples should be considered a basis from which you begin when examining the evidence available to you. These examples are not intended as an exhaustive list. Other methods or combinations of methods to determine a base figure may be used, subject to approval by the FAA.

(1) Use DBE Directories and Census Bureau Data. Determine the number of ready, willing and able ACDBEs in your market area from your ACDBE directory. Using the Census Bureau's County Business Pattern (CBP) data base, determine the number of all ready, willing and able businesses available in your market area that perform work in the same NAICS codes. Divide the number of ACDBEs by the number of all businesses to derive a base figure for the relative availability of ACDBEs in your market area.

2) Use an Active Participants List. Determine the number of ACDBEs that have participated or attempted to participate in your airport concessions program in previous years. Determine the number of all businesses that have participated or attempted to participate in your airport concession program in previous years. Divide the number of ACDBEs who have participated or attempted to participate by the number for all businesses to derive a base figure for the relative availability of ACDBEs in your market area.

(3) Use data from a disparity study. Use a percentage figure derived from data in a valid, applicable disparity study.

(4) Use the goal of another recipient. If another airport or other DOT recipient in the same, or substantially similar, market has set an overall goal in compliance with this rule, you may use that goal as a base figure for your goal.

(5) Alternative methods. (i) You may use other methods to determine a base figure for your overall goal. Any methodology you choose must be based on demonstrable evidence of local market conditions and be designed to ultimately attain a goal that is rationally related to the relative availability of ACDBEs in your market area.

The Authority has decided to use the DBE Directories and Census Bureau Data method for determining availability. The most recent available census bureau data is for 2021. The NAICS codes for the various trades typically utilized by car rental concessions was determined through a survey of car rental concessionaires and research and are shown on the chart below. For trades that must be local as the work occurs on-site, we have used state of Florida as the relevant geographic market. For all other trades, we have used a national market.

Table 1 – U.S. Census / Florida Unified Certification Program Directory				
Description	NAICS	2021 Census	FL UCP Directory	DBE/ACDBE %
Towing	488410	618	7	1.1%
Security	561621	719	18	2.5%
Keys/Locks	561622	475	3	0.6%
Janitorial Services	561720	6,604	219	3.3%
Auto Repair	811111	5,059	4	0.1%
Auto Body Repair	811121	2,086	9	0.4%
Windshield Repair	811122	532	0	0.0%
Total Local		16,093	260	1.6%
Description	NAICS	2021 Census	DBE Connect Directory	DBE/ACDBE %
Auto Parts	423120	12,416	69	0.6%
Tires	423130	2,581	27	1.0%
Computer Support/Materials	423430	7,182	266	3.7%
Cleaning Supplies	423850	4,487	274	6.1%
Fuel/Oil/Energy	424720	2,607	170	6.5%
Car Dealerships	441110	21,622	5	0.0%
Auto Transport	484230	11,798	544	4.6%
Insurance	524210	135,939	242	0.2%
Asset Recovery	561491	725	5	0.7%
Human Resource Consulting	541612	8,664	1236	14.3%
Uniforms	812331	830	15	1.8%
Total National		208,851	2,853	1.4%
Total		224,944	3,113	1.4%

Weighting the above availability by utilization by trade results in the following:

Table 2 – U.S. Census / Florida Unified Certification Program Directory				
Description	NAICS	DBE/ACDBE %	Weighting	DBE/ACDBE Weighted %
Towing	488410	1.1%	0.1%	0.0%
Security	561621	2.5%	8.4%	0.2%
Keys/Locks	561622	0.6%	1.9%	0.0%
Janitorial Services	561720	3.3%	1.0%	0.0%
Auto Repair	811111	0.1%	0.1%	0.0%
Auto Body Repair	811121	0.4%	1.1%	0.0%
Windshield Repair	811122	0.0%	0.2%	0.0%
Total Local				0.2%
Auto Parts	423120	0.6%	0.4%	0.0%
Tires	423130	1.0%	0.2%	0.0%
Computer Support/Materials	423430	3.7%	0.5%	0.0%
Cleaning Supplies	423850	6.1%	1.0%	0.1%
Fuel/Oil/Energy	424720	6.5%	1.5%	0.1%
Car Dealerships	441110	0.0%	80.0%	0.0%
Auto Transport	484230	4.6%	0.2%	0.0%
Insurance	524210	0.2%	1.6%	0.0%
Asset Recovery	561491	0.7%	0.1%	0.0%
Human Resource Consulting	541612	14.3%	1.5%	0.2%
Uniforms	812331	1.8%	0.2%	0.0%
Total National				0.4%
Total			100.0%	0.6%

The Authority therefore proposes the base goal at 0.6%.

Step 2 - Examine the data to determine what adjustment, if any, is needed to the Base Figure

The ACDBE regulation provides for a Step 2 adjustment of the developed base goal for a variety of factors, including the current capacity of ACDBEs to perform work in a concession program, as measured by the volume of work ACDBEs have performed in recent years. The Authority has reviewed the ACDBE achievement for the most recent three-year period for car rental purchases to provide for an adjustment of the base goal as follows.

Year	Total Purchases	ACDBE Purchases	ACDBE %
2022	\$192,242,068	\$11,553,066	6.0%
2021	\$155,674,154	\$7,765,985	5.0%
2020	\$384,672,363	\$6,724,799	1.8%

Base goal of 0.6% + Median ACDBE Participation
(2020-2022) of 5.0% = 5.6%
 $5.6\% \div 2 = 2.8\%$

There is no other relevant data to support an adjustment to the base goal. Therefore, the proposed overall ACDBE goal for the three-year period commencing October 1, 2023, and ending September 30, 2026, is 2.8%.

Proposed Overall Three-Year Goal for Car Rental for FY 2024-2026 = 2.8%.

Race-Neutral/ Race-Conscious Split

The car rental goals set forth in this document have been set as race-conscious goals in the current agreements. The Authority does not believe that it will be possible to achieve the goal using race neutral methods alone as those methods have not been successful in achieving ACDBE participation in car rentals throughout the country.

Consultation with Stakeholders (23.43)

Consultation with stakeholders is conducted in conjunction with annual outreach and whenever new opportunities become available. In addition, the Authority conducted its car rental outreach on October 10, 2023, as the event was rescheduled from August 29, 2023, as a result of Hurricane Idalia. The goal was discussed at that time. No comments were received.

AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE ASSURANCE AND PARTICIPATION

Select one of the responses below. Failure to complete this section may be grounds for rejection of the Response.

Yes - Respondent Assures Prescribed ACDBE Goal
The Respondent assures that it will meet the ACDBE requirements stated in this Solicitation and the Hillsborough County Aviation Authority's ACDBE Policy and Program, and will subcontract with ACDBE firms in an amount equal to at least _____ percent of the total annual gross receipts generated under the awarded Contract **OR** _____ percent of the total dollar value of all purchases of goods and services made by the selected Respondent under the awarded Contract. The ACDBE assurance stated above is the minimum prescribed goal; however, additional ACDBE participation is encouraged. The Respondent is required to submit a Letter of Intent for each ACDBE that will participate in the awarded Contract at the time the Response is submitted to the Authority. The actual ACDBE contractual commitment will be the total amount of participation shown on the validated Letter(s) of Intent submitted by the Respondent. It is understood that the amounts shown on the Letter(s) of Intent are estimates and that actual amounts paid to ACDBE subcontractors may vary depending on the final adjustments of the estimated quantities; however, the ACDBE contractual commitment can only be modified by an amendment or change order.

OR

No - Respondent Does NOT Assure Prescribed ACDBE Goal
The Respondent is unable to assure ACDBE participation of the prescribed goal of _____%, but will subcontract with ACDBE firms in an amount equal to at least _____ percent of the total annual gross receipts generated under the awarded Contract **OR** _____ percent of the total dollar value of all purchases of goods and services made by the selected Respondent under the awarded Contract. The Respondent must submit with its Response a completed ACDBE Subcontractor Good Faith Effort Worksheet documenting Respondent's good faith efforts to meet the prescribed goal. In determining whether or not the Respondent made sufficient good faith efforts to meet the goal, the Authority will consider the factors listed in the ACDBE Policy and Program.

By: Name of Respondent: [Redacted] Date: [Redacted]

Respondent's Representative:
Name: [Redacted] Title: [Redacted]

(Respondent's Representative Signature)

Letter of Intent Instructions Checklist

Follow this checklist when completing the Letter of Intent.

- A separate letter of intent has been completed for each proposed ACDBE firm.
- The Respondent's name, address, telephone number, FAX number and e-mail address has been entered.
- The proposed ACDBE firm's name, address, telephone number, FAX number and e-mail address has been entered.
- The description of the work to be performed by the ACDBE firm has been entered.
- The amount of the subcontract has been entered.
- The Respondent has completed and signed the Commitment section.
- The ACDBE firm has completed and signed the Affirmation section.
- A copy of the firm's ACDBE certification letter under the FLUCP program is attached to the Letter of Intent.

**Airport Concessions Disadvantaged Business Enterprise
Letter of Intent**

NOTE: Failure to complete this statement may be grounds for rejection of the Response.

Name of Respondent's firm: [redacted]
Address: [redacted]
City: [redacted]
Phone: [redacted] - [redacted]
E-mail: [redacted]@ [redacted]. [redacted]

State: [redacted] Zip Code: [redacted]-[redacted]
Fax number: [redacted]-[redacted]-[redacted]

Name of ACDBE firm: [redacted]
Address: [redacted]
City: [redacted]
Phone: [redacted] - [redacted]
E-mail: [redacted]@ [redacted]. [redacted]

State: [redacted] Zip Code: [redacted]-[redacted]
Fax number: [redacted]-[redacted]-[redacted]

Description of work to be performed by ACDBE firm: [redacted]

Amount of Subcontract _____%

Commitment

The Respondent is committed to utilizing the above-named ACDBE firm for the work described above.

By: Name of Respondent: [redacted] Date: [redacted]

Respondent's Representative:
Name: [redacted] Title: [redacted]

(Respondent's Representative Signature)

Affirmation

The above-named ACDBE firm affirms that it will perform the portion of the Contract stated above.

By: Name of ACDBE Firm: [redacted] Date: [redacted]

ACDBE's Representative:
Name: [redacted] Title: [redacted]

(ACDBE's Representative Signature)

If the Respondent does not receive award of the Contract, any and all representations in this Letter of Intent will be null and void.

Other Good Faith Efforts: (Check Yes or No for each statement below)	Yes	No	Explain
1. Advertised in newspapers of general circulation, websites, trade associations, and minority-focus media concerning subcontracting opportunities prior to the Response Due Date.	<input type="checkbox"/>	<input type="checkbox"/>	
2. Selected portions of the work to be performed by ACDBEs in order to increase the likelihood of meeting the ACDBE Goal including, where appropriate, breaking down contracts into economically feasible units to facilitate ACDBE participation.	<input type="checkbox"/>	<input type="checkbox"/>	
3. Provided interested ACDBEs with adequate information about the scope, plans, specifications or requirements of the Contract.	<input type="checkbox"/>	<input type="checkbox"/>	
4. Negotiated in good faith with interested ACDBEs, not rejecting ACDBEs as unqualified without sound reasons after a thorough investigation of their capabilities.	<input type="checkbox"/>	<input type="checkbox"/>	
5. Made efforts to assist interested ACDBEs in obtaining bonding, lines of credit, or insurance required by the Authority or the Respondent.	<input type="checkbox"/>	<input type="checkbox"/>	
6. Effectively used the services of available minority community organizations; minority trade or business groups; local, state and federal minority business assistance offices; and other organizations that provide assistance in the recruitment and placement of ACDBEs.	<input type="checkbox"/>	<input type="checkbox"/>	
7. Submitted a scope of work to ACDBE subcontractors, ACDBE sub-subcontractors, ACDBE suppliers, ACDBE sub-suppliers and so on, either directly or indirectly, with the intention of achieving, in whole or in part, the specified ACDBE participation.	<input type="checkbox"/>	<input type="checkbox"/>	
8. Fairly represented the ACDBE quotations in the formulation of its Response.	<input type="checkbox"/>	<input type="checkbox"/>	

End of Form

Attachment 6

Procedures for Removal of ACDBE's Eligibility

I. Third Party Complaints

- A. Any third party may challenge whether the owner of a firm certified by the Authority or seeking certification, which is presumed to be socially and economically disadvantaged, actually is disadvantaged. The Authority may also make such a challenge. The USDOT also may challenge a certification made by the Authority. However, the disadvantaged status of an individual who has a current certification under Section 8(a) of the Small Business Act is not subject to challenge.
- B. The confidentiality of the complainant will be protected in accordance with 49 CFR Part 26.109 (b). The complaint may include any information or arguments supporting the complainant's assertion that the firm is ineligible and should not continue to be certified. However, the Authority is not required to accept a general allegation that a firm is ineligible or an anonymous complaint.

II. Authority-Initiated Proceedings

Based on notification by the firm of a change in its circumstances or other information that comes to the Authority's attention, the Authority may determine that there is reasonable cause to believe that a currently certified firm is ineligible. In accordance with 49 CFR Part 26.87, at that time, the Authority will provide written notice to the firm that the Authority proposes to decertify the firm, setting forth the reasons for the proposed determination. The statement of reasons for the finding of reasonable cause must specifically reference the evidence in the record on which each reason is based.

III. USDOT Directive to Initiate Proceeding

- A. If the concerned Operating Administration (OA) determines that information in the Authority's certification records, or other information available to the concerned OA, provides reasonable cause to believe that an Authority-certified firm does not meet the eligibility criteria of 49 CFR Part 26, the concerned OA may direct the Authority to initiate a proceeding to remove the firm's certification.
- B. In so doing, the concerned OA must provide the Authority and the firm a notice setting forth the reasons for the directive, including any relevant documentation or other information. The Authority will immediately commence and prosecute a proceeding to remove eligibility as provided in 49 CFR Part 26.87 (b).

IV. Hearing

If a firm is notified that the Authority, either by third party challenge, Authority determination, or USDOT determination, intends to remove the firm's ACDBE eligibility, the Authority will give the firm an opportunity for an informal hearing in accordance with 49 CFR Part 26.87(d). The Authority will maintain a complete record of the hearing and will provide a copy to the firm of the hearing if the firm requests. The Authority will charge the firm for the cost of copying the record of the hearing.

V. Separation of Functions

- A. The Authority's decision in a proceeding to remove a firm's eligibility will be made by an office and personnel who have not taken part in actions leading to or seeking to implement the proposal to remove the firm's eligibility and are not subject, with respect to the matter, to direction from the office or personnel who did take part in these actions.
 - 1. The Authority's method of implementing this requirement is a part of its DBE policy and program.
 - 2. The decision maker in such circumstances will be an individual who is knowledgeable about the certification requirements of the Authority's DBE policy and program and 49 CFR Part 26 and not subject to direction from the Senior Manager, Business Diversity or Airport Concession Disadvantaged Business Enterprise Liaison Officer (ACDBELO).
- B. The individual responsible for making the determination to remove a firm's ACDBE eligibility for the Authority is:

~~Director of Government Affairs & Community Relations~~
~~General Counsel and~~
~~Executive Vice President or Designee~~
Hillsborough County Aviation Authority
Tampa International Airport
P. O. Box 22287
Tampa, Florida 33622
Telephone (813) [554-1450](tel:554-1450); Email: DBEProgram@tampaairport.com ~~676-4623~~

VI. Grounds for Decision

- A. The Authority will not base a decision to remove eligibility on a reinterpretation or changed opinion of information available to the Authority at the time of its certification of the firm. The Authority may base such a decision only on one or more of the following:

1. Changes in the firm's circumstances since the certification of the firm by the Authority that render the firm unable to meet the eligibility standards of 49 CFR Part 26;
2. Information or evidence not available to the Authority at the time the firm was certified;
3. Information that was concealed or misrepresented by the firm in previous certification actions by the Authority;
4. A change in the certification standards or requirements of the USDOT since the Authority certified the firm;
5. A documented finding that the Authority's determination to certify the firm was factually erroneous; or
6. Failure of the firm to submit an Affidavit for Continuing Eligibility and supporting documents within 30 days from certification anniversary date.

VII. Notice of the Authority's Decision

Following the Authority's decision, the Authority will provide the firm written notice of the decision and the reasons for it, including specific references to the evidence in the record that supports each reason for the decision. The notice will inform the firm of the consequences of the Authority's decision and of the availability of an appeal to the USDOT under 49 CFR Part 26.89. The Authority will send copies of the notice to the complainant in an ineligibility complaint or to the concerned OA that had directed the Authority to initiate the proceeding.

VIII. Status of Firm During Proceedings

A firm remains an eligible certified ACDBE during the pendency of the Authority's proceedings to remove its eligibility. The firm does not become ineligible until the issuance of the notice provided for in 49 CFR Part 26.87 (g).

IX. Effects of Removal of Eligibility

When the Authority removes a firm's eligibility, the Authority will take the following action:

- A. If a prime contractor has made a commitment to use the ineligible firm, or the Authority has made a commitment to using a certified ACDBE prime contractor, but a subcontract or contract has not been executed at the time the Authority issues the removal of certification notice provided for in 49 CFR Part 26.87 (g), the ineligible firm will not count toward the contract goal or overall goal. The Authority will direct the prime contractor to meet the contract goal with an

eligible certified ACDBE firm or demonstrate to the Authority that it has made a good faith effort to do so.

- B. If a prime contractor has executed a subcontract with the firm before the Authority has notified the firm of its ineligibility, the prime contractor may continue to use the firm on the contract and may continue to receive credit toward its ACDBE goal for the firm's work. In this case, or in a case where the Authority has let a prime contract to the certified ACDBE that was later ruled ineligible, the portion of the ineligible firm's performance of the contract remaining after the Authority issued the notice of its ineligibility will not count toward the Authority's overall goal, but may count toward the contract goal.
- C. If the certified ACDBE's ineligibility is caused solely by having exceeded the size standard during the performance of the contract, the Authority may continue to count its participation on that contract toward overall and contract goals.