



CITY OF BOISE  
DEPARTMENT OF AVIATION  
**Airport Concession  
Disadvantaged Business  
Enterprise (ACDBE) Program**

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## POLICY STATEMENT

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

The City of Boise, Department of Aviation, hereafter referred to as Boise Airport or the Airport, has established an Airport Concession Disadvantaged Business Enterprise (ACDBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR part 23. Boise Airport 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). Boise Airport has signed airport grant assurances that it will comply with 49 CFR part 23.

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

1. To ensure nondiscrimination in the award and administration of opportunities for concessions by airports receiving DOT financial assistance;
2. To create a level playing field on which ACDBEs can compete fairly for opportunities for concessions;
3. To ensure that our ACDBE program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as ACDBEs;
5. To help remove barriers to the participation of ACDBEs in opportunities for concessions our airport(s);
6. To promote the use of ACDBEs in all types of concessions activities at our airport(s);
7. To assist the development of firms that can compete successfully in the marketplace outside the ACDBE program; and
8. To provide appropriate flexibility to airports receiving DOT financial assistance in establishing and providing opportunities for ACDBEs.

Amy Snyder, Business Development Manager, has been designated as the ACDBE Liaison Officer (ACDBELO). In that capacity, Ms. Snyder 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 Airport in its financial assistance agreements with the Department of Transportation.

Boise Airport has disseminated this policy statement to the Mayor of Boise and the City Council and all of the relevant departments of our organization. We will distribute this statement to ACDBE and non-ACDBE concessionaire communities in our area, including the current concessionaires at the airport and the various Chambers of Commerce from the surrounding cities. The plan will also be posted on our website.

*Rebecca L. Hupp*

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Rebecca L. Hupp, Airport Director

12/2/2024

\_\_\_\_\_  
Date

## **GENERAL REQUIREMENTS**

### **Section 23.1 Objectives**

The objectives are found in the policy statement on the first page of this program. A link to 49 CFR part 26 can be found in Attachment 8.

### **Section 23.3 Definitions**

Boise Airport will use terms in this program that have the meaning defined in Section 23.3 and part 26 Section 26.5 where applicable.

### **Section 23.5 Applicability**

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

### **Section 23.9 Non-discrimination Requirements**

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

In administering its ACDBE program, Boise Airport will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the ACDBE program with respect to individuals of a particular race, color, sex, or national origin.

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

“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.”

## **Section 23.11 Compliance and Enforcement**

Boise Airport acknowledges that the compliance and enforcement provisions of 49 CFR part 26 (§§ 26.101 and 26.105 through 26.109) apply to the concessions program under part 23 in the same way that they apply to FAA recipients and programs under part 26.

### **ACDBE PROGRAM**

## **Section 23.21 ACDBE Program Updates**

Boise Airport is a medium hub primary airport and is required to have an ACDBE program.

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

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

Prior to implementing significant changes to this ACDBE program, Boise Airport will provide the amended program to FAA for review and approval.

## **Section 23.23 Administrative Provisions**

### **Policy Statement**

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

Boise Airport will thoroughly investigate, on an annual basis, the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community and make reasonable efforts to use these institutions. Boise Airport will also encourage prime concessionaires to use such institutions.

There are currently no certified DBE Financial Institutions listed in the Idaho Unified Certification Program ("IUCP") directory. The Airport will monitor the IUCP Directory quarterly to determine if any financial institutions are added to the DBE/ACDBE list. The Airport also monitors quarterly the FDIC list of Minority Owned Banks, the Bureau of the Fiscal Service, Office of the Comptroller of the Currency and other internet sources such as Forbes and Investopedia to locate minority and women owned banks. Information on the availability of such institutions, if any, will be made at pre-proposal conferences.

Boise Airport has designated the following individual as our ACDBELO:

Amy Snyder  
Business Development Manager  
City of Boise, Department of Aviation  
Telephone: (208) 383-3110 ext 0  
E-Mail: [asnyder@cityofboise.org](mailto:asnyder@cityofboise.org)

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

The ACDBELO is responsible for developing, implementing, and monitoring the ACDBE program, in coordination with other appropriate officials. The ACDBELO has a staff of two (2) to assist in the administration of the program. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by FAA or DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to ACDBEs in a timely manner.
5. Identifies contracts and procurements so that ACDBE goals are included in Boise Airport's progress toward attainment and identifies ways to improve progress.
6. Participates in pre-proposal meetings.
7. Advises the CEO/governing body on ACDBE matters and achievement.
8. Acts as liaison to the Unified Certification Program (UCP) in Idaho.
9. Provides outreach to ACDBEs and community organizations to advise them of opportunities.

Directory: The Idaho Unified Certification Program (IUCP) maintains a directory identifying all firms eligible to participate as DBEs and ACDBEs. The Directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as an ACDBE. The Directory clearly specifies whether a firm is certified as a DBE for purposes of part 26, an ACDBE for purposes of part 23, or both.

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

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

Boise Airport will seek ACDBE participation in all types of concession activities.

Boise Airport will maximize the use of race-neutral measures, obtaining as much as possible of the ACDBE participation needed to meet overall goals through such measures. The Airport will take measures to ensure nondiscriminatory participation of ACDBEs in concessions, and other covered activities (23.25(a)) through monitoring of ACDBE participation, tenant meetings, debriefings with unsuccessful proposers, community outreach and open communications with ACDBE participants. In addition, nondiscrimination language is included in every concession contract.

Race-neutral measures may include but are not limited to:

- 1) Locating and identifying ACDBEs and other small businesses who may be interested in participating as concessionaires under this part;
- 2) Notifying ACDBEs of concession opportunities and encouraging them to compete, when appropriate;
- 3) When practical, structuring concession activities 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 recipient's ACDBE program will affect the procurement process;
- 6) Providing information concerning the availability of ACDBE firms to competitors to assist them in obtaining ACDBE participation; and
- 7) Implementing a small business element in the Airport's concession program in accordance with 49 CFR part 23, section 23.26.

Boise Airport will also provide for the use of race-conscious measures when race-neutral measures, standing alone, are not projected to be sufficient to meet an overall goal. The following are examples of race-conscious measures we will implement, as needed:

1. Establishing concession-specific goals for particular concession opportunities.
  - a. In setting concession-specific goals for concession opportunities other than car rental, the Airport will explore, to the maximum extent practicable, all available options to set goals that concessionaires can meet through direct ownership arrangements. A concession-specific goal for any concession other than car rental may be based on purchases or leases of goods and services only when the analysis of the relative availability of ACDBEs and all relevant evidence reasonably supports that there is *de minimis* availability for direct ownership arrangement participation for that concession opportunity.
  - b. In setting car rental concession-specific goals, the Airport will not require a car rental company to change its corporate structure to provide for participation via direct ownership arrangement. When the overall goal for car rental concessions is based on purchases or leases



- of goods and services, the Airport is not required to explore options for direct ownership arrangements prior to setting a car rental concession-specific goal based on purchases or leases of goods and services.
- c. If the objective of the concession-specific goal is to obtain ACDBE participation through a direct ownership arrangement with an ACDBE, the Airport will calculate the goal as a percentage of the total estimated annual gross receipts from the concession.
  - d. If the goal applies to purchases or leases of goods and services from ACDBEs, the Airport will calculate the goal as a percentage of the total estimated dollar value of all purchases to be made by the concessionaire.
  - e. When a concession-specific goal is set, the Airport will require competitors to make good faith efforts to meet this goal. A competitor 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.
  - f. The administrative procedures applicable to contract goals in part 26, § 26.51 through 26.53. apply with respect to concession-specific goals.
2. Negotiate with a potential concessionaire to include ACDBE participation, through direct ownership arrangements or measures, in the operation of the non-car rental concessions.
  3. With the prior approval of FAA, other methods that take a competitor's ability to provide ACDBE participation into account in awarding a concession.

Boise Airport requires businesses subject to car rental and non-car rental ACDBE goals at the airport to make good faith efforts to meet goals set pursuant to this section. A copy of forms used in Request for Proposals can be found in Attachment 6.

### **Section 23.26 Fostering Small Business Participation**

Boise Airport has created a small business element to provide for the structuring of concession opportunities to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of concession opportunities that may preclude small business participation in solicitations.

The small business element is incorporated as Attachment 9 to this ACDBE Program. The program elements will be actively implemented to foster small business participation. Boise Airport acknowledges that active use of the small business element is a requirement of the good faith implementation of this ACDBE program.

The Airport will submit an annual report on small business participation obtained through the use of this small business element. The report must be submitted in the format acceptable to the FAA based on a schedule established and posted to the agency's website, available at:

[https://www.faa.gov/sites/aa.gov/files/about/office\\_org/headquarters\\_offices/acr/Schedule\\_of\\_DBE\\_and\\_ACDBE\\_Reporting\\_Requirements.pdf](https://www.faa.gov/sites/aa.gov/files/about/office_org/headquarters_offices/acr/Schedule_of_DBE_and_ACDBE_Reporting_Requirements.pdf)

## Section 23.27 Reporting

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

Boise Airport will submit an annual report on ACDBE participation to the FAA by March 1 following the end of each fiscal year or as required by the FAA. This report will be submitted in the format acceptable to the FAA and contain all of the information described in the Uniform Report of ACDBE Participation.

Boise Airport will create and maintain active participants list information and enter it into a system designated by the FAA. The Airport will collect the following information about ACDBE and non-ACDBEs who seek to work on each of our concession opportunities.

- a. Firm name;
- b. Firm address including ZIP code;
- c. Firm status as an ACDBE or non-ACDBE;
- d. Race and gender information for the firm's majority owner;
- e. NAICS code applicable to the concession contract in which the firm is seeking to perform;
- f. Age of the firm; and
- g. The annual gross receipts of the firm.

Boise Airport will collect the data from all active participants for concession opportunities by requiring the information to be submitted with their proposals or initial responses to negotiated procurements. The Airport will enter this data in FAA's designated system no later than March 1 following the fiscal year in which the relevant concession opportunity was awarded. A copy of the Active Participants List Collection Form can be found in Attachment 3.

The State Department of Transportation in each Unified Certification Program (UCP) established pursuant to 49 CFR § 26.81 must report certain information from the UCP directory to DOT's Departmental Office of Civil Rights each year. The Idaho UCP is responsible for ensuring the collection and reporting of the following information in the UCP directory:

- 1) The number and percentage of in-state and out-of-state ACDBE certifications for socially and economically disadvantaged by gender and ethnicity (Black American, Asian-Pacific American, Native American, Hispanic American, Subcontinent-Asian Americans, and non-minority);
- 2) The number of ACDBE certification applications received from in-state and out-of-state firms and the number found eligible and ineligible;
- 3) The number of decertified firms;
  - i) Total in-state and out-of-state firms decertified;
  - ii) Names of in-state and out-of-state firms decertified because SEDO exceeded the personal net worth cap;

- iii) Names of in-state and out-of-state firms decertified for excess gross receipts beyond the relevant size standard.
- 4) Number of in-state and out-of-state ACDBEs summarily suspended;
- 5) Number of in-state and out-of-state ACDBE applications received for an individualized determination of social and economic disadvantage status; and
- 6) Number of in-state and out-of-state ACDBEs whose owner(s) made an individualized showing of social and economic disadvantaged status.

A link to the Idaho UCP DBE/ACDBE Directory can be found in Attachment 2.

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

Boise Airport will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR part 23.

1. Boise Airport will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 49 CFR § 26.107.
2. Boise Airport will consider similar action under our own legal authorities, including responsiveness determinations in future contracts. We have listed the regulations, provisions, and contract remedies available to us in the events of non-compliance with the ACDBE regulation by a participant in our procurement activities (See Attachment 4).
3. Boise Airport will implement a monitoring and enforcement mechanism to ensure that work committed to ACDBEs at contract award is performed by the ACDBEs. This mechanism will provide a running tally of ACDBE attainments (e.g., gross receipts earned by ACDBE firms), including a means of comparing these attainments to commitments. This will be accomplished by documenting ongoing, scheduled, and unscheduled onsite visits to the operations and meetings with staff. The contract monitoring files will contain written certification that the Airport's staff has 1) reviewed records of all contracts, leases, joint venture agreements, and other concession-related agreements, and 2) monitored onsite Airport operations for the purpose of compliance with ACDBE contract requirements and the Airport's ACDBE Program.
4. Boise Airport will show ACDBE commitments and attainments in the annual Uniform Report of ACDBE Participation as required by the FAA.
5. All required contract provisions from 49 CFR part 23, 49 CFR part 26, section 26.53 and the FAA contract provisions document will be included in concession leases as applicable.

## **CERTIFICATION AND ELIGIBILITY**

### **Section 23.31 Certification Standards and Procedures**

Boise Airport is a non-certifying member of the Idaho Unified Certification Program (IUCP) and relies upon the UCP's determinations of certification eligibility. The Idaho UCP will use the certification standards of Subpart C of Part 23 to determine the eligibility of firms to participate as ACDBEs in airport concessions contracts. To be certified as an ACDBE, a firm must meet all certification eligibility standards. Certifying IUCP members make all certification decisions based on the facts as a whole.

Detailed certification processes are described in the IUCP agreement. A link to the full UCP agreement can be found at the link in Attachment 7.

The IUCP directory of eligible ACDBEs specifies whether a firm is certified as a DBE for purposes of part 26, an ACDBE for purposes of part 23, or both.

For information about the certification process or to apply for certification, firms should contact:

Idaho Transportation Department  
Civil Rights Office, DBE Certification  
PO Box 7129  
Boise, ID 83707  
Phone - (208) 334-8884

Website: <http://apps.itd.idaho.gov/apps/ocr/ocrDBECERT.aspx>

The Uniform Certification Application form, Personal Net Worth statement, and documentation requirements can be reviewed at <https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/ready-apply>.

### **Section 23.33 Business Size Standards**

In general, a firm will be considered as a small business eligible to be certified as an ACDBE if its gross receipts, averaged over the firm's previous five (5) fiscal years, do not exceed \$56.42 million. The following special exceptions apply to the general small business size limit:

1. The limit for passenger car rental companies is \$75.23 million, averaged over the firm's previous five (5) fiscal years.
2. The size standard for banks and other financial institutions is \$1 billion in assets.
3. The size standard for pay telephone companies is 1500 employees.
4. The size standard for new car dealers is 350 employees.

For size purposes, gross receipts (as defined in [13 CFR 121.104\(a\)](#)) of affiliates are included in a manner consistent with [13 CFR 121.104\(d\)](#), except in the context of joint ventures. For gross receipts attributable to joint venture partners, a firm must include in its gross receipts its proportionate share of joint venture receipts, unless the

proportionate share already is accounted for in receipts reflecting transactions between the firm and its joint ventures (e.g., subcontracts from a joint venture entity to joint venture partners).

### **Section 23.35 Personal Net Worth Limits**

The personal net worth standard used in determining eligibility for purposes of part 23 is posted online on the Departmental Office of Civil Rights' webpage, available at <https://www.transportation.gov/DBEPNW>. Any individual who has a PNW exceeding this amount is not a socially and economically disadvantaged individual for purposes of this part, even if the individual is a member of a group otherwise presumed to be disadvantaged.

### **Section 23.37 Firms Certified as DBEs**

Certifying members of the Idaho UCP 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, certifying the Idaho UCP members 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 concessions program.

### **Section 23.39 Other ACDBE Certification Requirements**

Boise Airport is not a certifying member of the UCP. Requirements of this section will be fulfilled by the Idaho UCP.

## **GOALS, GOOD FAITH EFFORTS, AND COUNTING**

### **Section 23.41 Overall Goals**

Boise Airport will establish two separate overall ACDBE goals: one for car rentals and another for concessions other than car rentals. The overall goals will cover a three-year period and the sponsor will review the goals annually to make sure the goal continues to fit the sponsor's circumstances. The Airport will submit any significant overall goal adjustments to the FAA. A link to the Boise Airport Overall Goal can be found in Attachment 5.

If the average annual concession revenues for car rentals over the preceding three (3) years do not exceed \$200,000, the Boise Airport is not required to develop and submit an overall goal for car rentals. Likewise, if the average annual concession revenues for concessions other than car rentals over the preceding three (3) years do not exceed \$200,000, the Airport is not required to develop and submit an overall goal for concessions other than car rentals. The Airport understands that "revenue" means total revenue generated by concessions, not the revenue received by the airport from concessions agreements.

Boise Airport's overall goals will provide for participation by all certified ACDBEs and will not be subdivided into group-specific goals.

### **Section 23.43 Consultation in Goal Setting**

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

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

The requirements of this section do not apply if no new concession opportunities will become available during the goal period. However, the Airport will take appropriate outreach steps to encourage available ACDBEs to participate as concessionaires whenever there is a concession opportunity.

### **Section 23.45 Overall Goals**

Overall goals will be submitted to the FAA for approval. The overall goals meeting the requirements of this subpart are due based on a schedule established by the FAA and posted on the FAA's website.

The goals must be submitted every three years based on the published schedule. If a new concession opportunity arises at a time that falls between the normal submission dates above and the estimated average of annual gross revenues are anticipated to be \$200,000 or greater, the sponsor will submit an appropriate adjustment to our overall goal to FAA for approval no later than 90 days before issuing the solicitation for the new concession opportunity.

Boise Airport will establish overall goals in accordance with the 2-Step process as specified in § 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 sponsor'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 sponsor would expect in the absence of discrimination. Evidence may include, but is not limited to past participation by ACDBEs, a disparity study, evidence from related fields that affect ACDBE opportunities to form, grow, and compete (such as statistical disparities in ability to get required financing, bonding, insurance; or data on employment, self-employment, education, training, and union apprenticeship).

Boise Airport will also include a projection of the portions of the overall goal expected to be met through race-neutral and race-conscious measures, respectively.



If the FAA determines that the Airport's goals have not been correctly calculated or the justification is inadequate, the FAA may, after consulting with us, adjust the overall goal or race-conscious/race-neutral "split." In such a case, the adjusted goal is binding on Boise Airport.

A link to overall goals for non-car rental and rental car concessions can be found in Attachment 5.

### **Section 23.53      Counting ACDBE Participation for Car Rental Goals**

Boise Airport will count ACDBE participation toward overall goals other than car rental as provided in 49 CFR § 23.53.

When an ACDBE is decertified because one or more of its disadvantaged owners exceed the PNW cap or the firm exceeds the business size standards of part 23 during the performance of a contract or other agreement, the firm's participation may continue to be counted toward ACDBE goals for the remainder of the term of the contract or other agreement. However, Boise Airport will verify that the firm in all other respects remains an eligible ACDBE. To accomplish this verification, the Airport will require the firm to provide, annually on December 1, a Declaration of Eligibility, affirming that there have been no changes in the firm's circumstances affecting its ability to meet ownership or control requirements of [subpart C](#) of part 23 or any other material changes, other than changes regarding the firm's business size or the owner's personal net worth. The Airport 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 (e.g., in a case where the agreement is renewed or extended, or an option for continued participation beyond the current term of the agreement is exercised).

Firms are required to inform the Airport in writing of any change in circumstances affecting their ability to meet ownership or control requirements of [subpart C of this part](#) or any material change. Reporting must be made as provided in [§ 26.83\(i\) of this chapter](#).

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

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

When an ACDBE is decertified because one or more of its disadvantaged owners exceed the PNW cap or the firm exceeds the business size standards of part 23 during the performance of a contract or other agreement, the firm's participation may continue to be counted toward ACDBE goals for the remainder of the term of the contract or other agreement. However, Boise Airport will verify that the firm in all other respects remains an eligible ACDBE. To accomplish this verification, the Airport will require the firm to provide, annually on December 1, a Declaration of Eligibility, affirming that there have been no changes in the firm's circumstances affecting its ability to meet ownership or control requirements of [subpart C](#) of part 23 or any other material changes, other

than changes regarding the firm's business size or the owner's personal net worth. The Airport will not count the former ACDBE's participation toward ACDBE goals beyond the termination date for the agreement in effect at the time of the decertification (e.g., in a case where the agreement is renewed or extended, or an option for continued participation beyond the current term of the agreement is exercised).

Firms are required to inform the Airport in writing of any change in circumstances affecting their ability to meet ownership or control requirements of [subpart C of this part](#) or any material change. Reporting must be made as provided in [§ 26.83\(i\) of this chapter](#).

### **Section 23.57      Goal shortfall accountability**

If the awards and commitments on the Uniform Report of ACDBE participation at the end of any fiscal year are less than the overall goal applicable to that fiscal year, Boise Airport will:

- Analyze in detail the reasons for the difference between the overall goal and our awards and commitments in that fiscal year;
- Establish specific steps and milestones to correct the problems we have identified in our analysis to enable us to fully meet our goal for the new fiscal year;
- Submit the analysis and corrective actions developed under paragraphs (b)(1) and (2) of this section to the FAA for approval by April 1 following the report submittal.

FAA may impose conditions as part of its approval of Boise Airport's analysis and corrective actions including, but not limited to, modifications to the Airport's overall goal methodology, changes in our race-conscious/race-neutral split, or the introduction of additional race-neutral or race-conscious measures.

Boise Airport may be regarded as being in noncompliance with this part, and therefore subject to the remedies in § 23.11 of this part and other applicable regulations, for failing to implement our ACDBE program in good faith if any of the following things occur:

- The Airport does not submit the analysis and corrective actions to FAA in a timely manner as required under paragraph (b)(3) of § 23.57;
- FAA disapproves the analysis or corrective actions; or
- The Airport does not fully implement:
  - a. The corrective actions to which we have committed, or
  - b. Conditions that FAA has imposed following review of our analysis and corrective actions.
  - c. If information coming to the attention of FAA demonstrates that current trends make it unlikely that we, as an airport, will achieve ACDBE awards and commitments that would be necessary to allow us to meet our overall goal at the end of the fiscal year, FAA may require us to make further good faith efforts, such as modifying our race-conscious/race-neutral split or introducing additional race-



neutral or race-conscious measures for the remainder of the fiscal year.

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

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

## **OTHER PROVISIONS**

### **Section 23.71 Existing Agreements**

If permitted by the existing agreement, Boise Airport will use any means authorized by part 23 to obtain a modified amount of ACDBE participation in the renewed or amended agreement.

### **Section 23.73 Privately-Owned or Leased Terminal Buildings**

Boise Airport will pass through applicable provisions of part 23 to any private terminal owner or lessee via our agreement with the owner or lessee. We will ensure that the owner or lessee complies with part 23. We will obtain from the owner or lessee the goals and other elements of the ACDBE program required under part 23.

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

Boise Airport will not enter into a long-term and exclusive agreements for concessions without prior approval of the FAA Regional Civil Rights Office. We understand that a "long-term" agreement is one having a term of more than 10 years, including any combination of base term and options or holdovers to extend the term of the agreement, if the effect is a term of more than ten years. We understand that an exclusive agreement is one having a type of business activity that is conducted solely by a single business entity on the entire airport, irrespective of ACDBE participation.

The Airport may enter into a long-term, exclusive concession agreement only under the following conditions:

- 1) Special local circumstances exist that make it important to enter such agreement; and
- 2) FAA approves the Airport's plan for meeting the standards of paragraph (c) of §23.75.

To obtain FAA approval of a long-term exclusive concession agreement, Boise Airport will submit the following information to the FAA. The items in paragraphs (1) through (3) below will be submitted at least 60 days before the solicitation is released and items in paragraphs (4) through (7) will be submitted at least 45 days before contract award:

- 1) A description of the special local circumstances that warrant a long-term, exclusive agreement;
- 2) A copy of the solicitation;

- 3) ACDBE contract goal analysis developed in accordance with this part;
- 4) Documentation that ACDBE participants are certified in the appropriate NAICS code in order for the participation to count towards ACDBE goals;
- 5) A general description of the type of business or businesses to be operated by the ACDBE, including location and concept of the ACDBE operation;
- 6) Information on the investment required on the part of the ACDBE and any unusual management or financial arrangements between the prime concessionaire and ACDBE, if applicable;
- 7) Final long-term exclusive concession agreement, subleasing or other agreements;
  - a) In order to obtain FAA approval of a long-term exclusive concession agreement that has been awarded through direct negotiations, the Airport will submit the items in paragraphs (1) and (3) through (7) of this section at least 45 days before contract award;
  - b) In order to obtain FAA approval of an exclusive concession agreement that becomes long-term as a result of a holdover tenancy, the Airport will submit to the responsible FAA regional office a holdover plan for FAA approval at least 60 days prior to the expiration of the current lease term. The holdover plan shall include the following information:
    - i. A description of the special local circumstances that warrant the holdover;
    - ii. Anticipated date for renewal or re-bidding of the agreement;
    - iii. The method to be applied for renewal or re-bidding of the agreement;
    - iv. Submission of all items required under (3), (4), (6), and (7) of this section for the agreement in holdover status or an explanation as to why the item is not available or cannot be submitted.

### **Section 23.77      Preemption of Local Requirements**

In the event that a State or local law, regulation, or policy differs from the requirements of this part, Boise Airport will, as a condition of remaining eligible to receive Federal financial assistance from the DOT, take such steps as may be necessary to comply with the requirements of 49 CFR part 23. However, nothing in part 23 preempts any State or local law, regulation, or policy enacted by the governing body of the Airport, or the authority of any State or local government or recipient to adopt or enforce any law, regulation, or policy relating to ACDBEs, as long as the law, regulation, or policy does not conflict with part 23.

### **Section 23.79      Geographic Preferences**

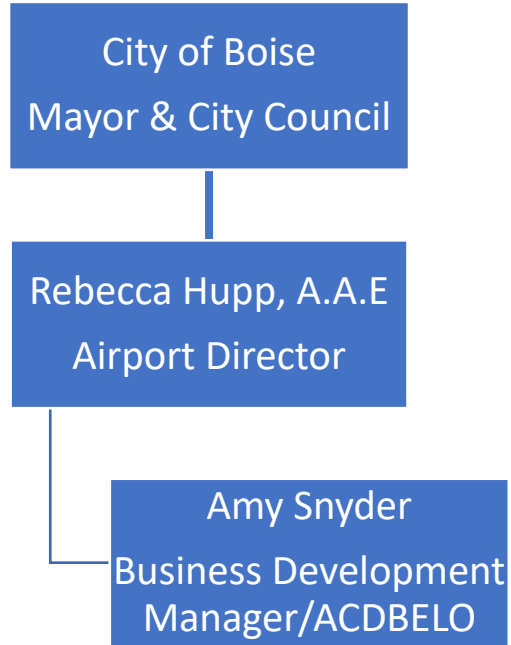
Boise Airport will not use a local geographic preference. For purposes of this section, a local geographic preference is any requirement that gives a concessionaire located in one place (e.g., our local area) an advantage over concessionaires from other places in obtaining business as, or with, a concession at our airport.

## **ATTACHMENTS**

Attachment 1	Organizational Chart
Attachment 2	DBE/ACDBE Directory
Attachment 3	Active Participants List Collection Form
Attachment 4	Monitoring and Enforcement Mechanisms
Attachment 5	Overall Goal Methodology – Non-Car Rental and Car Rental Concessions
Attachment 6	Form 1 & 2 for Demonstration of Good Faith Efforts
Attachment 7	Idaho’s UCP Agreement
Attachment 8	Regulation: 49 CFR part 23
Attachment 9	Race-Neutral Small Business Element

**Attachment 1**

**Organizational Chart**



## **Attachment 2**

### **Idaho Directory of Certified DBE/ACDBE Firms**

The UCP DBE Directory can be found at:

<https://itd.dbesystem.com/?TN=itd>

### Attachment 3

#### Active Participants List Collection Form

List all entities (Both ACDBE and Non-ACDBE) that expressed interest to your firm in participating in this concession opportunity.

**RFP#:** \_\_\_\_\_

Prime Contractor (Bidder) Name	Bidder Address/ Phone #	DBE or Non-DBE Status	Race and Gender of Firm's Majority Owner(s)	NAICS Code Applicable to the Work Bid for this Contract	Age of Firm	Annual Gross Receipts
		<input type="checkbox"/> DBE  <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Female <input type="checkbox"/> Male  <input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Native American <input type="checkbox"/> Asian Pacific American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Other		<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$1 million <input type="checkbox"/> \$1-3 million <input type="checkbox"/> \$3-6 million <input type="checkbox"/> \$6-10 million <input type="checkbox"/> Greater than \$10 million

Interested Subcontractor, JV Partner, Supplier (ACDBE and non-ACDBE)	Firm Address/ Phone #	DBE or Non-DBE Status (verify via State's UCP Directory)	Race and Gender of Firm's Majority Owner(s)	NAICS Code Applicable to the Work Bid for this Contract (see NAICS.com)	Age of Firm	Annual Gross Receipts
		<input type="checkbox"/> DBE  <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Female <input type="checkbox"/> Male  <input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Native American <input type="checkbox"/> Asian Pacific American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Other		<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$1M <input type="checkbox"/> \$1-3M <input type="checkbox"/> \$3-6M <input type="checkbox"/> \$6-10M <input type="checkbox"/> \$10-\$15M <input type="checkbox"/> \$15-\$20M <input type="checkbox"/> \$20-\$30M <input type="checkbox"/> \$30-\$40M <input type="checkbox"/> Over \$40M

		<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Female <input type="checkbox"/> Male <input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Native American <input type="checkbox"/> Asian Pacific American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Other		<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$1M <input type="checkbox"/> \$1-3M <input type="checkbox"/> \$3-6M <input type="checkbox"/> \$6-10M <input type="checkbox"/> \$10-\$15M <input type="checkbox"/> \$15-\$20M <input type="checkbox"/> \$20-\$30M <input type="checkbox"/> \$30-\$40M <input type="checkbox"/> Over\$40M
		<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Female <input type="checkbox"/> Male <input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Native American <input type="checkbox"/> Asian Pacific American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Other		<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$1M <input type="checkbox"/> \$1-3M <input type="checkbox"/> \$3-6M <input type="checkbox"/> \$6-10M <input type="checkbox"/> \$10-\$15M <input type="checkbox"/> \$15-\$20M <input type="checkbox"/> \$20-\$30M <input type="checkbox"/> \$30-\$40M <input type="checkbox"/> Over\$40M
		<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE	<input type="checkbox"/> Female <input type="checkbox"/> Male <input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Native American <input type="checkbox"/> Asian Pacific American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Other		<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$1M <input type="checkbox"/> \$1-3M <input type="checkbox"/> \$3-6M <input type="checkbox"/> \$6-10M <input type="checkbox"/> \$10-\$15M <input type="checkbox"/> \$15-\$20M <input type="checkbox"/> \$20-\$30M <input type="checkbox"/> \$30-\$40M <input type="checkbox"/> Over\$40M

(Add pages as needed)

**Attachment 4**  
**Sample Monitoring and Enforcement Mechanisms**

Boise Airport has available several remedies to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:

The Airport 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.

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

1. The Airport will monitor the compliance and good faith efforts of concessionaires in meeting the requirements of this Program. The Airport 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 Airport reserves the right to review and approve all sub-leases or subcontracts and joint venture agreements, in advance of their commitment, utilized by the concessionaire for the achievement of its goals.
2. The Airport 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 through monthly reporting of gross receipts.
3. The Airport will monitor for compliance all car rental and non-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.
  - b. The ACDBELO verifies that ACDBEs utilized are currently certified with the Idaho UCP.
  - c. The ACDBELO compares actual performance to commitments and takes follow-up action as necessary.



**Attachment 5**

**Overall Goal Calculation for Non-Car Rental and Car Rental Concessions**

**<https://www.iflyboise.com/commercial-opportunities/disadvantaged-business-enterprise-dbe/>**

**Attachment 6**

**Demonstration of Good Faith Efforts - Forms 1 and 2**

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

The undersigned bidder/respondent has satisfied the ACDBE requirements of the concession **[bid/RFP/RLI]** in the following manner:

- Bidder/respondent has met the ACDBE goal  
The bidder/offeror is committed to a minimum of \_\_\_\_\_ % ACDBE participation in this opportunity.
  
- Bidder/respondent has not met the ACDBE goal  
The bidder/respondent is committed to a minimum of \_\_\_\_\_ % ACDBE participation in this opportunity and has submitted documentation demonstrating good faith efforts.

Legal name of bidder/respondent's firm: \_\_\_\_\_

Bidder/Respondent Representative:

\_\_\_\_\_  
Name & Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**FORM 2: LETTER OF INTENT**

*Note: The authorized representative (AR) named below must be an individual vested with the authority to make contracting decisions on behalf of the firm.*

Name of bidder/respondent's firm: \_\_\_\_\_

Name & title of firm's AR: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Name of ACDBE firm: \_\_\_\_\_

Name & title of ACDBE firm's AR: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Role to be performed by ACDBE firm:

<i>Description of Work</i>	<i>NAICS</i>	<i>Projected Dollar Amount / %</i>	<i>Joint Venture/Subtenant/Supplier*</i>

*\*For suppliers only, state how the ACDBE will perform (e.g., regular dealer, manufacturer, broker). Count only fees and commissions if the supplier performs as a broker.*

The undersigned bidder/respondent is committed to utilizing the above-named ACDBE firm for the work described above. The total expected dollar value of this work is \$ \_\_\_\_\_. The bidder/respondent understands that if it is awarded the contract/agreement resulting from this procurement, it must enter into an agreement ACDBE firm identified above that reflects the type and amount of participation listed. Bidder/respondent understands that upon submitting this form, it may not substitute or terminate the ACDBE listed above without following the procedures of 49 CFR Part 26, §26.53.

\_\_\_\_\_  
Signature of Bidder/Respondent's Authorized Representative      Date: \_\_\_\_\_

The undersigned ACDBE affirms that it is ready, willing, and able to perform the amount and type of work as described above, and is properly certified to be counted for ACDBE participation therefore.

\_\_\_\_\_  
Signature of ACDBE's Authorized Representative      Date: \_\_\_\_\_

**If the bidder/respondent does not receive award of the prime concession opportunity, all representations in this Letter of Intent shall be null and void.**  
**Submit this page for each ACDBE participant.**

**Attachment 7**

**Idaho's UCP Agreement**

CITY OF BOISE

Resolution NO. RES-597-17

BY THE COUNCIL

CLEGG, LUDWIG, MCLEAN, SANCHEZ,  
THOMSON AND WOODINGS

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF BOISE CITY AND THE IDAHO TRANSPORTATION DEPARTMENT, FOR PARTICIPATION IN THE IDAHO UNIFIED CERTIFICATION PROGRAM FOR THE DISADVANTAGED BUSINESS PROGRAM IN THE STATE OF IDAHO; AUTHORIZING THE MAYOR AND CITY CLERK TO RESPECTIVELY EXECUTE AND ATTEST SAID AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, as a recipient of federal transportation funding dollars, the Airport is required to have a Disadvantaged Business Enterprise (DBE) program; and

**WHEREAS**, as required by federal law, the state of Idaho operates a Unified Certification Program (UCP), which provides for the certification, renewal and decertification of firms as DBE; and

**WHEREAS**, the Airport participates in the UCP as part of its ongoing compliance with its DBE program; and

**WHEREAS**, the Director of Aviation recommends approval of such Agreement.

**BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF BOISE CITY, IDAHO:**

**Section 1.** That the Agreement between the city of Boise City and the Idaho Transportation Department, attached hereto and incorporated herein by reference, be, and the same is hereby, approved as to both form and content.

**Section 2.** That the Mayor and City Clerk be, and they hereby are, authorized to respectively execute and attest said Agreement for and on behalf of the city of Boise City.

**Section 3.** That this Resolution shall be in full force and effect immediately upon its adoption and approval.

CITY OF BOISE

ADOPTED by the Council of Boise City, Idaho, on November 28, 2017.

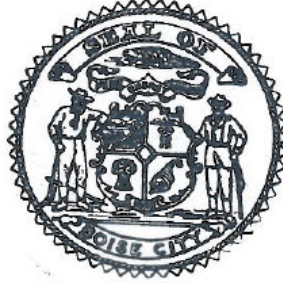
APPROVED by the Mayor of the Boise City, Idaho, on November 28, 2017.

APPROVED:



---

David H. Bieter, Mayor



ATTEST:



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Lynda Lowry, Ex-Officio City Clerk

**Agreement Establishing  
The Idaho Unified Certification Program  
For the Disadvantaged Business Enterprise Program  
in the State of Idaho**

THIS AGREEMENT is made and entered into by and between the attached listed Recipients and the Idaho Transportation Department (ITD), each a recipient as that term is defined by 49 CFR §26.81 and in accordance with the ITD approved Disadvantaged Business Enterprise (DBE) Program.

WHEREAS, 49 CFR §26.81 requires federal transportation fund recipients of a state to create a Unified Certification Program (UCP) as part of each recipient's DBE program; and

WHEREAS, the parties require certification, renewal, and decertification of firms as a DBE; and

WHEREAS, all recipients of federal transportation funds in this state are covered by the requirements of 49 CFR §26.81, and are also required to participate in a Unified Certification Program; and

WHEREAS, the parties desire to join together for cooperative action pursuant to carrying out the requirements of 49 CFR §26 and to establish an Idaho Unified Certification Program (IUCP); and

WHEREAS, the governing board of each party has by resolution authorized the entering into of the Agreement and the establishment of the IUCP; and

WHEREAS, by that agreement each current recipient and/or future recipients identified by the ITD are bound by the requirements of the IUCP and agree to abide by the requirements of the IUCP which is a continuation of the ITD current and previous process.

NOW, THEREFORE, in consideration of the mutual promises and benefits that each party shall derive therefrom, the parties agree as follows:

## **ARTICLE I: PURPOSES**

The parties have entered into this Agreement for the purposes of creating an Idaho Unified Certification Program (IUCP) to be administered by the Idaho Transportation Department Office of Civil Rights (OCR). The ITD OCR will oversee the process for designation of a Certification Committee as stated in the approved ITD DBE Program under section III DBE Certification Process, A. Certification Committee. This Certification Committee will perform DBE certification, renewal, and decertification for Idaho recipients.

## **ARTICLE II: SERVICES**

### **Section 2.1. Idaho Unified Certification Program**

The IUCP is hereby created and implemented in accordance with 49 CFR §26.81, as amended.

- a. The IUCP will follow all certification, renewal, and decertification procedures in accordance with the certification standards of CFR 49, Subpart D of §26, the certification procedures of Subpart E of §26 and Subpart C of §23 as applied by the ITD in its DBE Program. This is addressed in the DBE Program Plan in Subpart E – DBE Certification Procedures. The Application Procedure for Certification as follows:
  - i. Applications are conducted online at: <https://itd.dbesystem.com>
  - ii. The ITD DBE Program Coordinator reviews the application and documentation to verify that the information is complete and then requests that the appropriate district Safety Compliance Officer (SCO) perform an on-site review.
  - iii. The Certification Committee will meet every thirty (30) days or sooner if necessary. The Certification Committee will make eligibility decisions within 90 days of receipt of all required information.
  - iv. Out of state firms applying for certification must be certified within their home state to qualify for the Idaho program. On-site-reviews from the out-of-state applicant will be accepted from the home state certification entity. See Subpart E.4, “Interstate Certification”, in the DBE Program Plan.
  - v. A firm that believes that they have been wrongly denied certification may appeal in writing to the United States Department of Transportation, Departmental Office of Civil Rights, External Civil Rights Program Division, 1200 New Jersey Avenue SE, Washington, D.C. 20590. Appeals must be submitted within ninety (90) days after certification has been denied.
  - vi. A firm that receives a Notice of Intent to Decertify may request an informal hearing by the selected Hearing Officer. Requests for an oral hearing must be submitted within 10 days of the notification and will be conducted within 30 days of receipt of the request. A hearing request for written arguments must be submitted within 30 days and then the selected Hearing Officer will make a decision within 30 days from receipt of the request. Any request for a hearing must be directed to Office of Civil Rights Manager (OCRM) at the Idaho Transportation Department, 3311 West State Street, Boise, Idaho 83703-1129.
  - vii. The Idaho electronic DBE Directory located on the ITD website will be updated with additions, deletions, and other changes as they occur. In addition to this update, upon request interested members of the IUCP will be notified of changes as they occur.
- b. The IUCP will cooperate fully with oversight, review and monitoring activities of the United States Department of Transportation (USDOT) and its operating administrations.



- c. The IUCP will implement USDOT directives and guidance concerning certification, renewal, and decertification procedures in accordance with the certification standards of CFR 49, Subpart D of §26, the certification procedures of Subpart E of §26 and Subpart C of §23 as applied by the approved ITD DBE Program Plan.
- d. Each recipient party to this Agreement shall ensure that the IUCP has sufficient resources and expertise to carry out the requirements of 49 CFR §26 and §23. The ITD Office of Civil Rights is currently receiving appropriate resources to provide the needed actions to meet the requirements of 49 CFR §26 in the establishment and implementation of the IUCP.
- e. The IUCP will be fully implemented within 120 days of the Secretary's approval of the IUCP on the following schedule:
  - i. Within 90 days of the Secretary's approval of the IUCP, each party to this agreement will begin to utilize the unified procedures set forth in the IUCP Agreement.
  - ii. Within 120 days after the Secretary's approval of the IUCP, the Committee will begin to meet on a regular basis as required to certify DBE applicants.
  - iii. Within 60 days after the Secretary's approval the IUCP will post the unified DBE Directory on its website.

## **Section 2.2. Idaho Unified Certification Committee**

The ITD/OCRM is identified as the administrator of the IUCP and responsible for the process for designation of the Certification Committee (Committee) which is established to administer the IUCP certifications as required by the approved ITD DBE Program Plan and CFR 49 §26, Subpart D and Subpart E and §23, Subpart C.

## **Section 2.3. DBE Directory**

An online DBE Directory will be maintained by the ITD/OCR at <https://itd.dbesystem.com>.

## **Section 2.4. Classification of Business and Financial Information**

Each recipient under this Agreement shall safeguard from disclosure to unauthorized person information that may reasonably be considered confidential business information consistent with Federal, State and local law.

# **ARTICLE III: TERM AND SCOPE OF AGREEMENT**

## **Section 3.1. Term**

This agreement shall be effective immediately upon its execution by all the parties hereto and the approval of the IUCP by the Secretary of the USDOT. This Agreement

and the IUCP shall continue in force as long as required by federal laws and regulations, unless terminated pursuant to Section 3.2. of the Agreement.

**Section 3.2. Early Termination**

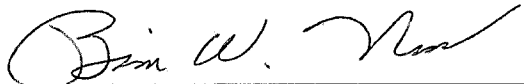
Any party to this Agreement may terminate its relationship to the IUCP upon a showing of non-recipient status, provided approval is given by USDOT for such termination.

**Section 3.3. Limited Agreement**

This Agreement is limited in scope and nothing contained in this Agreement shall imply any relationship between any of the signing parties beyond the creation and implementation of the IUCP.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below and attached:

**IDAHO TRANSPORTATION DEPARTMENT**

BY:   
\_\_\_\_\_  
BRIAN W. NESS, Director

DATE: 10/12/2017

**STATEMENT OF AGREEMENT**  
**Idaho Unified Certification Program**  
**Attachment to IUPC Agreement**

The Unified Certification Program process developed and implemented by the Idaho Transportation Department for the State of Idaho has been reviewed by the agency listed below. We acknowledge the IUPC Agreement is made and entered into by and between the participating agency noted below and the Idaho Transportation Department.

We recognize this program as the authorizing process for certification, recertification and decertification of firms in the Disadvantaged Business Enterprise Program for the State of Idaho as required by 49 CFR §26.81.

BY: David H. Bieter, Mayor

DATE: November 28, 2017


AGENCY: City of Boise

ADDRESS: 3201 W Airport Way, Suite 1000, Boise, Idaho 83705

PHONE: (208) 383-3110

EMAIL: mpetaja@cityofboise.org (Matt Petaja)

SIGNATURE:  11/28/17

ATTEST:   
City Clerk, Lynda Lowry

**RETURN STATEMENT OF AGREEMENT TO:**

[civilrights@itd.idaho.gov](mailto:civilrights@itd.idaho.gov)

**Office of Civil Rights**  
**Idaho Transportation Department**  
**P.O. Box 7129**  
**Boise, Idaho 83703-1129**



## **Attachment 8**

### **Regulations: 49 CFR part 23**

ACDBE program regulations are found in Title 49 of the Code of Federal Regulations, part 23. They can be retrieved using the following link to the Electronic Code of Federal Regulations:

<https://www.ecfr.gov/current/title-49/subtitle-A/part-23>

## **Attachment 9**

### **Race Neutral Small Business Element**

#### **I. CONCESSION SMALL BUSINESS PROGRAM POLICY**

Boise Airport (“BOI”) is committed to ensuring that small businesses are offered an equitable opportunity to participate in the airport concession program contracting and procurement process. BOI’s Concession Small Business Program (the “Small Business Program” or the “Program”), as described herein, applies to airport concessions as defined by 49 CFR part 23. The Program does not replace the ACDBE Program or otherwise operate as a substitute for the ACDBE Program. It operates as a race-and gender-neutral tool that may assist small businesses, including ACDBEs, to participate more fully in BOI’s concession opportunities.

This Small Business Program will not be used to discriminate against any company or groups of companies. The Program is designed to include all segments of the business community and is open to participation without regard to race, color, sex, religion, national or ethnic origin, age, disability, or geographic location.

The Small Business Program will utilize procedures that promote inclusion and opportunity, while maintaining race and gender-neutral measures.

#### **II. AUTHORIZATION**

In accordance with the regulations governing the U.S. Department of Transportation (DOT) Airport Concession Disadvantaged Business Enterprise (ACDBE) Program, 49 CFR part 23, BOI is required to set overall ACDBE goals every three years. Pursuant to 49 CFR Part 23, section 23.25, recipients are required to maximize the use of race-neutral measures, obtaining as much as possible of the ACDBE participation needed to meet overall goals through such measures. (49 CFR § 23.25(d)). This Small Business Program has been developed in compliance with this directive.

#### **III. NON-DISCRIMINATION**

In accordance with 49 CFR Part 23, section 23.9, each concession contract or lease that BOI signs with a concessionaire will include the following assurance. In addition, BOI will require each contractor to include this clause in its subcontracts.

- (1) *“This agreement is subject to the requirements of the U.S. Department of Transportation’s regulations, [49 CFR part 23](#). The concessionaire or contractor agrees that it will not discriminate against any business owner because of the owner’s race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by [49 CFR part 23](#).*
- (2) *“The concessionaire or contractor agrees to include the above statements in any subsequent concession agreement or contract covered by [49 CFR part 23](#), that it enters and cause those businesses to similarly include the statements in further agreements.”*

#### **IV. SMALL BUSINESS ENTERPRISE DEFINITION**

A Small Business Enterprise Concession (SBEC) shall be defined as follows:

A small business concern concession is defined as a for-profit business concern for which gross receipts, including gross receipts of all affiliate firms as defined by the Small Business Administration, averaged over the firm's previous five fiscal years, do not exceed \$56.42 million.

Further, the owners of a minimum of 51% of the applicant small business shall not have a personal net worth exceeding \$2.047 million. For purposes of verification as an SBE, personal net worth shall be reviewed in accordance with the definition, policy and procedure detailed in 49 CFR parts 23 and 26.

Generally, personal net worth means the net value of the assets of an individual remaining after total liabilities are deducted. An individual's personal net worth does not include: The individual's ownership interest in the applicant firm; the individual's equity in his or her primary place of residence; or the individual's assets in qualified retirement accounts. An individual's personal net worth includes only his or her own share of assets held jointly with the individual's spouse. Instructions for completing the personal net worth form are included in the form.

#### **V. SMALL BUSINESS ENTERPRISE CONCESSION VERIFICATION**

A firm who wishes to participate as an SBEC and is not certified as an ACDBE by the Idaho Unified Certification Program ("IUCP"), may apply for certification as an SBEC by filing a Small Business Enterprise (SBEC) application and submitting the form along with all required attachments to Boise Airport at least 30 days prior to the submission date for a small business concession opportunity. Firms with a current, valid ACDBE certification from the IUCP are automatically considered to SBEC firms in the same NAICS codes as their ACDBE certification without further procedure.

Firms applying for certification as an SBEC must provide all information and documentation required by Boise Airport necessary to verify that the firm meets the definition of a Small Business Enterprise Concession.

The only eligibility criteria for certification are that the firm, including affiliates, meets the appropriate size threshold and that the owner(s) of a minimum of 51% of the firm falls below the personal net worth threshold. A site visit to the firm is not required.

Boise Airport will work with SBEC certified firms that appear to meet the eligibility criteria for ACDBE certification to encourage and assist the firms in applying for ACDBE certification. SBEC firms will not be required to apply for ACDBE certification to be eligible to participate in the Concession Small Business Program. SBEC certification will be valid for one year with annual updates required for continued certification.

#### **VI. SCOPE OF THE PROGRAM**

The intent of Boise Airport's Small Business Program is to provide opportunities for participation by small businesses in the Airport's concession program.

All future concession solicitations will be reviewed by Boise Airport concession staff to determine if single unit solicitations or unbundling a contract to provide for small business set-aside opportunities is appropriate for the solicitation.

BOI will consider including SBEC contract goals for a concession contract when it has been determined that a race-conscious contract goal will not be set and that, instead, race-neutral measures will be used. An SBEC goal may be used as a race-neutral measure for concessions that have subcontracting opportunities only.

The criteria used to determine if an opportunity is appropriate for the program shall include small business capacity, small business availability, nature of the contract, past experiences with small business participation with similar contracts, and subcontracting opportunities. Procedures for implementation and information submitted with proposal and reporting procedures shall be consistent with procedures utilized in BOI's ACDBE Program under a race neutral environment.

BOI is currently fully leased for its food/beverage and retail concessions program with contracts not expiring until 2034 as a result of new terminal construction and new concessions awarded in 2023. These concessions represent 95% of gross revenues generated by non-car rental concessions in the terminal. If any other opportunities arise prior to 2034, that are viable opportunities for small businesses, they will be considered under the small business program described herein.

## **VII. TRACKING/REPORTING SBE PARTICIPATION**

BOI will track and monitor participation by ACDBEs and other small businesses that results from the implementation of this small business element. Participation will be reported annually as part of the Uniform Report of ACDBE Participation in compliance with 49 CFR part 23, section 23.26.

## **VIII. COMPLIANCE PROCEDURES**

Monitoring and enforcement procedures applicable to a race neutral environment for this element of the ACDBE Program will be implemented in the same manner as concession projects containing ACDBE goals, excluding the race and gender component of the Program.

## **IX. ASSURANCES**

BOI makes the following assurances regarding this small business element:

- This small business element is authorized [*i.e., not prohibited*] under State law;
- Certified ACDBEs that meet the size criteria established under this element are presumptively eligible to participate therein;
- There are no geographic preferences or limitations imposed on any concession opportunities included in this small business element;
- There are no limits on the number of concession opportunities awarded to firms participating in this element, but every effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses;
- BOI will take aggressive steps to encourage those minority and women owned firms that are eligible for ACDBE certification to become certified; and
- This element is open to small businesses regardless of their location. There is no local or other geographic preference as part of this small business element.