

Reno-Tahoe Airport Authority
Airport Concession
Disadvantaged Business Enterprise
(ACDBE) Program

POLICY STATEMENT

Section 23.1, 23.23 Objectives/Policy Statement

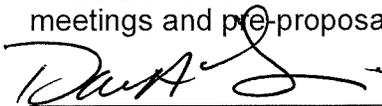
The Reno-Tahoe Airport Authority (RTAA) has established an Airport Concession Disadvantaged Business Enterprise (ACDBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 23. The RTAA is a primary airport and has received federal funds authorized for airport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

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

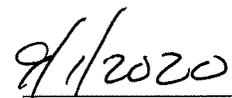
1. To ensure nondiscrimination in the award and administration of opportunities for concessions by airports receiving DOT financial assistance;
2. To create a level playing field on which ACDBEs can compete fairly for opportunities for concessions;
3. To ensure that our ACDBE program is narrowly tailored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

Tina Iftiger, Vice President of Airport Economic Development has been designated as the ACDBE Liaison Officer (ACDBELO). In that capacity, Ms. Iftiger 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 RTAA in its financial assistance agreements with the Department of Transportation.

RTAA has disseminated this policy statement to the RTAA Board of Trustees and all of the appropriate components of our organization. We have distributed this statement to ACDBE and non-ACDBE concessionaire communities in our area during tenant meetings and pre-proposal conferences.



Daren Griffin
President/Chief Executive Officer



Date

SUBPART A – GENERAL REQUIREMENTS

Section 23.1 Objectives

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

Section 23.3 Definitions

The RTAA will use terms in this program that have the meaning defined in Section 23.3 and Part 26 Section 26.5 where applicable.

Section 23.5 Applicability

The RTAA 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

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

In administering its ACDBE program, the RTAA 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.

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

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

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

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

Section 23.11

Compliance and Enforcement

The RTAA will comply with and is subject to the provisions of 49 CFR Part 26 (§§ 26.101, 26.105, 26.107 and 2 CFR parts 180 and 1200.

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

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

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

The following enforcement actions apply to firms participating in the RTAA's ACDBE program:

- (a) For a firm that does not meet the eligibility criteria of subpart D of this part and that attempts to participate as an ACDBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the Department of Transportation (DOT) or the Federal Aviation Administration (FAA) may initiate suspension or debarment proceedings against the firm under 2 CFR parts 180 and 1200.
- (b) For a firm that, in order to meet ACDBE goals or other AC/DBE program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria of subpart D of this part, DOT or FAA may initiate suspension or debarment proceedings against the firm under 2 CFR parts 180 and 1200.
- (c) DOT may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the ACDBE program whose conduct is subject to such action under 49 CFR Part 31.
- (d) DOT may refer to the Department of Justice, for prosecution under 18 U.S.C. §§ 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of an ACDBE in the RTAA's ACDBE program or otherwise violates applicable Federal statutes.

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

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

SUBPART B – ACDBE PROGRAMS

Section 23.21 ACDBE Program Updates

The RTAA is a *small hub primary* airport required to have an ACDBE program.

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

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

This ACDBE program will be implemented at the Reno-Tahoe International Airport.

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

Section 23.23 Administrative Provisions

Policy Statement: The RTAA is committed to operating its ACDBE program in a nondiscriminatory manner.

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

ACDBE Liaison Officer (ACDBELO): We have designated the following individual as our ACDBELO:

Tina Iftiger, Vice President of Airport Economic Development
Reno-Tahoe Airport Authority
P.O. Box 12490
Reno, NV 89510-2490
Telephone: (775)328-6417
E-Mail: tiftiger@renoairport.com

In that capacity, the ACDBELO is responsible for implementing all aspects of the ACDBE program and ensuring that the RTAA complies with all provision of 49 CFR Part 23. The ACDBELO has direct, independent access to the RTAA's President/Chief Executive Officer 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 three 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 solicitations (both race-neutral methods and contract specific goals).
6. Analyzes RTAA's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the RTAA's President/CEO on ACDBE matters and achievement.
9. Provides ACDBEs with information and technical assistance.
10. Plans and participates in ACDBE training seminars.
11. Acts as liaison to the Unified Certification Program (UCP) in Nevada.
12. Provides outreach to ACDBEs and community organizations to advise them of opportunities.

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

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

The UCP revises the Directory to add newly certified firms following each UCP committee meeting, held monthly absent extraordinary circumstances. Decertifications and suspensions are updated in the Directory as they occur. We make the Directory available through the following website: <https://ndot.dbesystem.com>.

Section 23.25 Ensuring Nondiscriminatory Participation of ACDBEs

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

- All concession agreements will contain the required non-discrimination clause from 49 CFR part 23.
- All concession solicitations will contain required Title VI language pertaining to non-discrimination in contracting activities and concession performance.

- All discrimination complaints will be thoroughly investigated by compliance staff.

The RTAA will seek ACDBE participation in all types of concession activities, rather than concentrating participation in one category or a few categories to the exclusion of others. (23.25(c))

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

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

The RTAA 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. (23.25(f))

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

Section 23.27 Reporting

RTAA 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.

RTAA will submit to the FAA Regional Civil Rights Office, an annual ACDBE participation report on the form in Appendix A of Part 23.

Section 23.29 Compliance and Enforcement Procedures

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

- RTAA will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that USDOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.
- RTAA will consider similar action under our own legal authorities, including responsibility determinations in future contracts. (26.37)
- RTAA 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 receipts actually earned by ACDBE firms), including a means of comparing these attainments to commitments. This will be accomplished by monthly reporting of ACDBE participation and documented ongoing, scheduled and unscheduled on-site visits to the operations and meetings with concessions staff.

- In RTAA reports of ACDBE participation to FAA, RTAA will show both goal commitments and attainments, as required by the USDOT reporting form.

SUBPART C – CERTIFICATION AND ELIGIBILITY

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

The RTAA is the member of a Unified Certification Program (UCP) administered by the State of Nevada Department of Transportation (NUCP). The NUCP will meet all of the requirements of this section.

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

The RTAA will treat a firm as a small business eligible to be certified as an ACDBE if its gross receipts, averaged over the firm's previous three fiscal years do not exceed \$56.42 million for non-car rental ACDBEs and \$75.23 million for car rental ACDBEs. The size standard for banks and other financial institutions is \$1 billion in assets, for pay telephone companies is 1500 employees and for ACDBE automobile dealers is 350 employees.

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

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

1. The individual's ownership interest in an ACDBE firm or a firm that is applying for ACDBE certification;
2. The individual's equity in his or her primary place of residence; and
3. Other assets that the individual can document are necessary to obtain financing or a franchise agreement for the initiation or expansion of his or her ACDBE firm (or have in fact been encumbered to support existing financing for the individual's ACDBE business) to a maximum of \$3 million.

The effectiveness of this paragraph (3) of this definition is suspended with respect to any application for ACDBE certification made or any financing or franchise agreement obtained after June 20, 2012. (23.3)

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

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

The RTAA 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 RTAA 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 RTAA's concessions program. The RTAA is not obligated to certify a part 26 DBE as an ACDBE if the firm does not perform work relevant to RTAA's concessions program. (23.37).

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

The RTAA 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 a recipient. The RTAA 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)).

The RTAA will use the certification standards of part 23 to determine the ACDBE eligibility of firms that provide goods and services to concessionaires. (23.39(i))

In instances when the eligibility of a concessionaire is removed after the concessionaire has entered into a concession agreement because the firm exceeded the size standard or the owner has exceeded the PNW standard, and the firm in all other respects remains an eligible DBE, the RTAA may continue to count the concessionaire's participation toward ACDBE goals during the remainder of the current concession agreement. The RTAA 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))

The RTAA uses the Uniform Application Form found in appendix F to part 26 with additional instruction as stated in 23.39(g).

SUBPART D – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 23.41 Basic Overall Goal Requirement

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

If the average annual concession revenues for car rentals over the preceding 3 years do not exceed \$200,000, the RTAA does 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 3 years do not exceed \$200,000, the RTAA does not need to submit an overall goal for concessions other than car rentals. The RTAA understands that "revenue" means total revenue generated by concessions, not the fees received by the airport from concessionaires.

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

Section 23.43 Consultation in Goal Setting

The RTAA 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 sponsors efforts to increase participation of ACDBEs.

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

Section 23.45 Overall Goals

The Reno-Tahoe International Airport is a *small hub primary* airport, however when the RTAA first implemented its ACDBE program, the Reno-Tahoe International Airport was classified as a medium hub primary airport. In FFY 2020, RTAA will continue to follow the goals for FFY 2017/2018/2019. Subsequently, the RTAA will submit its goals in accordance with the schedule established for small hub primary airports. As a condition of eligibility for FAA financial assistance, the RTAA will submit its overall goals according to the following schedule:

Primary Airport Size	Region	Date Due	Period Covered	Next Goal Due
Small Hubs	All regions	October 1, 2021	2022/2023/2024	October 1, 2024 (2025/2026/2027)

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 RTAA 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. (23.45i)

The RTAA will establish overall goals in accordance with the 2-Step process as specified in section 23.51. After determining the total gross receipts for the concession activity, the first step is to determine the relative availability of ACDBEs in the market area, “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).

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

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

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

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

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

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

The RTAA will use concession specific goals to meet any portion of the overall goals it does not project being able to meet using race-neutral means. Concession specific goals are established so that, over the period to which the overall goals apply, they will

cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

We will establish concession specific goals only on those concessions that have direct ownership arrangements (except car rentals), sublease, or subcontracting possibilities. We will require businesses subject to ACDBE goals at the airport (except car rental companies) to make good faith efforts to explore all available options to meet goals, to the maximum extent practicable, through direct ownership arrangements with DBEs (23.25 (f)). Car rental firms are not required to change their corporate structure to provide for direct ownership arrangements. In the case of a car rental goal, where it appears that all or most of the goal is likely to be met through the purchases by car rental companies of vehicles or other goods or services from ACDBEs, one permissible alternative is to structure the goal entirely in terms of purchases of goods and services.)

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

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

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

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

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

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

When there is a concession specific goal, the obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26.

Tina Iftiger, ACDBELO, is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive.

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

Information to be submitted (26.53(b))

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

Each solicitation for which a concession specific goal has been established will state that award of the contract will be conditioned on meeting the requirements of this section and will require the concessionaires to submit the following information:

1. The names and addresses of ACDBE firms or ACDBE suppliers of goods and services that will participate in the concession;
2. A description of the work that each ACDBE will perform;
3. The dollar amount of the participation of each ACDBE firm/supplier participating;
4. Written and signed documentation of commitment to use a ACDBE whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the ACDBE that it is participating in the concession as provided in the prime concessionaire's commitment and
6. If the contract goal is not met, evidence of good faith efforts (see Appendix A of this part). The documentation of good faith efforts must include copies of each ACDBE and non-ACDBE sub-concession quote submitted to the bidder when a non-ACDBE sub-concession was selected over an ACDBE for work on the contract.

Administrative reconsideration (26.53(d))

Within 10 days of being informed by the RTAA that it is not *responsive* because it has not documented sufficient good faith efforts, a concessionaire may request administrative reconsideration. Concessionaire should make this request in writing to the following reconsideration official: Holly Luna, Manager of Purchasing and Materials Management, 2770 Vassar Street, Reno, Nevada 89502, 775-690-9174, hluna@renoairport.com.] The reconsideration official will not have played any role in the original determination that the concessionaire did not document sufficient good faith efforts.

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

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

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

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

We will provide such written consent only if we agree, for reasons stated in our concurrence document, that the prime concession has good cause to terminate the ACDBE firm. For purposes of this paragraph, good cause includes the following circumstances:

1. The listed ACDBE sub-concession fails or refuses to execute a written contract;
2. The listed ACDBE sub-concession fails or refuses to perform the work of its subconcession in a way consistent with normal industry standards. Provided however, that good cause does not exist if the failure or refusal of the ACDBE sub-concession to perform its work on the sub-concession results from the bad faith or discriminatory action of the prime contractor;
3. The listed ACDBE sub-concession fails or refuses to meet the prime concession's reasonable, non-discriminatory bond requirements;
4. The listed ACDBE sub-concession becomes bankrupt, insolvent, or exhibits credit unworthiness;
5. The listed ACDBE sub-concession is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state law;
6. We have determined that the listed ACDBE subcontractor is not responsible;
7. The listed ACDBE sub-concession voluntarily withdraws from the project and provides to us written notice of its withdrawal;
8. The listed ACDBE is ineligible to receive ACDBE credit for the type of work required;
9. An ACDBE owner dies or becomes disabled with the result that the listed ACDBE concession is unable to complete its work on the contract;
10. Other documented good cause that we have determined compels the termination of the ACDBE sub-concession. Provided, that good cause does not exist if the prime concession seeks to terminate an ACDBE it relied upon to obtain the contract so that the prime concession can self-perform the work for which the ACDBE concession

was engaged or so that the prime contractor can substitute another ACDBE or non-ACDBE concession after contract award.

Before transmitting to us its request to terminate and/or substitute an ACDBE subconcession, the prime concession must give notice in writing to the ACDBE subconcession, with a copy to us, of its intent to request to terminate and/or substitute, and the reason for the request.

The prime concession must give the ACDBE five days to respond to the prime concession's notice and advise us and the concessionaire of the reasons, if any, why it objects to the proposed termination of its sub-concession and why we should not approve the prime concession's action. If required in a particular case as a matter of public necessity (e.g., safety), we may provide a response period shorter than five days.

The RTAA will require a concessionaire to make good faith efforts to replace an ACDBE that is terminated or has otherwise failed to complete its work on a concession with another certified ACDBE. These good faith efforts shall be directed at finding another ACDBE to perform at least the same amount of work under the concession contract as the ACDBE that was terminated, to the extent needed to meet the concession contract goal that we established for the procurement. The good faith efforts shall be documented by the concessionaire. If we request documentation from the concessionaire under this provision, the concessionaire shall submit the documentation to us within 5 days, which may be extended for an additional 5 days if necessary at the request of the concessionaire, and the recipient shall provide a written determination to the concessionaire stating whether or not good faith efforts have been demonstrated.

We will include in each prime concession contract the contract clause required by § 26.13(b) stating that failure by the concessionaire to carry out the requirements of this part is a material breach of the contract and may result in the termination of the concession contract or such other remedies set forth in that section that we deem appropriate if the prime concessionaire fails to comply with the requirements of this section.

If the concessionaire fails or refuses to comply in the time specified, our contracting office will notify the concessionaire that it is in default. If the concessionaire still fails to comply, the contracting officer may issue a termination for default proceeding.

Sample Proposal/Bid Specification:

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

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

Section 23.53 Counting ACDBE Participation for Car Rental Goals

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

Section 23.55 Counting ACDBE Participation for Concessions Other than Car Rentals

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

Section 23.57 (b) Goal shortfall accountability. If the awards and commitments on our Uniform Report of ACDBE Participation (found in Appendix A to this Part) at the end of any fiscal year are less than the overall goal applicable to that fiscal year, we will:

- (1) Analyze in detail the reasons for the difference between the overall goal and our awards and commitments in that fiscal year;
- (2) 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;
- (3) As an airport not meeting the criteria of paragraph (b)(3)(i) of this section, we will retain analysis and corrective actions in our records for three years and make it available to the FAA, on request, for their review.
- (4) We understand the FAA may impose conditions as part of its approval of our analysis and corrective actions including, but not limited to, modifications to our overall goal methodology, changes in our race-conscious/race-neutral split, or the introduction of additional race-neutral or race-conscious measures.
- (5) We understand we may be regarded as being in noncompliance with this part, and therefore subject to the remedies in § 23.11 of this part and other applicable regulations, for failing to implement our ACDBE program in good faith if any of the following things occur:
 - (i) We do not submit our analysis and corrective actions to FAA in a timely manner as required under paragraph (b)(3) of this section;
 - (ii) FAA disapproves our analysis or corrective actions; or

(iii) We do 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.

SUBPART E – OTHER PROVISIONS

Section 23.71 Existing Agreements

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

Section 23.75 Long-Term Exclusive Agreements

We will not enter into a long-term 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 longer than 5 years. We understand that an “exclusive” agreement is one in which an entire category of a particular business opportunity is limited to a single business entity. If special, local circumstances exist that make it important to enter into a long-term and exclusive agreement, we will submit detailed information to the FAA Regional Civil Rights Office for review and approval.

Section 23.79 Geographic Preferences

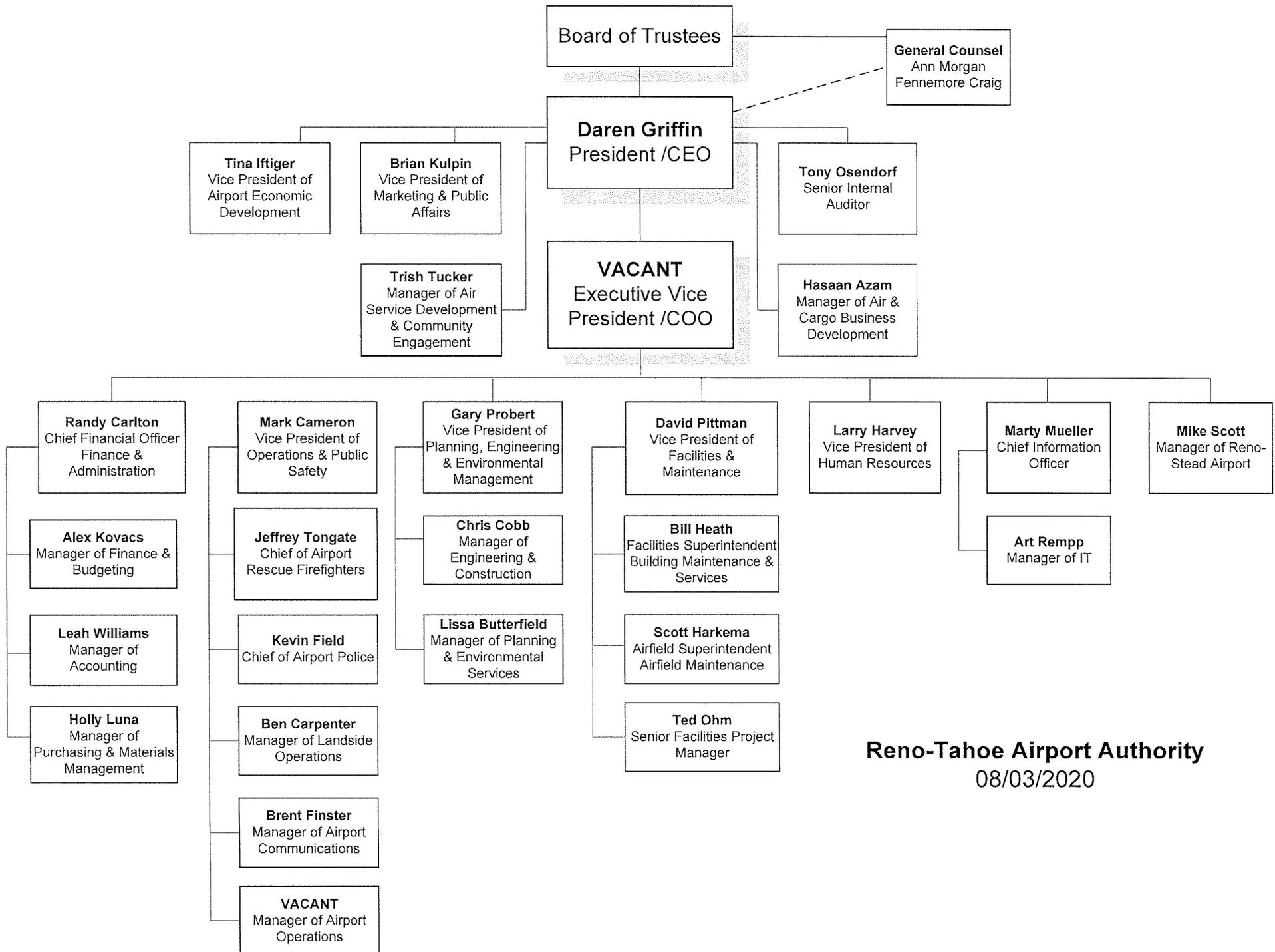
We will not use a “local geographic preference”, i.e., any requirement that gives an ACDBE located in one place (e.g., *Washoe County, Nevada*) an advantage over ACDBEs from other places in obtaining business as, or with, a concession at your airport.

ATTACHMENTS

Attachment 1	Organizational Chart
Attachment 2	DBE/ACDBE Directory (or website link)
Attachment 3	Monitoring and Enforcement Mechanisms
Attachment 4	Link to ACDBE Goals and Methodology (car rental and non-car rental)
Attachment 5	Form 1 & 2 for Demonstration of Good Faith Efforts
Attachment 6	Certification Application Forms
Attachment 7	Procedures for Removal of ACDBEs Eligibility
Attachment 8	State's UCP Agreement
Attachment 9	Regulations: 49 CFR Part 23

Attachment 1

RTAA Organizational Chart



Reno-Tahoe Airport Authority

08/03/2020

Attachment 2

NEVADA DBE/ACDBE Directory

<https://ndot.dbesystem.com/>

Attachment 3

Sample Monitoring and Enforcement Mechanisms

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

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

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

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

1. We will insert the following provisions into concessions agreements and management contracts:

Airport Concession Disadvantaged Business Enterprise Program. Concessionaire shall abide and be bound by the Airport Concession Disadvantaged Business Enterprise Program adopted and as amended from time to time by Authority pursuant to 49 CFR Part 23, Participation by Disadvantaged Business Enterprise in Airport Concessions, as may be applicable to Concessionaire's activities hereunder. Concessionaire shall use good faith efforts, as defined by federal law and the Authority's Airport Concession Disadvantaged Business Enterprise Program, to achieve any ACDBE participation goal hereunder, and as that goal might be revised. ACDBE participation may be in the form of one or more subleases, joint ventures, partnerships or other contractual relationships meeting the eligibility standards of 49 CFR Part 23. All ACDBEs must be certified in the applicable NAICS code by the State of Nevada's statewide Uniform Certification Program ("UCP"), before execution of the concession lease agreement. The Authority will monitor Concessionaire's compliance with the aforesaid federal regulations. The Authority may impose such remedies for noncompliance as are available hereunder and as otherwise provided by federal, state and local law, including, but not limited to, termination of this Lease. If Concessionaire is certified as an ACDBE, the goal shall have been met.

Access To Records And Reports. The Concessionaire must maintain an acceptable cost accounting system. The Concessionaire agrees to provide the

Authority and the Federal Aviation Administration, documents, papers, and records of the Concessionaire which are directly pertinent to this Lease for the purpose of making audit, examination, excerpts and this Lease for a period of not less than three years after final payment is made and all pending matters are closed.

Records.

Concessionaire shall, at all times during the term of this Lease, keep or cause to be kept true and complete books, records, and accounts of all financial transactions in the operation of all business activities, of whatever nature, conducted in pursuance of the rights granted herein. The records must be supported by source documents such as sales slips, cash register tapes, purchase invoices, or other pertinent documents.

2. We will implement the following additional monitoring and compliance procedures:
 - A. Review of all records, including the lease agreement and any subcontract, joint venture agreements or purchasing records as applicable.
 - B. Monthly reporting of total gross revenues and gross revenues earned by each participating ACDBE.
 - C. Quarterly reporting of car rental purchases, including the dollar amount of total purchases and purchases made from ACDBE firms.
 - D. Annual site visits to each ACDBE operating at the airport and counted towards any prime contractor's goal or towards the Airport's overall goal.

3. We will implement our compliance and monitoring procedures as follows:
 - A. Record reviews and site visits will be conducted by Airport staff and reviewed by the Airport's ACDBELO and ACDBE consulting.
 - B. Each record and site visit will contain a written certification documenting the review, including the name of the reviewer, date of the review and any findings requiring follow-up action.

Attachment 4

Link to ACDBE Goals and Methodology

<https://www.renoairport.com/airport-authority/competitive-solicitations/dbe-program>

Attachment 5

Forms 1 & 2 for Demonstration of Good Faith Efforts

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

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

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

_____ The bidder/offeror (if unable to meet the ACDBE goal of _____%) is committed to a minimum of _____% ACDBE utilization on this contract and submitted documentation demonstrating good faith efforts in accordance with 49 CFR part 26, Appendix A.

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____ Title _____
(Signature)

FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of ACDBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by ACDBE firm:

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

Affirmation

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

By _____
(Signature) (Title)

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

(Submit this page for each ACDBE subcontractor.)

Attachment 6

ACDBE Certification Application Form

Certification forms can be submitted electronically at:
<https://ndot.dbesystem.com/Default.asp?TN=ndot>

NOTE: firms must be certified as an ACDBE in the applicable NAICS code prior to submission of a proposal under which the ACDBE will be counted towards a concession specific goal.

Attachment 7

Procedures for Removal of ACDBEs Eligibility

The RTAA utilizes the procedures for removal as set forth in 29 CFR Part 26, Section 26.87.

ATTACHMENT 8

State's UCP Agreement

**AMENDED AND RESTATED
AGREEMENT FOR UNIFIED CERTIFICATION
OF DISADVANTAGED BUSINESS ENTERPRISES IN THE
STATE OF NEVADA**

THIS AGREEMENT, is made and entered into as of this 29th day of March ²⁰¹⁸~~2017~~, by and between the Clark County Department of Aviation, hereafter referred to as CCDOA; Reno-Tahoe Airport Authority, hereinafter referred to as RTAA; Nevada Department of Transportation, hereinafter referred to as NDOT; Regional Transportation Commission of Southern Nevada, hereinafter referred to as RTC SN; Regional Transportation Commission of Washoe County, hereinafter referred to as RTCWC; and the Carson Area Metropolitan Planning Organization, hereinafter referred to as CAMPO.

WHEREAS, 49 CFR Part 26.81 requires federal transportation fund recipients in a state to create a Unified Certification Program as part of the Disadvantaged Business Enterprise (“DBE”) and Airport Concession Disadvantaged Business Enterprise (“ACDBE”) programs; and

WHEREAS, the parties entered into an Original Agreement and desire to amend and restate the agreement with respect to the operation of the Nevada Unified Certification Program, from and after the date hereof, said Original Agreement to be superseded in its entirety by this Agreement; and

WHEREAS, the parties have each implemented a small business element of the DBE Program in accordance with 49 CFR part 26, section 26.39, and as a result have decided to implement Small Business Enterprise certification through the UCP; and

WHEREAS, any other recipient of federal transportation funds in this state that is covered by the requirements of 49 CFR Part 26 is also required to participate in a Unified Certification Program; and

WHEREAS, NRS section 277.180 authorizes two or more governmental units, by agreement, to jointly or cooperatively exercise any power common to the contracting parties or any similar powers;

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

**ARTICLE I
PURPOSE**

1.1 The parties have executed this Agreement for the sole purpose of creating a Unified Certification Program (“UCP”) and designating the Committee to process DBE/ACDBE and Small Business Enterprise (“SBE”) certification applications for the state of Nevada. “Committee” means the joint group created by this document that administers the Nevada UCP and performs DBE/ACDBE and SBE certifications, certification denials, decertification and certification reviews in accordance with 49 CFR parts 26 and 23.

1.2 This agreement is entered solely for the benefit of the signatories and is not intended to create a public document.

ARTICLE II DEFINITIONS

2.1 Agreement

“Agreement” means this document, the Nevada Unified Certification Program Agreement.

2.2 Committee

“Committee” means the Committee created by this document to administer and implement the UCP.

2.3 Member

“Member” means an individual designated to serve as a representative of a Member Agency on the Committee.

2.4 Member Agency

“Member Agency” means any recipient of federal transportation funds and designated as a member Agency in this agreement.

2.5 Processing Agency

“Processing Agency” means the specific UCP Agency to which a firm applies for DBE/ACDBE or SBE certification.

2.6 Regulation

“Regulation” means 49 CFR Parts 26 and 23 as amended from time to time and any revisions, additions, deletions, or replacements.

2.7 Recipient

“Recipient” means a recipient of Department of Transportation funds.

2.8 Small Business Enterprise

A small business enterprise (SBE) is a for-profit business that meets the definition of a small business under 49 CFR part 26 and that is at least 51% owned by an individual(s) who meets the criteria defined in 49 CFR part 26 to be considered economically disadvantaged.

2.9 State

“State” means the State of Nevada.

2.10 Unified Certification Program or UCP

“Unified Certification Program” and “UCP” mean the program created by this agreement.

Unless otherwise defined herein, terms in this Agreement shall have the same meaning as defined in 49 CFR Parts 26 and 23.

ARTICLE III
NEVADA UNIFIED CERTIFICATION PROGRAM

3.1 Nevada Unified Certification Program

The Nevada Unified Certification Program is established according to this agreement and in accordance with 49 CFR Part 26, section 26.81, to make all certification decisions on behalf of all member agencies in the State with respect to participation in the DOT DBE/ACDBE Program and Member Agency SBE Programs. Certification decisions made by the UCP shall be binding on all member agencies within the state.

3.2 Resources. This agreement shall commit member agencies to ensuring that the Committee has sufficient resources and expertise to carry out the requirements of this agreement.

3.3 Nevada Unified Certification Committee

The Nevada Unified Certification Committee is established to implement and administer the Nevada Unified Certification Program (UCP). The UCP shall follow all certification procedures and standards of 49 CFR Parts 26 and 23 ("regulations"), and shall comply with all certification and nondiscrimination requirements of the Regulation. The Committee shall consist of the following members:

- Director of the State of Nevada Department of Transportation or designee;
- Director of Aviation of the Clark County Department of Aviation, McCarran International Airport, or designee;
- President/CEO of the Reno-Tahoe Airport Authority, or designee;
- General Manager of the Regional Transportation Commission of Southern Nevada, or designee;
- Executive Director of Regional Transportation Commission of Washoe County, or designee;
- Transportation Manager of the Carson Area Metropolitan Planning Organization or designee

Any Agency within the state of Nevada that becomes a direct recipient of United States Department of Transportation funding shall be added as a member of the UCP committee. At the time the Agency is admitted to the UCP, the Agency will have the option of being a processing Agency or a voting non-processing member of the committee.

3.3.1 Regular Committee Meetings. A regular meeting of the Committee shall be held once each month at such time and place as the Committee by resolution may direct unless dispensed with by the members.

3.3.2 Notice of Meetings. Notice of meetings shall be given by the Secretary in writing, via email, to committee members entitled to vote. An agenda for each meeting shall be published and distributed by the secretary to each committee member not less than five (5) calendar days before the date of the meeting. Committee members shall post the

agenda in accordance with its Agency's requirements for Public Meeting Notices.

3.3.3 Quorum. A majority of members entitled to vote, present in person or by phone or other electronic means, shall constitute a quorum.

3.3.4 Voting. Each member of the committee shall be entitled to one vote on any matter that comes before the committee. A majority of votes of members in attendance at a meeting shall be required to pass an item. Certification recommendations will be presented by Processing Agencies. The committee will vote to accept the recommendation of the Agency, to make an alternate decision regarding the certification, or to require the Processing Agency to obtain additional information necessary to make a certification decision.

3.3.5 Committee Officers. Committee officers shall be elected by a vote of the committee. Elections shall take place annually at the November meeting of the Committee or at such other meeting designated by the Committee. Officers may be nominated by any member of the Committee. Members may nominate themselves for an Officer position. Officer positions and duties are:

3.3.5.1 Chairperson. The Chairperson of the Committee shall be responsible for chairing the Committee meetings, planning meetings, developing the agenda in conjunction with the Secretary and providing leadership to the Committee.

3.3.5.2 Vice-Chairperson. The Vice-Chairperson shall assist the Chairperson and shall discharge the duties of the Chairperson in the absence of the Chairperson.

3.3.5.3 Secretary. The Secretary shall prepare and distribute the agenda for all Committee meetings. The Secretary shall also be responsible for managing Committee meeting logistics, attending and recording the minutes of all Committee meetings, and maintaining records of meetings. The Secretary shall provide information necessary for maintaining the DBE/ACDBE/SBE Directory to the Agency responsible for the Directory.

3.3.6 Removal of Officers. An officer may be removed at any time, either with or without cause, by a majority vote of the Committee. An officer may resign at any time.

3.3.7 Special Election. In the event that an officer is removed or resigns, candidates for the open position created by such removal or resignation shall be nominated within 30 days of the officer's removal or resignation. A special election shall be held within 30 days of the date that nominations for the position are closed. The elected officer shall take office immediately following the announcement of the result of such election.

3.4 DBE/ACDBE Directory

The DBE/ACDBE/SBE Directory will be maintained in electronic format by the Agency designated by the Committee and will be available to the public through the designated Agency's website or through a jointly maintained Nevada Unified Certification Program website. The Directory shall be updated following each Committee meeting by the Agency assigned by the Committee to maintain the Directory.

3.5 Liability

Nothing contained in this Agreement shall imply any relationship between any of the signing parties beyond the certification of DBEs/ACDBEs and SBEs.

3.5.1 It is specifically agreed between the parties executing this agreement that it is not intended by any of the provisions of any part of the agreement to create in the public or any member thereof a third party beneficiary status hereunder, or to authorize anyone not a party to this agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this agreement.

3.5.2 Each party agrees to keep and maintain under generally accepted accounting principles, full, true, and complete records and documents pertaining to this Agreement and present, at any reasonable time, such information for inspection, examination, review, audit, and copying at any office where such records and documentation are maintained.

3.5.3 The parties are associated with each other only for the purposes and to the extent set forth in this Agreement. Each party is and shall be a public agency separate and distinct from the other party and shall have the right to supervise, manage, operate, control, and direct performance of the details incident of its duties under this Agreement. Nothing contained in this Agreement shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for one agency whatsoever with respect to the indebtedness, liabilities, and obligations of the other agency or any other party.

3.6 Confidentiality of Data

All financial information received regarding the certification of an applicant will be shared among the parties signing this agreement but shall not be shared with the public, in accordance with 49 CFR, Part 26.109.

ARTICLE IV NEVADA UNIFIED CERTIFICATION PROGRAM POLICIES

4.1 (a) The Nevada UCP Committee shall:

(1) Make all certification decisions on behalf of all member agencies in the state with respect to participation in the DOT DBE/ACDBE and Member Agencies' SBE Programs.

(i) Certification decisions by the Committee shall be binding on all recipients within the state.

(ii) The Committee shall provide 'one-stop shopping' to applicants for certification, such that an applicant is required to apply only once for a DBE/ACDBE/SBE certification and any other program that may be implemented from

time to time by US DOT. Certification decisions made by the UCP will be honored by all member agencies in the state of Nevada.

(iii) The Committee shall carry out all obligations of member agencies with respect to certification.

(2) Maintain a Unified DBE/ACDBE/SBE Directory containing, for all firms certified by the Committee (including those from other states certified under the provisions of the regulation), in the listing for each firm, its address, phone number, and the types of work the firm has been certified to perform as a DBE/ACDBE/SBE. The directory shall be maintained in an electronic format and shall be updated as changes occur, including the addition of new firms and changes to existing firms. The Directory will be made available to the public on the internet and in a printed format upon request.

(3) Follow all certification procedures and standards of the regulation.

(4) Cooperate fully with oversight, review, and monitoring activities of DOT and its operating administrations.

(5) Implement DOT directives and guidance concerning certification matters.

6) Make all decisions regarding the administration of the UCP.

(b) The Committee is not required to process an application for certification from a firm having its principal place of business outside the state if the firm is not certified by the UCP in the state in which it maintains its principal place of business. The Processing Agencies of the UCP shall process such certifications in accordance with 49 CFR Part 26, section 26.85.

(c) The Committee may accept the certification of any other UCP or DOT recipient. The Committee may also enter into written reciprocity agreements with other UCPs.

(d) This agreement shall commit member agencies to ensure that the Committee has sufficient resources and expertise to carry out the requirements of this agreement.

ARTICLE V

NEVADA UNIFIED CERTIFICATION PROGRAM PROCEDURES

5.1 Certification Procedures. Certification decisions will be made by the UCP Committee in accordance with standards and procedures found in 49 CFR part 26, Subparts D and E.

5.2 Certification Application. To become a DBE, ACDBE or SBE, a firm must submit an application to the Committee through one of the designated Processing Agencies of the Committee. The designated Processing Agencies are: Clark County Department of Aviation (DOA), Reno Tahoe Airport Authority (RTAA), and State of Nevada Department of Transportation (NDOT). For DBE/ACDBE certification, the Committee

shall use the Uniform Certification Application found in Appendix F to 49 CFR part 26, without alteration, as required by 49 CFR Part 26. For SBE Certification, the Committee shall use an application approved by the Committee. The Certification Application will be made available through the official websites of the designated Processing Agencies and on the Nevada UCP website at such time as a Nevada UCP website has been developed and is operating.

5.3 Certification Decisions

5.3.1 Home State Applicants. The Processing Agency shall present applications for certification from firms whose home state, as defined in the regulation, is the State of Nevada to the Committee within 90 days of receipt of all information required under this part from the applicant firm. The Processing Agency may extend this time period once, for no more than an additional 60 days, upon written notice to the firm, explaining fully and specifically the reasons for the extension. The Committee shall make certification decisions at the time the application is presented to the Committee by the Processing Agency unless specific additional information is deemed to be required by the Committee to assist in rendering a decision on an applicant's eligibility. The Processing Agency shall request such additional information from applicant within ten (10) days, and shall re-present the case to the Committee at the next meeting of the UCP after receipt of the requested information. The Committee's failure to make a decision by the applicable deadline under this paragraph is deemed a constructive denial of the application, on the basis of which the firm may appeal to DOT in accordance with 49 CFR part 26, section 26.89.

5.3.2 Interstate Applicants. The Processing Agency shall process Interstate Applications, defined as applications for DBE or ACDBE certification from firms whose principal place of business, as defined in the regulation, is outside of the State of Nevada in accordance with 49 CFR Part 26, section 26.85(c)-(g). The Processing Agency shall present Interstate applications for certification to the Committee within 60 days of receipt of all information required under 49 CFR Part 26.85(c) from the applicant firm. The Processing Agency must request the site visit review report from the home state certifying Agency within seven (7) days of receipt of the application. In the event that the home state has not supplied the site visit review report within 14 days from the date of the request, the certification decision may be held in abeyance pending receipt of the site visit review report. In this event, the applicant must be notified, in writing, of the delay and the reason for the delay within 30 days of the receipt of the application and supporting documentation. The Committee shall make certification decisions at the time the application is presented to the Committee. The Committee's failure to make a decision by the applicable deadline under this paragraph is deemed a constructive denial of the application, on the basis of which the firm may appeal to DOT in accordance with 49 CFR part 26, section 26.89.

5.4 Certification Denials

5.4.1 Documentation. When the Committee denies a request by a firm to be certified as a DBE/ACDBE or SBE, the Processing Agency shall provide the firm a written

explanation of the Committee's reasons for the denial, specifically referencing the evidence in the record that supports each reason for the denial. All documents and other information on which the denial is based shall be made available to the applicant, on request.

5.4.2 Waiting Period. When the Committee makes an administratively final denial at certification concerning a firm, the firm may re-apply for certification only after twelve months have elapsed.

5.4.3 Withdrawal. Applicants for DBE, ACDBE or SBE certification may withdraw their application at any time prior to the date of the Committee Meeting at which the certification decision for that firm will be rendered. There will be no waiting period imposed for firms who have withdrawn to re-apply, however, the reapplication may be placed at the "end of the line," behind other applications that have been made since the firm's previous application was withdrawn. The twelve-month waiting period may be imposed, upon vote by the Committee, to firms that have established a pattern of frequently withdrawing applications.

5.5 Certification Reviews

Each processing Agency shall conduct a certification review, including a site visit, not more than every three years or less than every five years for each DBE/ACDBE/SBE that the processing Agency has certified. The review shall take place within 30 days of the applicable anniversary date for each certified firm, or at such other time designated by the Committee. Certification review forms shall be uniform for each processing Agency and shall be approved by a vote of the Committee.

5.6 Eligibility Removals

5.6.1 Eligibility Removal Procedures. The Committee shall utilize the procedures of 49 CFR Part 26, Section 26.87 to remove the eligibility of any certified DBE or ACDBE firm.

5.6.2 Review Agency. Any review of a firm for potential removal shall be conducted by the Processing Agency that originally processed the application.

5.6.3 Hearing. When the Processing Agency notifies a firm that there is reasonable cause to remove its eligibility, it shall give the firm an opportunity for a hearing with a third party who did not take 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. The Committee shall select the third-party reviewer by majority vote.

5.7 Summary Suspension of Certification

5.7.1 Suspension Procedures. The Committee shall adhere to the procedures of section 26.88 of the Regulation regarding the summary suspension of certification.

5.7.2 Suspension Upon Death or Incarceration. The Committee shall immediately suspend a DBE's certification without adhering to the requirements in §26.87(d) of the Regulation when an individual owner whose ownership and control of the firm are necessary to the firm's certification dies or is incarcerated.

5.7.3 Suspension due to Changed Circumstances. The Committee may immediately suspend a DBE's certification without adhering to the requirements in §26.87(d) when there is adequate evidence to believe that there has been a material change in circumstances that may affect the eligibility of the DBE firm to remain certified, or when the DBE fails to notify the processing Agency or UCP in writing of any material change in circumstances as required by §26.83(i) of this part, or fails to timely file an affidavit of no change under §26.83(j).

5.8 Confidentiality

Notwithstanding any provision of Federal or state law, the Committee will not release any information that may reasonably be construed as confidential business information to any third party without the written consent of the firm that submitted the information. This includes applications for DBE/ACDBE or SBE certification and supporting information. However, the Committee will transmit this information to DOT in any certification appeal proceeding under 49 CFR Part 26, section 26.89 of this part or to any other state to which the individual's firm has applied for certification under section 26.85.

ARTICLE VI TERMS OF AGREEMENT

6.1 Term. This agreement shall be effective immediately upon its approval and execution by all the parties hereto: shall be for a term related to the rules for administering the DBE/ACDBE Program or to the maximum extent permitted by Nevada State Law, whichever occurs first. The term shall coincide with a material change to the DBE/ACDBE Program or the sun setting of the programs.

6.2 Termination. This agreement shall be in effect until the DBE/ACDBE program terminates or changes its requirements as to any of the parties of this agreement or as permitted by Nevada State Law.

6.3 Entire Agreement. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof, all oral and written prior to contemporaneous discussions and agreements being merged herein and superseded hereby.

6.4 Conflict in Terms. In the event of any conflict or inconsistency in the definition or interpretation of any words, terms or phrases relating to certification between this Agreement and the Regulation, such conflict or inconsistency shall be resolved by giving precedence first to the Regulation.

WHEREOF, the parties have executed this agreement on the dates indicated below.

APPROVED AS TO LEGALITY AND
FORM:

BY: [Signature] 4-24-2018
Deputy Attorney General

STATE OF NEVADA Acting By and Through
its DEPARTMENT OF TRANSPORTATION

BY: [Signature]
Tracy D. Larkin-Thomason
Deputy Director

Date: 3/6/18

CLARK COUNTY, NEVADA

BY: [Signature]
Rosemary A. Vassiliadis
Director of Aviation

Date: 3-7-18

REGIONAL TRANSPORTATION
COMMISSION OF SOUTHERN NEVADA

BY: [Signature]
Tina Quigley
General Manager

Date: 3-5-18

REGIONAL TRANSPORTATION
COMMISSION OF WASHOE COUNTY

BY: [Signature] ^{for Lee Gibson}
Lee G. Gibson, AICP
Executive Director

Date: 3.29.18

RENO-TAHOE AIRPORT AUTHORITY

BY: [Signature]
Marilyn M. Mora, AAE
President and CEO

Date: 3/14/18

CARSON AREA METROPOLITAN
PLANNING ORGANIZATION

BY: [Signature]
Lucia Maloney
Transportation Manager

Date: 3/19/18

Attachment 9

Regulations: 49 CFR Part 23

Link to the regulation at ecf:

https://www.ecfr.gov/cgi-bin/text-idx?SID=f7add5b0d7e82712edb73d857bf192fb&mc=true&node=pt49.1.23&rgn=div5#se49.1.23_175