

## EXHIBIT F-3: ACDBE and/or M/WBE GOOD FAITH EFFORT PLAN

Please read these instructions carefully before completing the required Airport Concession Disadvantaged Business Enterprise (ACDBE) and/or Minority/Women Business Enterprise (M/WBE) Good Faith Effort Plan. These instructions are designed to assist proposers prepare the required detailed and complete good faith effort information.

To be eligible to be awarded a concession that has concession specific goals; proposers must make good faith efforts to meet the goals. A proposer may do so either by obtaining enough ACDBE and/or M/WBE participation to meet the goal or by documenting that it made sufficient good faith efforts to do so. Examples of good faith efforts are found on **Exhibit E-3 Good Faith Effort Factors** page. The Airport treats proposer's compliance with good faith efforts requirements as a matter of responsiveness. Each solicitation for which concession specific goals have been established will require the proposer to submit support documentation which addresses each of the factors outlined in the **Good Faith Effort Factors** page.

### **Administrative Reconsideration 26.53(a)**

Within two calendar days of being informed by The DFW International Airport 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 and send it via overnight courier to the following reconsideration official:

**Maruchy Cantu**  
**Executive Vice President, Administration, DE&I**  
**DFW International Airport**  
**2400 Aviation Drive – 1<sup>st</sup> Floor**  
**DFW Airport, Texas 75261**  
**972-973-5600**

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. However, the decision shall be made based solely on the entire administrative record submitted with the proposal. No new information will be evaluated.

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.

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While the request is being considered, the airport will suspend its review of proposals for five days for that package. Once a determination is made by the BDDD, or upon the expiration of the five days, the airport will resume evaluation of proposals sent in response to the RFP.

**Good Faith Efforts When an ACDBE and/or M/WBE is Replaced on a Concession (23.53(f))**

The DFW International Airport 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 and/or M/WBE, to the extent needed to meet the concession specific goal. We will require the Concessionaire to notify the BDDD Vice President immediately of the ACDBE and/or M/WBE's inability or unwillingness to perform and provide reasonable documentation before the ACDBE is terminated or replaced.

In this situation, the Concessionaire will be required to obtain the BDDDs prior approval of the proposed ACDBE and/or M/WBE substitution and to provide copies of new or amended subcontracts, or documentation of good faith efforts. The concessionaire must include the specific reasons for the termination and/or failure to complete its agreement as set forth. The concessionaire must also provide the ACDBE and/or M/WBE with any and all documents and information as may be requested with respect to the termination or substitution of the ACDBE and/or M/WBE.

If the Concessionaire fails or refuses to comply in the time specified, the Concessions Department 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.

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### GOOD FAITH EFFORT (GFE) Criteria

NOTE: Include a response to GFE criteria and support documentation in bid/proposal only if the ACD/M/WBE goal is not achieved.

The following factors are taken into account when assessing a good faith effort response. These factors are minimally considered as good faith efforts and demonstrate specific initiatives made in attempting to achieve the applicable contract-specific Airport Concession Disadvantaged Business Enterprise (ACDBE) and Minority/Women Business Enterprise (M/WBE) goal. These factors should not be considered as a template, checklist or some quantitative formula. Proposers are required to meet all factors outlined below and provide support documentation in order for the good faith effort plan to be assessed. Mere pro forma efforts are not good faith efforts to meet the ACD/M/WBE contract requirements. This means that a bidder/proposer must show that it took all necessary and reasonable steps to achieve an ACD/M/WBE goal or other requirement of this GFE which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient ACD/M/WBE participation, even if they were not fully successful. DFW will evaluate the GFE on quality, quantity, and intensity of the different kinds of efforts that the bidder/proposer has made, based on the regulations and the guidance in Code of Federal Regulations. **NOT SUBMITTING PROPER SUPPORT DOCUMENTATION IS NOT EVIDENCE OF A PROPER DEMONSTRATION OF GOOD FAITH EFFORT. SUBMITTAL OF THE CRITERIA, WITH NO ADDITIONAL DOCUMENTATION, WILL NOT BE CONSIDERED ADEQUATE DEMONSTRATION OF GOOD FAITH EFFORT.** Proposers are not limited to these particular areas and may include other efforts deemed appropriate. Complete form and attach support documentation only if the ACD/M/WBE goal is not achieved. For additional guidance concerning Good Faith Efforts, please refer to the Electronic Code of Federal Regulations (CFR 49-part 26 Appendix A).

GOOD FAITH EFFORT FACTORS
<p>Conducting market research to identify small business contractors and suppliers and solicit through all reasonable and available means the interest of all certified ACD/M/WBEs that have the capability to perform the work of the contract. This may include attendance at any pre-bid or pre-proposal meetings to discuss subcontracting and supplier opportunities (acceptable documentation shall include copies of the meeting sign-in sheets with contractor name noted as signed-in) and business matchmaking meetings and events, advertising and/or written notices, posting of Notices of Sources Sought and/or Requests for Proposals, written notices or emails to all ACD/M/WBEs listed in the State and/or Local respective directories of firms that specialize in the areas of work desired (as noted in the ACD/M/WBE directory) and which are located in the area or surrounding areas of the project. <i>The Contractor should solicit this interest as early in the acquisition process as practicable to allow the ACD/M/WBEs to respond to the solicitation and submit a timely offer for the subcontract. The bidder should determine with certainty if the ACD/M/WBEs are interested in taking appropriate steps to follow up initial solicitations at least three (3) business days prior to bid opening.</i></p>
<p>Selecting portions of the work to be performed by ACD/M/WBEs in order to increase the likelihood that the ACD/M/WBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units (for example, smaller tasks or quantities) to facilitate ACD/M/WBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces. This may include, where possible, establishing flexible timeframes for performance and delivery schedules in a manner that encourages and facilitates ACD/M/WBE participation.</p>
<p>Providing interested ACD/M/WBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation with their offer for the subcontract.</p>
<p>Negotiating in good faith with interested ACD/M/WBEs. It is the bidder's responsibility to make a portion of the work available to ACD/M/WBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available ACD/M/WBE subcontractors and suppliers, so as to facilitate ACD/M/WBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of ACD/M/WBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional Agreements could not be reached for ACD/M/WBEs to perform the work.</p>
<p>A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including ACD/M/WBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using ACD/M/WBEs is not in itself sufficient reason for a bidder's failure to meet the contract ACD/M/WBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from ACD/M/WBEs if the price difference is excessive or unreasonable.</p>

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<p>Not rejecting ACD/M/WBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal. Another practice considered an insufficient good faith effort is the rejection of the ACD/M/WBE because its quotation for the work was not the lowest received. However, nothing in this paragraph shall be construed to require the bidder or prime contractor to accept unreasonable quotes in order to satisfy contract goals. <i>A prime contractor's inability to find a replacement ACD/M/WBE at the original price is not alone sufficient to support a finding that good faith efforts have been made to replace the original ACD/M/WBE. The fact that the contractor has the ability and/or desire to perform the contract work with its own forces does not relieve the contractor of the obligation to make good faith efforts to find a replacement ACD/M/WBE, and it is not a sound basis for rejecting a prospective replacement ACD/M/WBE's reasonable quote.</i></p>
<p>Making efforts to assist interested ACD/M/WBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.</p>
<p>Making efforts to assist interested ACD/M/WBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.</p>
<p>Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, State, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of ACD/M/WBEs.</p>
<p>At a minimum, DFW will review the performance of other bidders/proposers in meeting the contract goal. For example, when the apparent successful bidder/proposer fails to meet the contract goal, but others meet it, DFW may reasonably raise the question of whether, with additional efforts, the apparent successful bidder/proposer could have met the goal. As provided in §26.53(b)(2)(vi), the bidder must submit copies of each ACD/M/WBE and non-ACD/M/WBE subcontractor quote submitted to the bidder when a non-ACD/M/WBE subcontractor was selected over a ACD/M/WBE for work on the contract to review whether ACD/M/WBE prices were substantially higher; and contact the ACD/M/WBEs listed on a contractor's solicitation to inquire as to whether they were contacted by the prime. Pro forma mailings to ACD/M/WBEs requesting bids are not alone sufficient to satisfy good faith efforts under the rule.</p>
<p>A promise to use ACD/M/WBEs after contract award is not considered to be responsive to the contract solicitation or to constitute good faith efforts.</p>

**FOR DFW BUSINESS DIVERSITY & DEVELOPMENT USE ONLY:**

Plan Reviewed by: \_\_\_\_\_

Date: \_\_\_\_\_

Signature of Business Specialist/Manager: \_\_\_\_\_

Recommendation: Approval: \_\_\_\_\_ Denial: \_\_\_\_\_