

CONCESSION POLICY

1. OVERVIEW

1.1 Purpose

This Concession Policy is intended to provide internal direction to the Concessions Department staff for the selection of concessionaires, assignment of existing contracts, the renewal of contracts, and other contracting issues regarding concessions at DFW Airport, in support of the Board approved Mission Statement. This Concession Policy is intended solely for the use of employees of DFW. This Concession Policy does not and shall not constitute a part of any concession contract, and there is no contract right, property right, or private right of action by any person or party to enforce this Concession Policy. The Board of Directors reserves the right to deviate from this Concession Policy in any concession matter, for any reason, in its sole discretion. Airport staff may not deviate from this Concession Policy except upon Board approval. In the event of any inconsistency between the provisions in any concession contract or solicitation and this Concession Policy, the provisions in the contract or solicitation shall control.

1.2 Effective Date

These Concession Policies and Guidelines shall become effective immediately upon adoption by official resolution of the Board of Directors.

1.3 Mission Statement

The Dallas/Fort Worth International Airport shall strive to maximize concession revenues while providing the public with high quality goods and services that are competitively priced, conveniently located, and reflect the needs and desires and exceed the expectations of the traveling public. The Airport shall provide concession opportunities and promote participation by Airport Concessions Disadvantaged Business Enterprise (ACDBE) firms that represent the diverse, ethnic, cultural, racial and gender groups which comprise Dallas and Fort Worth. The Airport shall strive to expand economic benefits to the Cities of Dallas and Fort Worth.

1.3.1 Increasing Non-Aviation Revenue

Increasing Non-Aviation Revenue includes adhering to the Board's Use Agreement with Signatory Airlines providing for the Board to manage the Airport concession program in order to maximize non-aviation revenue, increasing sales per enplaned passenger at a rate higher than passenger

growth, and increasing sales per square foot at a rate higher than passenger growth.

1.3.2 Providing and Improving the Shopping, Dining and Service Experience at DFW International Airport

Enriching the shopping, dining and service experience includes providing a variety of choices in products and services, achieving lines of business (i.e.—newsstands, general merchandise & duty free, food & beverage, and specialty retail) and concepts within those lines of business (i.e.—hamburgers, pizzas) that are original and unique, achieving the appropriate mix of international, national, local and regional concepts, ensuring that the square footage allocation is appropriate to the passenger mix, ensuring competitive (street-level) pricing, assuring the highest quality products, providing excellent customer service, and providing an entertaining respite from travel.

1.3.3 Increasing M/W/BE and ACDBE Ownership

Increasing ACDBE ownership includes encouraging direct contracting opportunities as well as joint ventures, franchises and corporate opportunities for ACDBE firms, as a means of meeting percentage or participation goals established by the Board from time to time.

1.3.4 Expanding Economic Benefits to the Cities of Dallas and Fort Worth

Airport staff shall conduct outreach to assure participation from local firms or owners who reside in Tarrant and Dallas Counties or the cities of Dallas and Fort Worth. The affirmative steps shall include: placing qualified local businesses on solicitation lists; assuring the local businesses are solicited whenever there are potential sources; utilizing the resources of the Business Diversity and Development Department and requiring prime contractors to use a good faith effort to partner with local businesses.

1.4 Cap Policy

No one concessionaire (including related entities, i.e.—entities owned or controlled by the same persons or within the first degree of consanguinity or affinity to the same person) may own, control, manage or operate more than 25% of concession lease locations for any line of business (e.g.—25% food & beverage and 25% specialty retail will not violate this policy), and no one concessionaire may own, manage or operate more than 20% of all concession locations in all terminals.

1.5 Term Limitation

Regardless of which method is used to select a concessionaire, no concessionaire shall receive a contract term longer than ten years, including extension options. This provision does not mean that a concessionaire is prohibited from receiving successive contracts for a combined term longer than ten years. However, the manner by which a concessionaire may receive successive contracts for combined terms longer than ten years is limited below in 2.2.

1.6 Definitions

As used in these Concession Guidelines (“Guidelines”):

1.6.1 “Concession”

“Concession”, for the purposes of these guidelines, means a right to operate a business that sells goods and/or services to the public at a designated location or locations in one of DFW’s passenger terminals, excluding airside airport businesses that provide goods and/or services to operators of aircraft.

1.6.2 “Concessionaire”

“Concessionaire” means the operator of a concession.

1.6.3 “Contract”

“Contract” means a lease, permit, or concession agreement that gives a concessionaire the right to operate a concession at DFW.

1.6.4 “DFW”

“DFW” means the Dallas Fort Worth International Airport Board.

1.6.5

“Term” means the length of time, including any option years, during which a concessionaire has the right to operate a concession as provided in a concession contract.

2. SELECTION OF CONCESSIONAIRES

2.1 Selection Criteria

Selection of a concessionaire should be based upon evaluation criteria that are established before proposals are solicited and should be communicated to all prospective concessionaires. The evaluation criteria may include, but need not be limited to, the current qualifications of the proposer, the proposer’s collective experience in operating a business similar to the proposed concession, the proposer’s specific experience in operating a concession at DFW International Airport, the proposer’s financial condition, the degree to which the proposer is able to conform to DFW’s operating requirements, the annual revenue to DFW based on the proposal, the ability of the proposer to fund and manage the concession, the degree to which the proposer’s concession business would complement the current mix of other concessions, the quality of the concept, and the proposer’s commitment to DFW’s ACDBE program.

2.2 Solicitation and Selection Processes

Competitive bidding processes, described below as Requests for Proposals, are used to identify and inform all potential qualified proposers about concession opportunities at DFW, and sometimes result in many proposals being submitted for the concession opportunities. Competitive processes generally ensure the greatest outreach into the business community, as well as selection of the best proposers for the opportunities. However, competitive bidding of concession contracts is not required by law, and the costs normally incurred in soliciting and reviewing large numbers of voluminous proposals sometimes outweigh the anticipated financial benefits of competitive bidding processes. Therefore, a solicitation of a limited number of proposers, or even direct negotiations with a single proposer, may be justified. The Concessions Department staff is directed to use the processes set forth in the table below under the circumstances indicated, unless in the discretion of the Vice-President of Revenue Management an exception from the established process is warranted by extenuating circumstances, and notice thereof is given to the Board. These guidelines shall apply to concessions in all existing and future Airport terminals.

<u>Length of Contract</u>		<u>Minimum Annual Guarantee</u>	<u>Process</u>
Up to 3 years	<i>Or</i>	Up to \$100,000 per year	Direct negotiation with potential concessionaire
Over 3 years and up to 5 years	<i>And</i>	More than \$100,000 per year	Limited Proposal Process from a targeted group
Over 5 years	<i>And</i>	More than \$100,000 per year	Request for Proposals process

2.2.1 Direct Negotiation

Direct negotiation of a concession contract involves a one-to-one discussion between the Concessions Department and a single proposer, with the expectation of obtaining contract terms that achieve the goals of the Mission Statement. Direct negotiation does not mean that a proposer is not in competition for the concession, because the Concessions Department is expected to exercise due diligence in determining the contract terms that could be obtained from other proposers or are otherwise commercially reasonable.

In addition to contracts for terms of less than 3 years or with minimum annual guarantees of less than \$100,000, concession contracts may be awarded without soliciting and evaluating multiple proposals if one or more of the following criteria is satisfied:

(A) Sole Source. If only one potential proposer is qualified and available to operate the concession, or if the Concessions Department determines after due diligence that there is no reasonable basis for expecting that any firm or individual would respond to a Request for Proposals or a Limited Proposal Solicitation.

(B) Additional Locations. A concessionaire currently operates the same type of concession at DFW pursuant to a concession contract that was awarded by a competitive RFP process, and staff determines that providing the concessionaire an additional location or locations at DFW will best serve the DFW strategic concession interests, and that the additional location(s) would not exceed the DFW ownership cap policy described above.

(C) Relocation. The concession lease is awarded to a concessionaire who is being relocated during the term of its agreement to another location within the terminal complex and the concessionaire will operate the same or similar type of concession at the new location.

(D) Contractors for Airlines. When Airlines contract directly for concession services in their exclusive space on which the Airport is entitled to collect concession fees, the Concessions Department will negotiate an agreement with the airline contractor for appropriate fees.

(E) Unlimited Capacity. The capacity in the terminals exists to accommodate all vendors who wish to serve a particular sector of the market without adversely affecting the quality of services to the public or the revenues to DFW (e.g.—telecommunications providers).

(F) Renewal or Extension of Existing Concessions. If the same or similar type of concession at the subject location(s) is desired, if the concessionaire has not been in material default (i.e.—a monetary default more than 30 days in arrears, or a non-monetary default which the concessionaire has not cured within 60 days of notice of the default) of its contract within the last 12 months, and if the concessionaire has met each of the following criteria:

- the existing use and concept is consistent with the current tenant mix and passenger demand;
- the company's cumulative quality experience ranking was at least in the top 75% of all companies evaluated at DFW for the prior twelve months, if evaluations were conducted; and
- the concessionaire has complied with its ACDBE participation requirements;

plus at least 2 of the following 3 criteria:

- sales increased at or above the percentage growth in enplanements over the prior 12 months, or decreased at or below the decrease in enplanements over the prior 12 months;
- sales increased at or above the percentage increase of other comparable concepts or category over the prior 12 months, whichever is applicable, or decreased at or below the decrease of other comparable concepts or category, whichever is applicable;
- the company's average location sales per square foot for the last 12 months are at least in the top 75% of location sales for that category;

then not more than six months prior to the expiration of a lease, and not more than 60 days prior to the expiration of a permit, staff may negotiate directly with the concessionaire for the renewal or extension of the concession, under a new contract, in the subject location(s). All renewals and extensions are to incorporate contemporary terms and conditions being used by the Concessions Department for new concessions contracts, and if such contemporary terms and conditions are unacceptable to the concessionaire, then the concession may not be renewed or extended by direct negotiation. The criteria for direct negotiation of a concession renewal, insofar as they relate to the concessionaire's sales, may be

waived if the Vice President of Revenue Management determines that the concessionaire's sales were adversely and uniquely affected by airline relocations, airline strikes, or unanticipated terminal area closure or non-use due to construction, renovation, acts of terror, acts of God, or other extenuating circumstances outside the concessionaire's control, and if the Vice President of Revenue Management determines that the concessionaire took every reasonable measure to maximize sales despite the adversity as reflected in the concessionaire's sales. Direct negotiation of a contract for more than 3 years or \$100,000 shall not be used if it will allow a concessionaire to operate a concession for more than 10 years (through one or more contracts) without going through either a Limited Proposal process or a Request for Proposal process (as mandated by the table above).

(G) Assignments and Extensions. If an extension of a concession is requested in connection with an assignment of the concession to an entity unrelated to the assignor, if the assignor has not been in material default of its contract within the last 12 months, if the Vice President of Revenue Management determines that it is in the best financial interest of the airport to extend the contract as requested and that such extension is necessary to make the assigned concession financially viable, and if the assignor has met each of the following criteria:

- the existing use and concept is consistent with the current tenant mix and passenger demand;
- the assignor's cumulative quality experience ranking was at least in the top 75% of all companies evaluated at DFW for the prior twelve months, if evaluations were conducted; and
- the assignor has complied with its ACDBE participation requirements;

plus at least 2 of the following 3 criteria:

- sales increased at or above the percentage growth in enplanements over the prior 12 months, or decreased at or below the decrease in enplanements over the prior 12 months;
- sales increased at or above the percentage increase of other comparable concepts or category over the prior 12 months, whichever is applicable, or decreased at or below the decrease of other comparable concepts or category, whichever is applicable;

- the assignor's average location sales per square foot for the last 12 months are at least in the top 75% of location sales for that category;

then staff may negotiate directly with the assignee for the extension of the concession in the subject location(s). The criteria for direct negotiation of a concession extension in connection with an assignment, insofar as they relate to the assignor's sales, may be waived if the Vice President of Revenue Management determines that, based on the assignee's industry performance, the assignee is likely to significantly improve the sales performance of the concession, and notice is given to the Board. An assignee may not receive a concession by direct negotiation if the tenure of the assignor and the assignee together would be more than ten years.

2.2.2 Limited Proposal Solicitation (LPS) Process

The LPS process is competitive, but the advertising and the complexity of RFQ and RFP processes are greatly reduced. In addition to being used for smaller or shorter contracts as shown in the table above, the LPS process would be appropriate if the solicitation is for a concession opportunity where there are only a few companies in the country capable of making an acceptable proposal or where it is desirable to limit proposers to existing concessionaires.

The LPS solicitation document must be in writing and include at a minimum: (i) the evaluation criteria; (ii) the contractual terms and conditions required by DFW (this may be accomplished by attaching a draft contract to the solicitation document); (iii) a clear description of the business to be conducted by the concessionaire; (iv) the minimum acceptable bid, and (v) the requirements that must be satisfied in the written proposals.

If the Vice President of Revenue Management determines that no one proposer is superior to the others, then a concession may be awarded by lottery among the qualified proposers.

Proposals should be solicited from a reasonable number of qualified prospective proposers. If fewer than two qualified proposers submit proposals, the efforts to identify qualified prospective proposers and obtain proposals from them should be documented, and the documentation should be retained in the department files.

2.2.3 Requests for Proposals (RFP) Process

An RFP solicitation document should be written to include, at a minimum: (i) the evaluation criteria; (ii) the contractual terms and conditions required

by DFW (this may be accomplished by attaching a draft contract to the solicitation document); (iii) a clear description of the business to be conducted by the concessionaire; (iv) the minimum acceptable bid, and (v) the requirements that must be satisfied in the written proposals.

The solicitation of proposals shall be advertised in the Dallas Morning News and the Fort Worth Star-Telegram. The local advertising may be supplemented by advertising in aviation association or trade journal publications. Local advertising shall be supplemented in at least one of the following ways:

- (A) Direct mail by Standard Industrial Classification Code (SIC Code). The Texas Secretary of State maintains a mailing list of business entities registered with the state by SIC Code. From this source, a mailing list is created of all businesses that fall within the category for which the solicitation is directed. The list may be further refined by zip code.
- (B) Bid Lists. A bid list maintained by DFW for the category or sub-category of concession contract involved shall include at least three potential proposers.

When the number of anticipated proposers exceeds 10, the Concessions Department staff may insist that prospective proposers provide letters of qualification, in order to eliminate unrealistic proposals. A letter of qualification is a statement of the firm's or individual's qualifications, without a statement of how the firm or individual proposes to operate the specific concession that is the subject of the proposal. Solicitation of proposals then may be limited to a short list of the best-qualified firms or individuals who submit letters of qualification. The solicitation of letters of qualification should include the evaluation criteria to be used in selecting those who will be invited to submit proposals. Requests for letters of qualifications (RFQ) from prospective proposers desiring to be included should be made through published advertisements, and generally should be renewed through published advertisements if the list of qualified proposers is more than three years old.

3. ASSIGNMENTS, SUBLEASES, OR OTHER CHANGES OF OWNERSHIP

Any consent to assignment of a concession contract, a sublease, or to any other transfer of ownership or control, requires Board approval unless the transfer is between related entities or unless there is no change in control. Prior to presentation to the Board of any such consent requiring Board approval, staff should evaluate the new entity based on the same criteria as the criteria for selection of a new concessionaire.

Any consent to a concession leasehold mortgage shall require Board approval, and shall retain for the Board the right for a period of at least 120 days following notice of loan default to designate a replacement concessionaire, on condition that such concessionaire pay the outstanding loan balance.

4. CONCESSIONS REQUIRING SPECIFIC BOARD APPROVAL

The Executive Vice President of Revenue Management may grant concessions without specific approval of the Board of Directors, provided that such concessions are terminable by the Board, without cause, on ninety days' notice, and do not otherwise have a term in excess of two years; and provided further that no such concession document grants the concessionaire a leasehold interest. The Revenue Management Department shall submit brief written summaries of all such permits at regular monthly meetings of the Board or its committees.