Five Key Points for an ACDBE Joint Venture

A joint venture ("JV") is a business arrangement in which two or more parties agree to pool their resources for the purpose of accomplishing a specific task. For a JV's ACDBE participation to count towards an airport's goal, it must meet specific requirements as provided by 49 CFR Part 23 and further expounded upon in the FAA's ACDBE Joint Venture Guidance.

The JV is not certified as an ACDBE. The ACDBE level of participation is based on five key elements. All five elements must be clearly identified in the JV agreement and provided to the City for review.

1. **Capital Contribution**

The ACDBE's portion of the capital contributions should be equal to its ownership percentage. If the ACDBE needs to obtain a loan to cover their portion, the loan must comply with the following:

- The terms and conditions should be comparable to prevailing market conditions.
- There must be a promissory note or loan agreement stating the terms and conditions.
- The note should be guaranteed by the ACDBE by assets outside of the JV ownership interest.
- The loan should not be for 100% of the capital requirement.
- The term should not be longer than the term of the concession agreement.
- The loan agreement cannot limit the ACDBEs ability to control its designated role in the JV.

2. **Control**

The ACDBE participant(s) should have control over part of the JV operations in proportion to their ownership interest. The element of control must be significant and justifiable. Be aware that acting as a representative of the JV, without significant authority, is not control and will not be applied towards the ACDBE contribution. If an ACDBE's decision can be overturned by the other JV partner, this may not demonstrate control and most likely will not be counted.

3. **Management**

The ACDBE participant should participate in the overall management, decision making, and day-to-day operations. If all management decisions are based on percentage ownership with a majority rule, the ACDBE participation level may be significantly reduced.

4. **Risks**

Each of the participants in the joint venture must share in the risks of the business in proportion to their ownership interest including financial, legal, operational, etc.

5. **Profits**

Each of the participants must share in the profits and losses in proportion to the ownership interest. There should be no provisions in the agreement which have the effect of creating separate profit centers to siphon profits before each participant's share is calculated. Reasonable management fees may be allowed.

ACDBE participation will be based on the lowest participation level of the five points listed above. For example, if the ACDBE is a 30% JV partner with 30% share of profit, risk and management but only controls 5% of the business operation, the ACDBE level of participation will equal 5%.

The items listed above is a high-level overview. All participants of a JV agreement should review the FAA's ACDBE Joint Venture Guidance for more details and clarification of the five points listed above.

Questions on the JV issue or the ACDBE program should be addressed to _____.