DEN CONCESSION POLICY

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AIRPORT AND COUNTY OF DENVER
DEPARTMENT OF AVIATION
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I. DEN CONCESSION POLICY OVERVIEW

As a publicly owned facility, DEN has an obligation to build its concession program on a foundation of fairness and transparency.

This policy supports DEN's overall vision and mission and provides a policy framework for managing and developing the concession program. In the event this policy differs from any executed agreement, the terms of the agreement will prevail. As used herein, concessions generally mean agreements for the provision of food and beverage, retail, and consumer service privileges in the Terminal Complex.

A. PURPOSE OF THIS DOCUMENT

This Concession Policy is intended to provide internal direction to Denver International Airport (the "Airport" or "DEN") staff for the solicitation, selection, award and administration of food and beverage, retail and consumer service concession privileges within the terminal building and concourses ("Terminal Complex") at Denver International Airport.

This Concession Policy does not and shall not constitute a part of any concession agreement, and there is no contract right, property right, or private right of action by any person or party to enforce this Concession Policy. DEN reserves the right to deviate from this Concession Policy in any concession matter, for any reason, in its sole discretion. In the event of any inconsistency between the provisions in any concession agreement or request for proposals ("RFP") and this Concession Policy, the provisions in the concession agreement or RFP will control.

Because this document is effective as of the above date, the Airport will not retroactively apply this policy to agreements already in place or in negotiation.

B. EFFECTIVE DATE

This Concession Policy and the guidelines contained herein shall become effective immediately. This policy will be reviewed periodically and updated as appropriate.

C. CONCESSION PROGRAM VISION STATEMENT

The vision for the Airport's concession program is:

> *"A Concession Program that is among the best in the world offering value, excitement and wide range of culinary and retail experiences and services that evoke a strong sense of place reflecting the modern west spirit of Denver, Colorado and Rocky Mountain West."*

D. GOALS FOR THE CONCESSION PROGRAM

The goals for the concession program are as follows:

1. Respond to customer needs and provide value and great customer service in everything we do
2. Maximize our non-airline revenue consistent with our obligation to airline partners based on ongoing customer research and feedback

3. Maximize small and local business and Airport Concessions Disadvantaged Business Enterprise (ACDBE) opportunities through continued use of our direct and competitive leasing approach
4. Keep our program fresh and dynamic by introducing new concepts and services
5. Pursue creative concession design to entice and excite customers by merging architecture, design, graphics, and DIA and concession branding
6. Attract the best local, regional and national food and beverage and retail concepts and tenants, and retain "best in class" concessions through the Premium Value Concessions (PVC) Program.
7. Create and maintain a vibrant first-class concession program offering a range of quality food and beverage, retail and services in a branded environment, with particular emphasis on local, regional, national and global brands.

E. ROLE OF NON-AIRLINE REVENUES IN MAKING DEN COMPETITIVE

Increasing non-airline revenue benefits both the Airport and signatory airlines by decreasing the Airport's reliance on airline rates and charges and strengthens DEN's ability to attract new domestic and international passengers and air service. The Airport's Lease and Use Agreement with the signatory airlines requires that the Airport manage the Airport's concession program in order to maximize non-aviation revenue. The lease agreements with the Signatory Airlines state the following:

> *"In order to minimize the rentals, rates, fees and charges which Airline is obligated to pay under this agreement, the Airport shall promote and develop non-airline revenues at the Airport in a manner consistent with that of a reasonable prudent airport operator."*

II. DIRECT LEASING AND SMALL BUSINESS OPPORTUNITIES

DEN has made a commitment to maximizing opportunities for small businesses, including local small businesses and ACDBEs, through a fair and transparent selection process.

By creating a “level playing field” DEN can encourage participation and increase competition, thereby strengthening the concession program.

There are thousands of individuals and companies that have expressed interest in competing for concession opportunities at DEN. Many of these individuals or companies are capable of contributing to the success of DEN and its concession program and are looking to expand their businesses to the Airport, which offers excellent exposure for their small business. The Airport has a responsibility to select tenants with the experience needed to succeed at the Airport given its unique operating challenges and investment requirements.

It is in DEN’s interest to maximize the competition for future concession privileges, as increased competition provides a broader range of concepts and brands, contributes to the development of a unique “sense of place”, as well as creating a deeper pool of qualified concession operators from which to choose.

To the extent possible, DEN will provide outreach to local parties on future concession opportunities, provide useful information on current concession operations, and explain the concessionaire selection process in a way that will allow them to make a fully informed decision on whether or not to respond to future concession RFPs. DEN will also provide technical information on how the RFP process works, and ensure that the RFP process does not unfairly disadvantage small businesses that lack the resources of larger concession competitors.

A. ROLE OF DEN AS MASTER DEVELOPER

The Airport has implemented a direct contracting approach for the concession program. DEN management acts as the overall developer of the concession program. Under its direct contracting approach, the Airport enters directly into concession agreements with many individual concession operators rather than using a master concessionaire, prime concessionaire, or a concession developer, as do some airports.

It is the policy of the Airport to enter into direct leases with concession operators except where there are unique circumstances (such as the Concourse B Mezzanine). Direct leasing provides the highest overall level of revenue to the Airport and is the best approach for encouraging participation by local businesses.

To ensure realization of the Airport’s goals, the Airport will impose well-defined performance, development and operating standards in the concession agreements it enters into with concessionaires as well as in the PVC Program to incentivize and activate a high level of concessionaire performance.

The term of concession agreements will be sufficient to allow reasonable amortization of investment consistent with the practices of other comparable airports. As an alternative to the Airport setting the term, the Airport may stipulate that concessionaires provide a proposed length of term in their proposals in response to RFP.

B. AIRPORT CONCESSIONS DISADVANTAGED BUSINESS ENTERPRISES

It is the policy of the Airport that Airport Concessions Disadvantaged Business Enterprises (ACDBE's) (as defined in 49 CFR Part 23) shall have maximum opportunity to participate in the concession program. To this end, the Airport encourages ACDBE participation in the submission of bids or proposals for all concessions. The granting of concessions or privileges for these commercial operations will be by competitive proposal. Historically, the Airport has met its ACDBE goals through its direct leasing policy and emphasis on attracting small local businesses.

C. OPTIMIZING SMALL AND LOCAL BUSINESS OPPORTUNITIES

The Airport has made a commitment to local businesses to ensure a "level playing field" in the solicitation and award of concession privileges, and to ensure that small local businesses have an equal chance to compete with large national or international concession operators.

Under federal law the Airport cannot legally grant preferences for local ownership. Nevertheless, the Airport believes there are advantages to local ownership of concessions. Local ownership allows for close attention to day-to-day operations, high operating standards, and brings a "sense of place" to the concession program.

Local ownership includes local owners operating national branded concepts through franchise or license agreements.

There is already strong local interest in Airport concession opportunities. It is in the Airport's interest to encourage even higher levels of participation in order to increase competition and secure the best possible tenants. An expanded local outreach program is described below.

D. PUBLIC NOTICE AND LOCAL OUTREACH

It is the policy of DEN to develop strong public interest in each concession or privilege being solicited. To this end, DEN will give reasonable public notice consistent with Airport policy in advance of its solicitation for each concession privilege

Local Outreach Meetings will be held from time-to-time and targeted to local, small and ACDBE businesses in order to:

1. Encourage participation in the competitive award of concession privileges at DEN that will attract new concepts, strong operators, local brands, and local ownership.

2. Educate potential operators on the advantages and disadvantages of doing business at the Airport, including financial, operational, and potential business risks and rewards, so that each interested operator can make an informed decision about participating in the competitive selection process. The assistance of current concessionaires will be sought for this purpose.

3. Provide information on the nature of the concession privileges to be awarded in the coming year so that interested operators have time to analyze the opportunity, arrange financing, and lay the groundwork necessary to prepare a strong proposal.

4. Provide guidance and, from time-to-time, technical assistance on the steps necessary to participate in the selection process and submit a responsive and competitive proposal.

E. CONCENTRATION OF OWNERSHIP

In order to encourage competition and to maximize opportunities for small local businesses consistent with DEN's role as the master developer, a policy to discourage excessive concentration of concession ownership was implemented and made effective July 18, 2007. The policy was revised October 9, 2013. The policy is hereby revised again and made effective as of December 15, 2014.

THE CONCENTRATION OF OWNERSHIP GOAL

1. A goal is hereby established providing that no Concession Operator, including retail, food and beverage, and service providers but excluding car rental companies, may own, control, manage or operate Allocated Concentration Square Feet (ACSF) that exceeds 24% of the total amount of DEN's Concession Program Space or 15% of the total amount of DEN's Concession Program Space for Concession Operator's type of concession (e.g., food/beverage, retail/merchandise, consumer services, etc.).

2. A "Concession Operator" is a natural person or a business entity (including its related ownership entities, i.e., entities owned, controlled or managed by the same person or entity within the first degree of consanguinity or affinity to the same person or entity) who has entered into a concession agreement, lease, sublease or other contractual arrangement to occupy space allocated to DEN's concession program within the Terminal Complex, expressly to provide retail, food and beverage, and other services to customers at DEN. When responding to any concession opportunity at DEN, it is the Concession Operator affirmative obligation to provide sufficient information to DEN to ensure full disclosure of material relationships as described above.

3. "Concession Program Space" shall mean Rentable Space in the Terminal Complex allocated to DEN's concession program and leased or typically available for lease pursuant to a concession and lease agreement or other contractual arrangement except for: (i) mechanical and electrical space, (ii) public spaces including restrooms, circulation spaces, stairwells, stairways, escalators, elevators, public lounges and public queuing space and (iii) non-contiguous storage or office space. The City shall determine what constitutes the various types of space and associated square footage in this paragraph and shall have the right, from time to time, to revise the categories of space and the square footage of each category. A location within the Concession Program Space owned, controlled, managed or operated by a Concession Operator pursuant to a concession and lease agreement or other contractual arrangement with the City is referred to herein as a "Contracted Concession Location."

4. "Allocated Concentration Square Feet" or "ACSF" (sometimes referred to as the level of concentrated ownership) shall mean the total amount of Concession Program Space owned, controlled, managed, or operated by a Concession Operator as determined by the Concentration of Ownership Calculation methodology described below.

5. "Terminal Complex" shall mean the landside terminal building and appurtenant concourse areas at DEN.

6. "City" means the City and County of Denver acting for and on behalf of its Department of Aviation, which is sometimes referred to herein as "DEN".

THE CONCENTRATION OF OWNERSHIP UPDATES AND PUBLICATION

7. Using the Concentration of Ownership Calculation methodology described below, each Concession Operator's level of concentrated ownership shall be calculated, updated and published in a Chart of Ownership, on the 1st day of each calendar quarter (January 1st, April 1st, July 1st, October 1st). The Chart of Ownership will be uploaded to the DEN Business Center website and will be effective for the quarter in which it is published.

THE CHART OF OWNERSHIP FUNCTIONS

8. The Chart of Ownership serves six functions:

a. The Chart of Ownership will establish as of the quarter in which it is published (i) each Concession Operator's level of concentrated ownership, (ii) the total amount of Concession Program Space for the Terminal Complex, and (iii) the total amount of Concession Program Space for each concession type (e.g., food/beverage, retail/merchandise, consumer services, etc.).

b. The Chart of Ownership will give Concession Operators the ability to assess their own level of concentrated ownership to determine whether the addition of a new concession opportunity would exceed or comply with the above stated policy limits before submitting a proposal or entering into any additional contractual arrangement with the City.

c. Any Concession Operator responding to a solicitation for a concession opportunity at DEN will be required to acknowledge this policy and review the Chart of Ownership in effect as of the date of their response. A Concession Operator may respond to a solicitation even if their level of concentrated ownership exceeds the policy limits described above.

d. The Chart of Ownership will also give DEN the ability to assess a Concession Operator's level of concentrated ownership to determine whether a Concession Operator's ownership concentration exceeds or complies with the above stated policy limits before entering into any additional contractual arrangement with a Concession Operator.

e. Before offering a concession and lease agreement or making some other contractual arrangement with a Concession Operator, DEN personnel will use the Chart of Ownership on the DEN Business Center website in effect at the time a solicitation for an available concession opportunity was made and, in accordance with the Concentration of Ownership Calculation methodology below, make a final determination as to whether a Concession Operator's ownership concentration with the new concession opportunity exceeds or complies with the above stated policy limits.

f. If, at the time an offer of a new concession opportunity causes a Concession Operator's level of concentrated ownership to exceed the policy limits described above, the Concession Operator must either decline to accept the offer or identify which existing concession location(s) at DEN will be divested in an arms' length transaction before DEN will commence the contracting process. An "arms' length transaction" is a transaction in which the buyers and sellers of a concession agreement act independently and have no relationship to each other to ensure that both parties in the deal are acting in their own self-interest and are not subject to any pressure or duress from the other party. If the Concession Operator chooses to identify existing concession(s) at DEN to divest, DEN will give the Concession Operator up to sixty days to divest itself of the existing concession location(s), obtain the City's consent to the sale and assignment of the existing concession location(s), and enter into a concession and lease agreement or other contractual arrangement with the City governing the new concession opportunity before DEN resume's the solicitation process.

g. Conversation between a Concession Operator and DEN personnel at any time (before or after responding to a solicitation for a concession opportunity at DEN) concerning this policy, the calculation of the Chart of Ownership, or the application or determination of conformance to the policy, does not violate the rules of any solicitation for a concession opportunity.

CONCESSION PROGRAM SPACE DETERMINATION

For the purposes of determining Concession Program Space, the following guidelines may apply:

- Leased. This category includes Rentable Space in the Terminal Complex allocated to DEN's concession program and leased to a Concession Operator pursuant to a concession and lease agreement or other contractual arrangement with the City. This category also changes after build-out of a Contracted Concession Location.

- In Queue (Not Leased but Designated). This category includes Rentable Space in the Terminal Complex allocated to DEN's concession program not leased to a Concession Operator but typically available for lease pursuant to a concession and lease agreement or other contractual arrangement and designated for one (or more) types of concessions through the procurement process (e.g., Future Opportunities List), or as otherwise prescribed in the DIA Concession Policy.

- Vacant (Not Lease, Not Designated). This category includes Rentable Space in the Terminal Complex allocated to DEN's concession program not leased to a Concession Operator but typically available for lease pursuant to a concession and lease agreement or other contractual arrangement and not designated for one (or more) types of concessions through the procurement process (e.g., Future Opportunities List), or as otherwise prescribed in the DIA Concession Policy. Vacant Space shall not be included in the calculation of concentration of ownership.

except for:

- mechanical and electrical space,

- public spaces including restrooms, circulation spaces, stairwells, stairways, escalators, elevators, public lounges and public queuing space and

- non-contiguous storage or office space.

The City shall determine what constitutes the various types of space and associated square footage in this paragraph and shall have the right, from time to time, to revise the categories of space and the square footage of each category.

CONCENTRATION OF OWNERSHIP CALCULATION RULES

9. For the purposes of calculating concentration ownership, concessions in the Terminal Complex will be assigned to one of three (3) categories:

- Leased. This category includes Rentable Space in the Terminal Complex allocated to DEN's concession program and leased to a Concession Operator pursuant to a concession and lease agreement or other contractual arrangement with the City.

- In Queue (Not Leased but Designated). This category includes Rentable Space in the Terminal Complex allocated to DEN's concession program not leased to a Concession Operator but typically available for lease pursuant to a concession and lease agreement or other contractual arrangement and designated for one (or more) types of concessions through the procurement process (e.g., Future Opportunities List), or as otherwise prescribed in the DIA Concession Policy.

- Vacant (Not Lease, Not Designated). This category includes Rentable Space in the Terminal Complex allocated to DEN's concession program not leased to a Concession Operator but typically available for lease pursuant to a concession and lease agreement or other contractual arrangement and not designated for one (or more) types of concessions through the procurement process (e.g., Future Opportunities List), or as otherwise prescribed in the DIA Concession Policy. Vacant Space shall not be included in the calculation of concentration of ownership.

10. For the purposes of calculation of concentration of ownership three (3) categories of ownership apply:

- Non-owners (Non-Owner Manager/Operators). As more fully described in Paragraph 2 above, these Concession Operators do not own or operate the Contracted Concession Location they manage and/or control.

- Sole-owners. This Concession Operator is either a natural person or a single business entity and owns and operates 100% of their Contracted Concession Location. Sole-owners are allocated 100% of the Contracted Concession Location they own and operate, including the commons area.

- Joint-owners. This Concession Operator consists of two or more individuals or entities that have entered into an agreement among themselves to jointly own and operate a Contracted Concession Location. Joint-owners are further classified into majority-owners and minority-owners.

    1. *Joint-owners (majority)* with ≥51% ownership are allocated 100% of the Contracted Concession Location they own and operate, including the commons area, adjusted proportionally based on percentage of ownership (see example below).

2. *Joint-owners (minority)* with <51% ownership are allocated a pro-rata share of the Contracted Concession Location owned by the Joint-owners, and adjusted proportionally based on percentage of ownership (see example below).

11. For the purposes of calculating concentration on ownership for any single line of business, Concentration Square Footage will proxy the summation of Contracted Concession Location square feet for all concessions operating or otherwise assigned to the respective single line of business.

12. For the purposes of calculating concentration of ownership for the Terminal Complex, Concentration Square Footage will exceed the summation of Contracted Concession Location square feet for all lines of business (food and beverage, retail, consumer services, etc.) by approximately 25% of the amount of Contracted Concession Location square feet that is designated as Non-owner space.

13. For the purposes of calculating concentration of ownership for Non-Owner Manager/Operators. In cases where a Concession Operator under a direct contract with DEN may control or manage a Contracted Concession Location, but does not own or operate the location, the Concession Operator will be designated as a *Non-owner* of the Contracted Concession Location, and its related entities will be allocated 25% of the Contracted Concession Location square footage, excluding any designated common area or circulation space. This allocation is intended to be an over-allocation of the concession location square footage (i.e. 100% allocated per concentration methodology for all owners other than the *Non-owner*; 25% allocated to *Non-owner*).

14. For the purposes of calculating concentration of ownership for Developers/Space Managers. The situation may occur at DEN, when a Concession Operator enters into a concession space management or development agreement, where the Concession Operator develops the base concession locations, but sublets the space to other owner/operators. The subtenants of the Concession Operator will be subject to this policy, as described above in paragraph 1. The Concession Operator will also be subject to this policy, as described in paragraph 1 to the extent that the Concession Operator also has an ownership interest in the business of a subtenant.

CONCENTRATION OF OWNERSHIP CALCULATION EXAMPLES

15. The following examples are provided as guidance for understanding how the Concentration of Ownership Policy is applied to generate the Chart of Concentration of Ownership:

a. **Sole-owner.** ABC Company is a Sole-owner. ABC Company owns and operates 1,000 square feet of Retail space. Sole-owners are allocated 100% of the Concession Program Space they own and operate, including the commons area. Therefore ABC Company ACSF is 1,000 square feet. In this case, 1,000 square feet is divided by the total amount of DEN's Concession Program Space to determine whether ABC's level of concentrated ownership complies with or exceeds the policy limit of 24%. Additionally, 1,000 square feet is divided by the total amount of DEN's Retail portion of the Concession Program Space to determine whether

ABC's level of concentrated ownership complies with or exceeds the policy limit of 15% of this concession type.

b. **Non-owner.** ABC Company is a Non-owner Concession Operator. Non-owner Concession Operators do not own or operate Concession Program Space they manage and/or control. ABC Company manages and controls 1,000 square feet of Retail space and sub-leases 1,000 square feet of Retail space to 123 Corp. As a Non-Owner, ABC Company is assigned 25% or 250 square feet of the Concession Program Space ABC manages and controls. Therefore ABC Company's ACSF is 250 square feet. In this case, 250 square feet is divided by the total amount of DEN's Concession Program Space to determine whether ABC's level of concentrated ownership complies with or exceeds the policy limit of 24%. Additionally, 250 square feet is divided by the total amount of DEN's Retail portion of the Concession Program Space to determine whether ABC's level of concentrated ownership complies with or exceeds the policy limit of 15% of this concession type.

In context with the above paragraph, 123 Corp is a Sole-owner. Sole-owners are allocated 100% of the Concession Program Space they own and operate, including the commons area. Therefore 123 Corp's ACSF is 1,000 square feet. In this case, 1,000 square feet is divided by the total amount of DEN's Concession Program Space to determine whether 123 Corp's level of concentrated ownership complies with or exceeds the policy limit of 24%. Additionally, 1,000 square feet is divided by the total amount of DEN's Retail portion of the Concession Program Space to determine whether 123 Corp's level of concentrated ownership complies with or exceeds the policy limit of 15% of this concession type.

c. **Joint venture.** ABC Company and XYZ Company form a joint-venture entity called LMN Enterprises to operate a 1,000 square foot Retail location. ABC Company owns 51% and XYZ Company owns 49% of LMN Enterprises, respectively. In this example, calculation of concentration of ownership is also a three-step process.

Step 1: Calculate unadjusted square footage for the location. ABC Company owns 51% of LMN, so ABC Company is the *majority* joint-owner and is allocated 1,000 square feet. XYZ Company owns 49% of LMN, so XYZ Company is the *minority* joint-owner and allocated 49% of the 1,000 square feet. The unadjusted square footage allocation is:

ABC Company	**1,000**
XYZ Company	**490**
	1,490

Step 2: Calculate ACSF Percentage for majority and minority joint-owners. ABC Company is assigned 1,000 square feet of the ACSF for this location, and XYZ Company is assigned 490 square feet. Their ACSF percentages are as follows:

ABC Company = 1,000 ÷ 1,490 = 67.1%

XYZ Company = 490 ÷ 1,490 = 32.9%

Step 3: Apply ACSF Percentage to Contracted Concession Location square footage. Utilizing the Step 2 percentages, the following square footage is applied for each joint-owner towards concentration percentage of the Retail business line and Terminal complex:

ABC Company = 67.1% x 1,000 = 671 ACSF

XYZ Company = 32.9% x 1,000 = 329 ACSF

d. **Joint venture with Non-owner lease agreement.** The same as Example B, but XYZ Company holds a direct contract with DIA for the location under a separate agreement and LMN leases the location from XYZ Company. In this example XYZ Company is both a joint-owner *minority*, and non-owner. In its non-owner position, XYZ Company is assigned an additional 25% of the Contracted Concession Location square footage, or 250 square feet (1,000 x 25%). The Non-owner portion of the allocation (250 ACSF) to XYZ Company only applies towards its concentration of the Terminal Complex.

Step 1: Calculate unadjusted square footage for the location. ABC Company owns 51% of LMN, so ABC Company is the *majority* joint-owner and is allocated 1,000 square feet. XYZ Company owns 49% of LMN, so XYZ Company is the *minority* joint-owner and allocated 49% of the 1,000 square feet. XYZ Company is also allocated 250 square feet as the non-owner. The unadjusted square footage allocation remains:

ABC Company	**1,000**
XYZ Company (joint-owner)	**490**
	1,490

Step 2: Calculate ACSF Percentage for joint-owners and non-owners. ABC Company is assigned 1,000 square feet of the ACSF for this location, and XYZ Company is assigned 490 square feet. Their ACSF percentages are as follows:

ABC Company = 1,000 ÷ 1,490 = 67.1%

XYZ Company = 490 ÷ 1,490 = 32.9%

Step 3: Apply ACSF Percentage to Contracted Concession Location square footage. Utilizing the Step 2 percentages, the following square footage is applied for each joint-owner towards concentration of the Retail business line and Terminal complex:

ABC Company = 67.1% x 1,000 = 671 ACSF

XYZ Company = 32.9% x 1,000 = 329 ACSF

As a non-owner XYZ Company is also allocated an additional 250 ACSF towards their concentration percentage of the Terminal Complex only.

e. **Joint venture without majority owner.** ABC Company, 123 Corp, and XYZ Company formed a joint-venture entity, 456 Inc., to operate a 1,000 square foot Retail space. ABC Company owns 33.33%, 123 Corp owns 33.33%, and XYZ Company owns 33.33%.

   In this example, ABC Company, 123 Corp, and XYZ Company are <u>all</u> minority joint-owners. All three companies have 333.3 ACSF applied towards their concentration percentage of the Retail business line, and 333.3 ACSF applied towards their concentration percentage of the Terminal Complex.

III. CONTINUOUS IMPROVEMENT OF DEN'S CONCESSION PROGRAM

Concession programs are a major determinant of passenger satisfaction with the airport experience. Passengers today have come to expect a wide range of high quality shopping, dining and consumer service offerings at reasonable prices at modern and well-designed shops and restaurants. As customer preferences change the concession program should adapt as well. This may require changing the use of a space at the expiration of a concession agreement.

Passengers are spending more time in airports, particularly in the areas beyond security. Food and beverage services have become more important as airlines reduced or eliminated meal services. Customers prefer having a variety of food options and types of services. Specialty retail programs are more prominent as passenger dwell times increase.

A. USE OF BRANDS

To achieve the overall vision for the concession program, DEN needs a full range of food and retail services that includes an appropriate mix of international, national, local and regional concepts. Proven local concepts and brands help to differentiate DEN from other airports and supports DEN's unique sense of place as the gateway to the West.

Experience at airports in the U.S. and around the world has shown that passengers (and employees) have a strong preference for local and national brands. Brands outperform "generic" airport concepts and offer customers greater familiarity, value, quality, and customer satisfaction.

Local brands have proven to be very successful at airports, and can differentiate an airport's concession program to help create a unique "sense of place". At many airports established local restaurant operators have been successful in bringing their brands to airports through self-operation or by franchising or licensing their concepts to other qualified operators. Legal Sea Foods at Boston Logan, Max & Erma's at Columbus, Perry's Restaurant at San Francisco, and Garduno's Restaurant at Albuquerque airports are examples of well-regarded successful local restaurants that help differentiate these airports from others.

For concession operators, brands offer advantages of proven menus, operating systems, and added quality control inspections by the brand owner. The Airport can also ensure its pricing policy is followed because prices at branded restaurants can be easily compared with off-Airport units.

The Airport believes a mix of strong local and national brands provides the best overall balance, the highest level of service, creates incremental sales by offering a wide selection, and creates a unique concession program that appeals to the broadest range of passengers, both local originating passengers and those passengers who use the Airport for flight connections. A "brand" is defined as an established trade name which is currently doing business offering a standardized merchandise assortment and trade design in at least two locations in the Greater Denver area, at least ten locations in the United States, or an establishment with a well-known reputation both locally and nationally. A "location" means a unit that regularly serves and is open and accessible to the general public, excluding airports, sports venues, campuses, theme parks or other gated facilities not regularly open to the general public.

B. ONGOING CONCESSION PERFORMANCE EVALUATION

The best information for making decisions concerning the concession program comes directly from our customers. The DEN concession program should be responsive to the needs of a broad range of passengers, both local and connecting. Periodic passenger intercept surveys are the best way of evaluating the needs of the marketplace, identifying strengths, weaknesses and opportunities and understanding customer perception of our program.

In order to ensure a high level of customer service and program performance, DEN will employ techniques to evaluate program performance used by airports with leading concession programs, including:

- Customer comments
- Passenger intercept surveys
- Concessionaire performance monitoring by DEN staff
- Independent "Secret Shopper" audits
- Internal benchmarking and operational performance data
- External benchmarking with comparable airports
- An annual concession program performance report compiling all of the above.

C. CONCESSION MERCHANDISING GUIDANCE

To ensure that a high quality concessions program is provided to travelers, employees and other users of the concessions program, DEN staff will prepare and periodically update the concession Merchandising Guidance identifying the optimal use of concession program space within the terminal complex and which will maximize achievement of our concession program goals. The airport will solicit the expertise of the concessionaire group within the concession program when developing the Merchandising Guidance.

The Concession Merchandising Guidance will be updated periodically to reflect passenger needs and changes in the airport and airline operating environment. The Concession Merchandising Guidance will provide the underlying rationale to develop concession solicitations.

D. CREATING A COMPETITIVE ENVIRONMENT

Passengers, Signatory Airlines, and DEN all benefit from healthy competition at the Airport.

Competition between concessionaires ensures that the customer has multiple choices among brands and services, and helps to keep prices reasonable, just as competition for concession privileges through the RFP and PVC Program processes results in stronger concepts, operators, and business plans.

Within the terminal complex, DEN will seek to ensure that no single concessionaire dominates any concession category or area of the terminal building.

E. THE PREMIUM VALUE CONCESSIONS PROGRAM (PVC)

The Airport has, with its concessionaires, implemented the Premium Value Concessions (PVC) program (Rule 45 of Airport Rules and Regulations) to enhance the concessions program as well as the customer experience at DEN.

The PVC supports the Airport's Concession Policy of maximizing non-airline revenue consistent with its obligation to its airline partners. The PVC program represents the shared interests of DIA and its concessionaires who contribute towards this obligation.

DIA has a limited amount of available concession space. To achieve its primary business objective of attracting and retaining airlines, DIA must maximize the revenue generated by this concession space, while providing outstanding customer service, and preserving the desired merchandise mix.

Therefore, the PVC program's goals are to identify those concessions that, within their assigned merchandise categories, achieve and maintain the highest levels of sales, given their leased square feet, while considering their concourse locations. Additionally, the program seeks to recognize concessions' sales growth, recognize customer service performance, and maintain concession agreement compliance. Concessions distinguishing themselves in these areas will lead to earning the PVC Program Benefit award for their respective concessionaires.

The PVC Program is in addition to DIA's ability to offer concession opportunities via Request for Proposals ("RFP") or direct negotiation, and provides an objective set of performance criteria through which participating concessionaires, including eligible Airport Concessions Disadvantaged Business Enterprise ("ACDBE") concessionaires, may obtain the right to execute a new concession agreement at the end of their term.

New concession agreements earned from the PVC Program Benefit shall be required to include: 1) concession agreement terms based upon the Airport's current concession agreement template; 2) concession agreement offered and executed is in compliance with CFR 49 part 23 regarding the ACDBE program, and; 3) under FAA rules and Regulations, the Airport is compelled to adjust rental requirements to reflect market based terms when pursuing concession agreements in accordance with CFR 49.

This Concession Policy will articulate how each of these three items will be addressed when preparing a new concession agreement for execution with a PVC Benefit Eligible concessionaire.

Compensation:

Percentage Compensation: Shall be based on the average effective percentage compensation of the three most recent contracts in the minor merchandise category.

MMG: If in same space with same minor merchandise category, MMG shall be calculated using the Percentage Compensation above times the average gross sales of the concession in the last 3 years, divided then by 36 to determine the monthly amount. If the Concession Agreement stipulates a different minor merchandise category or same minor merchandise category in a different location then MMG shall be based on average sales per square foot for the new minor merchandise category in the concourse in which the concession is located for the most recent 3 years times the square feet of the location in question times the Percentage Compensation, then lastly divided by 36 to determine the monthly amount.

Construction Requirements and Completion Deadlines:

Construction shall require full demolition of the existing tenant construction and installation of new construction per Airport and code requirements in effect. Concessionaire shall be required to build new construction in conformity with the Airport's Tenant Design Guidelines and subject to the review and approval of the Airport.

The time allowed for design review, approval, construction and store opening shall be consistent with those offered to other concessionaires in the Sample Agreement. The Airport reserves the right to require a construction start time that weighs the impact of ongoing or contemplated construction of other concessionaires and its potential impact to passenger convenience.

Concession Agreement Term:

The term of the concession agreement shall be determined by the term amounts published in the Concessions Policy most applicable to the major merchandise category.

ACDBE Requirements:

Policy and procedure related to compliance, including but not limited to goal setting, deadlines for receipt of documentation, evaluation of achievement of goals, and adjudication of appeals related to goals shall be determined by the Airport and County of Denver - Office of Economic Development's Division of Small Business Opportunity (DSBO).

Failure to satisfy the ACDBE requirements established by the DSBO in the allotted time may result in forfeiture of the PVC Program Benefit.

Permitted Use Clauses:

During the contract generation process, the Airport will collaborate with the PVC Program Benefit Eligible Concessionaire to clearly define the Permitted Uses of the location and the applicable Use Clause verbiage.

IV. CONCESSION BUSINESS TERMS

This section describes the basic business terms which will be incorporated in requests for proposals and the standard form of concession agreement. DEN recognizes that the business terms must be balanced to ensure reasonable pricing, quality investment in facilities, excellent customer service, and, for concessionaires, the opportunity to create a successful business with good returns on their investment.

A. METHOD FOR AWARDING CONCESSIONS

Competitive proposals will be used for those concession privileges where type of service, volume of business to be generated, quality of services or products, and demonstrated capability and depth of management can be clearly differentiated among several operators. The concession will then be awarded following the Airport 's comparative evaluation of each proposal with respect to depth of management, demonstrated experience, reputation, proposed improvements, level of capital investment, financial return to the Airport, and any other specific selection criteria as set out in the RFP.

However, in certain circumstances the Manager may enter into agreements on a sole source or negotiated basis if such action is in the best interests of the Airport or as a result of the concessionaire obtaining the program benefit of the PVC Program.

B. TERM

Concession agreements will be for a fixed term or the Airport may require that proposers propose term in response to a given RFP. In cases where fixed terms are required, the Airport will use the following as its guideline: passenger level, in line, casual dining with bar concepts shall have a term of 10 years, all other in-line concepts shall have a term of 7 years. Kiosks that are not part of the airport's RMU program shall have a maximum 5 year term. Because of decreased passenger traffic, *all* food and beverage establishments on the mezzanine level shall have a term of 10 years.

DEN will not include option periods in its concession agreements.

C. GENERAL FINANCIAL BASIS FOR PROPOSALS

In most instances, the financial return to the Airport from each concession will be based on a privilege fee expressed as a percentage of gross revenues (i.e., top line sales) or a payment per enplaned passenger (or total enplaned and deplaned passengers), against a minimum monthly guarantee.

The contractually-set minimum monthly guarantee will be calculated using the proposers pro forma to determine its monthly guarantee for the first year.. Privilege or Percentage fees will be based on the Proposer's bid at RFP between a minimum and maximum range established by the Airport at the time of the RFP. The minimum and maximum range shall be established based on the operating history for the airport and the airport's understanding of market conditions locally and/or at other airports it considers being comparable.

In no event will both the percentages and the minimum annual guarantee be bid or proposed since the use of more than one variable makes the evaluation of financial returns impossible.

All concessionaires occupying storage space apart from public premises will pay a storage space rate per square foot in accordance with the annual Airport Rates and Charges determination.

D. MINIMUM REQUIRED CAPITAL INVESTMENT

Construction of concession spaces in the Airport terminal and concourses is challenging due to stringent security requirements, ongoing airline operations, restrictions on deliveries on the airside (aircraft ramp areas), and limitations on causing noise, dust or other inconveniences to Airport passengers. Other factors that may affect the cost of construction include prevailing wage requirements and the state of the local economy, which affects the demand for construction services and the availability of contractors.

In all cases, the Airport will establish in the RFP a minimum capital investment requirement that will reflect the likely cost of building out quality improvements consistent with the Airport's Tenant Design Standards.

The actual cost to construct improvements may vary, and will be solely the responsibility of the successful proposer. Actual costs are likely to exceed the minimum investment requirement.

Proposers may propose a higher capital investment amount, which can be considered in the evaluation of proposals. The proposed capital investment requirement will be set by the Airport in the concession agreement. The proposer will be held to the same level of design and finish material quality as proposed in the RFP. So long as the proposer builds to this level of standard and quality any shortfall between the actual cost and the proposed capital investment will be to the benefit of the proposer

The concession agreement will provide detailed language on the allowable components of construction costs for purposes of meeting minimum required capital investment.

E. MID-TERM REFURBISHMENT OBLIGATION

Concession agreements longer than 5 years will require a mid-term refurbishment. The Mid-Term Refurbishment obligation could include, but is not limited to, replacement of flooring, counters, seating and other surfaces, and excludes ongoing, routine maintenance expenses required of all concessionaires. The proposer is expected to incorporate the Mid-Term Refurbishment costs into its original business plan. The concession agreement will provide detailed language regarding mid-term refurbishment requirements.

F. UTILITY CHARGES

Utility charges are calculated by the DEN finance department and applied on an annual basis, or, rely on meters established in certain areas of the terminal complex.

G. PROPOSAL SURETY AND PERFORMANCE SURETY

A Proposal Surety will be required with each proposal as a guarantee that the proposer will execute a formal concession agreement with the Airport. The Proposal Surety in an amount between $10,000 and $20,000 may be retained as liquidated damages in the event that a proposer fails to execute an Agreement or to furnish a faithful Performance Surety, and will act as partial compensation for lost revenue due to the delay in award of the concession privilege, or to offset the additional time and expense of reissuing the RFP, if necessary. The Proposal Surety will be returned to the successful proposer after full execution of a concession agreement and delivery of the Performance Bond.

The Performance Surety will provide the Airport with a financial guarantee equal to six months Minimum Annual Guarantee (adjusted in each following year to one-half of the annual revenue paid to the Airport).

All proposals submitted to the Airport will constitute a firm and binding offer to the Airport and may be accepted by the Airport at any time within 120 days after the proposal due date. After 120 days the proposer has the option to extend its proposal if requested by the Airport.

Proposal Sureties may be in the form of a bond or a cashier's check payable to the Airport.

Proposal Sureties of all unsuccessful proposers will be returned as soon as an agreement has been negotiated and recommended by the Manager and a concession privilege has been awarded to a successful proposer, or, in the event that all proposals are rejected, within ten (10) days after the date of rejection.

H. INSURANCE

Insurance requirements are included in the concession agreement as established by the Airport's Risk Manager and are subject to change at the Risk Manager's discretion, including requirement of additional insurance. Insurance requirements are established for the protection of the Airport, passengers, and other tenants and users of the Airport. The requirements must be met by each tenant before commencing operations.

V. SELECTION PROCESS

A. MINIMUM QUALIFICATIONS

In order to have a proposal considered by the Airport, all prospective operators of concession or customer service privileges in the terminal complex shall demonstrate that it meets the minimum qualifications for the concession established in the RFP documents. Typically, proposers will be required to meet the following minimum qualifications:

1. **Minimum Years of Experience Required.** Each proposer must demonstrate meeting the minumum years in the ownership, management and operation of a retail, food and beverage, or service business specified in the RFP. Ownership means control of more than 50% of the equity of the business. If a proposer has multiple owners, a majority of the equity must be held by individual(s) who meet this minimum qualification.
2. **Minimum Gross Revenues Required**. The retail, food and beverage, or service business used to meet the requirements in (A), above, must have had minimum gross sales equal to at least 50% of the estimated first-year gross revenues of the concession that is subject of the RFP.
3. **Financial Capability.** Airport staff will review information concerning the proposer's financial capability (defined as the ability to finance the improvements and provide working capital necessary to operate the concession) and may contact the proposer to obtain any additional information needed to make this determination.
4. **ACDBE Requirements, if any.** The City's Division of Small Business Opportunity (DSBO) will review the proposal and determine if the proposer has met, or made a good faith effort to meet, any ACDBE requirements. DSBO's determination is final.

Failure to meet each of the minimum qualifications will result in the proposal being rejected and not subject to further evaluation.

B. PREPROPOSAL CONFERENCE AND SITE VISIT

Following the issuance of an RFP Airport staff will conduct a pre-proposal conference and site visit. The pre-proposal conference affords all potential proposers the opportunity to gain an understanding of the concession opportunity and the requirements of the RFP. Attendance at the pre-proposal conference is encouraged, but <u>not mandatory</u>.

Notice that an RFP will be issued may include, but is not limited to:

(1) Advertising in local newspapers, by sending notices to local chambers of commerce, trade publications, and minority business groups'.

(2) Placing a notice on the City or Airport's website,

(3) Sending notices by email to interested parties who have registered their interest in the concession program with the Airport.

To the extent possible, a list of the names and addresses of all persons or firms to which any contract documents have been issued shall be maintained. Subsequent changes or addendums to the bid or proposal documents shall thereafter be made available electronically to all those on record as having received proposal documents and shall be posted on the Airport's website.

C. PROPOSAL REJECTION

Proposals may be rejected or disqualified for any of the following reasons:

1. Failure to meet the Minimum Qualifications.
2. Failure to provide complete documentation as required.
3. Collusion among proposers.
4. Default or termination of other contracts with the Airport.
5. Improper contact with Airport or Airport personnel with regard to an RFP.
6. Lack of ability to operate the concept or brand as proposed.
7. Omissions or fraudulent statements.
8. Failure to comply with the terms and conditions of existing concession agreements or contracts with the Airport and County of Denver.
9. Default or arrearages under any previous or existing agreement with the Airport, or the existence of unresolved monetary claims by the Airport against the proposer, or debts owed to the Airport.
10. Failure to disclose all trademark, copyright, licensing, franchise, and other contractual or property rights proposer has with third parties that proposer intends to use at DEN that may restrict current concessionaires in any way, or may have an unfavorable impact on future proposers for concession privileges at the Airport.
11. Other causes as deemed relevant by the Manager.

In addition, the Manager reserves the right to reject any and all proposals.

D. EVALUATION CRITERIA

For each concession opportunity, Airport staff will set the criteria that will be used to evaluate the proposals in advance and include the criteria and the weighting for each criterion in the RFP. These criteria will be selected and weighted to focus on finding the best tenant for the concession space that maximizes sales and customer satisfaction.

Evaluation criteria will, to the extent practicable, emphasize the experience and qualifications of the proposer, the proposal's alignment with the Airport's strategic objectives, the strength of the proposed concession concept, and the ability of the proposer to maximize sales, revenue to the Airport, and drive high levels of customer satisfaction.

E. THE EVALUATION COMMITTEE

Proposals received in response to each RFP will be given to an Evaluation Committee ("Committee") to be evaluated and scored.

The Committee will be chaired by a non-voting member of the Airport Procurement staff (or their designee). The Committee shall initially consist of five (5) to seven (7) voting committee members, with the majority of the panel consisting of City and County of Denver (CCD) representatives. Committee members may include Airport or other City employees, consultants to the City/Airport, airline representatives, community representatives or subject matter expert (SME) volunteers from the private sector (provided there is no conflict of interest with current or potential concession tenants).

F. EVALUATION COMMITTEE SCORING AND ORAL INTERVIEWS

The Committee will prepare an initial scoring based on the Evaluation Criteria. The Committee, may, at its discretion, invite the highest ranked proposers in for oral interviews. The number of interviews will normally be limited to 5, although the Committee has the discretion to invite more or less than 5.

The interview will be an opportunity for members of the Committee to ask questions or seek clarification of proposals and is not a formal presentation. The Committee may provide questions in advance of the interview. In the interests of minimizing the costs for small businesses, the following rules will apply to interviews. Proposers invited to an interview may not:

- Bring food or beverages, merchandise, gifts or handouts to the interviews
- Introduce additional information at the interviews that is not in the original written proposal
- Change or alter the business terms or proposed concept in any way

The proposer may provide written answers to questions provided in advance by the Committee.

Following the interviews, if any, each member of the Committee may revise its initial scoring. There will be no separate scoring of interviews and written proposals. Only those evaluation criteria listed in the RFP will be used in the final scoring of the proposals by the Committee.

Individual Committee member scoring shall be accomplished using a 1-5-point scale and % weighting applied to each criteria based on evaluation criteria listed in the RFP. Decimal numbers may be used to avoid evaluation scoring ties. The points shall be multiplied by the total % weighting assigned and added on an individual proposer's basis to determine the ordinal ranking of all proposers.

The Committee's work will not be complete until a recommendation has been made by the Manager. All overall final rankings will be posted on DIA's Website within 30 days of an executed agreement. Individual Committee member points/rankings will not be posted

G. AUTHORIZATION TO NEGOTIATE BY THE MANAGER

The Committee's composite score will be submitted to the Manager. The Manager reserves the right to select a proposer that was not the highest ranked by the Committee in terms of total points when it is in the best interests of the Airport. In choosing to exercise their authority, the Manager may consider other aspects of the concessions program that the Committee did not consider.

The Manager will then authorize Airport staff to extend an offer for a concession agreement. If the proposer fails to execute a concession agreement within the time specified by DEN, the Manager may then authorize extension of an offer to another proposer. The Manager's authorization to extend an offer of a concession agreement does not guarantee that a concession agreement will be completed and sent to the City Council for approval.

H. NO SUBSTITUTION OF BRANDS AFTER AWARD OF A CONCESSION AGREEMENT

The single most important factor in awarding a concession privilege is the proposed concept and brand. For this reason, a concept or brand may not be changed or substituted following award. Proposers will be responsible for ensuring that they have established the relationship with the brand or concept owner, understand the business terms that will apply, and have the legal authority to both propose and operate the brand or concept being proposed prior to submitting a proposal.

No substitution of brands or concepts will be permitted, as this is unfair to other proposers and undermines the integrity of the competitive proposal process.

The Concession Agreement will establish documentation standards for a concessionaire to demonstrate that it possesses the right to use its proposed brand.

I. INITIATION OF AIRPORT APPROVAL PROCESS

Once the proposer has signed the concession agreement, normal Airport approval processes will be initiated. A concession agreement shall not be considered awarded, binding or in effect until it has been approved and executed by all the signatories of the City.

VI. CONTRACT ADMINISTRATION AND COMMITMENT BY STAFF

The success of DEN's concession program relies on the cumulative successful performance of all concessionaires. DEN Concessionaires' success also translates into enhanced customer satisfaction and increased revenue to the Airport. Similarly, concession tenants also rely on the performance of other tenants. If a customer has a bad experience in one DEN concession, the customer is unlikely to visit other concessions.

Staff will be careful to consider the impact of a request by one concessionaire on other concession tenants as well as the program as a whole.

A. TIMELY DECISIONS BY STAFF

The DEN organization is aligned under a Deputy Manager position to enhance the performance of non-airline revenue generating activities. This requires staff to make timely decisions or collect all necessary information so that a decision may be made by others.

Concessionaires are required by the terms of their concession agreements to seek prior approval on certain matters, such as price increases and changes or improvements to their facilities. Unnecessary delay in making decisions results in added costs for concessionaires. Wherever possible, decisions should be made at the appropriate level of the organization or forwarded to the appropriate management level for disposition. Policies and procedures will be developed for the handling of routine requests.

Concessions staff does not control all aspects of the Airport. For example, design review, parking permits, or security badges are administered by other departments of the Airport and are not under concessions staff control. However, staff can work closely with other parts of the DEN organization to expedite approvals.

It is the nature of airport concessions management that, depending upon circumstances, DEN concessions staff will at times be an advocate for a concessionaire; an adversary, when enforcement of a concession agreement is required; and, a facilitator, in order to develop a world-class program that serves our passengers.

B. PRICING AND PRICING APPROVALS

Concession agreements stipulate a "street plus 10%" pricing on goods and services sold. Customers are sensitive to pricing at airports, and it is in DEN's long-term interest to ensure that prices are kept at a level consistent with its pricing requirements.

Pricing changes require DEN approval. To simplify the review of pricing requests, the following approach will be developed and put into effect.

1. ***Opening of new concessions*.** DEN concessions staff will ensure that prices in effect at the time of opening of a new concession are consistent with the prices included in the proposal and incorporated by reference in the concession agreement. The pricing committed to by the concessionaire during the RFP process and prior to opening will normally be in effect for half-year before price increases will be considered.

2. ***Pricing Approval.*** Retail pricing is based upon sampling of product items, and price ranges for certain items may be used. Restaurant pricing requires approval of each

proposed menu item and price. In each case comparisons will be made to a survey of mutually agreed street locations to determine if the “street plus 10%” standard has been met. If a concept is a national brand (e.g. Body Shop, McDonalds, Brookstone) corporate pricing may be substituted for the local survey.

Role of Contract Administrator: Contract administrators have discretion and flexibility in determining pricing policy compliance. Contract Administrators may approve as comparables local concepts that are not strictly aligned with the airport location in order to establish prices for goods or services offered at the airport (e.g. street location sports bars may not typically serve breakfast, but an airport sports bar may, so a street comparable non- sports bar location may be established just for breakfast items), Contract administrators oversee the process by which pricing is checked randomly at DEN establishments and will notify concessionaires directly if any pricing is out of compliance with agreement requirements.

C. CUSTOMER SERVICE STANDARDS

Customers ultimately have many retail and restaurant opportunities available to them. To entice customers and create a world-class concessions program all concessions must meet minimum customer service standards that are outlined in the concession agreement and Airport Rules and Regulations. The Airport will monitor compliance with these standards and take appropriate action when these standards are not met.

D. LIQUIDATED DAMAGES

The Airport’s Rules and Regulations provide a mechanism for levying liquidated damage provisions for non-performance by airport tenants including concessionaires. Concessions staff will use the existing procedures in the Rules and Regulations in conjunction with the individual concession agreement as needed to ensure compliance with the requirements of the concession program.

Liquidated damages assessed under the Rules and Regulations are in addition to any other remedies available to the Airport as provided in the concession agreement, or at law or in equity.

E. TERM EXTENSIONS

In general, there will be no extensions or renewals of term to any concession. However, when an extension is necessary to provide uninterrupted service to the traveling public (such as during a solicitation for proposals for a concession privilege), a term may be extended by the Manager, provided that negotiations to extend a term: (1) will be initiated only at the option of the Manager, (2) will not commence more than one year before the expiration of the existing term, and (3) the extended term will not exceed one year.

There is no restriction regarding successive competitively awarded concession agreements to the same concessionaire or customer service provider.

F. ASSIGNMENT OF CONCESSION AGREEMENTS

The award of concession privileges is based on a number of factors, including the experience, qualifications and financial strength of the proposer. The Airport enters into a concession agreement on the assumption that the proposer will be the operator of the concession throughout the term.

It is generally not in the best interests of the Airport to permit the transfer, sale, assignment or sublease of a concession agreement. Further, it is not in the Airport’s interest to encourage speculation in the ownership of concession programs, or to permit or encourage a party to gain from the sale of its concession agreement. The Airport has the sole discretion to approve or deny the assignment of a concession agreement if it is in the best interests of the Airport.

Where a concession is being sold at a profit, it will be the policy of the Airport to seek a share of the net gain in the sale of the concession privileges based solely on the remaining term and the existing rights, privileges and obligations of the concession agreement. In no cases will assignments be approved that provide for a term extension. In the case of a bona fide illness or tragedy in a family owned concession, the Airport staff may, with the approval of the Manager, recommend the assignment of the concession without consideration.

G. MARKETING PROGRAM

Under the terms of existing concession agreements, the Airport collects 1% of sales in addition to the normal concession rent to fund a joint marketing program (aka “Joint Marketing Fund”, “JMF”). The intent of this program is to help all concessionaires achieve increased sales and increased revenue to the Airport. This money will be spent on programs identified by the Airport as valuable with input from the concessionaires, such as advertising, directories, brochures, and promotions. When appropriate, costs related to the PVC Program will be charged to this fund.

The DEN staff, or their contracted designee, will administer the JMF with the advice of a Concessionaire Advisory Committee (see below).

H. CONCESSIONAIRE ADVISORY COMMITTEE

A concessionaire advisory committee, representing a diverse cross-section of current concessionaires, will be established in consultation with the existing concessionaires. The committee will provide insights and feedback regarding the direction of the JMF, PVC Program and other concession-related issues.

The revenue to fund the JMF is collected from the concessionaires and will be deposited in the Airport Revenue Fund, as required by the General Bond Ordinance. DEN staff in conjunction with the Concessionaire Advisory Committee will prepare a set of goals and objectives for the JMF, and an annual budget based on the revenues to be collected during the year and consult with the Concessionaire Advisory Committee on the use of those funds.

I. LEVERAGING OF TECHNOLOGY

DEN can improve the development, management and administration of the concession program by leveraging new technologies. To the extent that resources and capabilities allow, new technologies will be incorporated in our policies and procedures.

J. AIRPORT EMERGENCIES

Effective communications with concessionaires is required to serve the traveling public during emergencies. When an emergency is declared by the Airport, the concessions staff will be the primary conduit for communications with all concessionaires during the emergency. To ensure consistent coordination, concessionaires should direct all inquiries to concessions staff. Procedures have been established covering communications with concessionaires during emergencies.