

DBEs Must Challenge Status Quo

Proactive Stance Vital to Ever-changing Landscape



BY NANCY WEST

Open your eyes. Picture the whole airport business concessions pie and do something everyday to increase your piece of it.

One thing you can do to grow is create alliances. While buying co-ops may require creating an infrastructure and an initial outlay to negotiate the terms of the agreement, it is an opportunity to increase access to products and decrease costs. Another way to grow is by creating partnerships. Seeking out other businesses with like vision, values and cultures means that the opportunity to pool resources, skills and manpower can lead to increasing your collective chance to attract brands, experienced management staff, and capital. Thinking acquisition and mergers is also in the scope of businesses large and small.

To ensure your growth and success beyond disadvantaged business enterprise (DBE) programs, your thinking has to expand beyond the goals set for you. Begin today. Tomorrow may be too late.

DBE businesses are faced with a variety of challenges, including ever-changing regulatory requirements, inconsistent application of DBE certification policies, and relationships that can impede the ability to grow and succeed. But there are also

viable solutions. Too often for the sake of not making waves and, let's face it, in many instances for fear of retaliation, DBE firms do not speak out about the impact of regulations and eligibility requirements on their ability to do business. And the competition conversation is a different one altogether. We know that a stated purpose of the DBE program is to level the playing field to provide equal access to opportunity. While this is an excellent purpose and one that has opened doors previously closed, there are other barriers that if eliminated would provide even greater access to opportunities.

These are all reasons to begin looking beyond the DBE program to create powerful partnerships and alliances to compete for, and win, airport contracts.

Securing meaningful contracts and maintaining profitable operations should be among the highest priorities for disadvantaged businesses participating in airport concessions. Alliances can reduce costs. Partnerships can lead to growth. Growth leads to success. Success leads to independence. Independence leads to power. And power leads to influence.

PNW STUNTS DBE GROWTH

Succumbing to political pressures has created more barriers for DBEs and less consistency in DBE program implementation. A DBE concessionaire can grow to \$47.48M, averaged over the firm's previous three fiscal years, but the DBE owner is limited to a personal net worth (PNW) of \$750,000. In spite of the rule's well-intentioned exclusions, (including allowing assets of up to \$3M that a DBE owner or applicant needs in order to obtain financing to enter or expand an airport concessions business), DBEs are forced to remain in a non-competitive position. A DBE business cannot grow beyond the DBE program when its owner is

stunted by a PNW cap that hasn't been adjusted for inflation in nine years.

The current real value of the PNW ceiling is \$558,070, according to the report **EuQuant** submitted to the Congressional Black Caucus Foundation in September 2007. That same report says that a PNW ceiling set too low causes other economic hardships. For example, in February of 2007, seventeen firms graduated from the **Georgia Department of Transportation** Disadvantaged Business Enterprise Program when an audit revealed that their PNW surpassed the \$750,000 ceiling. **EuQuant** interviewed the owners of these firms and tracked their monthly financial performance. The owners felt that they were being penalized for being successful, and they complained that very few corporations solicited or engaged their services after they were decertified. They also stated that the low PNW ceiling had not allowed them to build sufficient bonding capacity to compete successfully as prime contractors. During the first five months of 2007, their average monthly revenue decreased by 45% in comparison to 2005 and 2006.

This report is right on the money and highly familiar when you are talking about DBE concessionaires. The current PNW cap for DBE concessionaires is indeed a barrier to growth, competition and success.

DBE OUTLOOK UNCERTAIN

Regardless of which political party is in power in the future, there are no guarantees that DBE programs will be continued. Unless **US Department of Transportation** (USDOT) extends the 49 CFR Part 23 regulations that govern DBE participation in airport concessions, they will be null and void on April 21, 2010. Likewise, for DBE participation in 49 CFR Part 26 programs, in each successive reauthorization bill for the surface transportation and airport programs,

Congress will have the opportunity to examine the current state of transportation contracting and determine whether the DBE program statutes are still necessary to remedy the continuing effects of discrimination. Thus, limiting your attention to only operations and profits is shortsighted. Part of your focus has to be on advocating for greater access to opportunities. Pay attention. Get involved.

From the landlord's perspective having a thorough working knowledge of how to interpret and implement DBE program regulations and what questions to ask individuals seeking DBE certification are key components of making intelligent, fair and procedurally correct certification decisions. Yet, I am constantly finding that certifying entities don't always have a full grasp of the DBE regulations or even a basic understanding of financial statements or business structures. Some focus on how not to certify a DBE. That surely is not the intent of the DBE rule.

It makes me wonder whether these shortcomings could be primary reasons for certification decisions often taking longer than necessary and resulting in varying outcomes even when the same facts are being considered. If so, this translates into barriers and unnecessary costs to individuals seeking DBE certification. Words of Wisdom: Tell your story everywhere and every chance you get. Pool your money and resources. In the meantime, let your Congressional leaders know that you support the Airport Minority Advisory Council's views and efforts to secure federal legislation that will require certifying officials to undergo formal, structured training, and be tested and credentialed.

OVERCOMING JV CHALLENGES

Joint ventures between primes and DBEs have been the Achilles' heel of airports, government regulators, and businesses for as long as I can remember. Provisions in joint venture agreements that prevent a business from competing and find a business in default if it doesn't maintain DBE certification are also barriers to growth, competition and success. And as long as large firms stand at the doors of the brands and products that airports are seeking, competition will be thwarted. There is no question that brands will work with the companies that can offer the most opportunity. It is not a criticism, just a fact. Seek ways to identify and resolve

the conditions that make it difficult to create your own level playing field.

Joint venture guidance from the USDOT has been pending for more than two years. As a participant in stakeholder discussions on this subject, I know that the USDOT and the FAA have received a wealth of airport and private sector perspective that I hope will be considered and used to the fullest extent to develop joint venture guidance that makes sense and addresses the needs and requirements of all airport industry stakeholders. How business is done on airports and in the business world outside of airports are two critical considerations that will need to be aligned with regulatory objectives and requirements. You can make the difference. Share with the USDOT what elements make a good or a bad agreement and what makes good business sense.

As I travel across the country and participate in numerous discussions with minorities and women, I find a resounding absence of dialogue on economic development or on the incredible opportunities that have been created as a result of individual business growth. **The Small Business Administration's Office of Women's Business Ownership** notes that 10.6M women-owned businesses employ

19.1M people and contribute \$2.46T to the economy. According to the **US Census Bureau's** 2002 Survey of Business Owners, woman-owned businesses grew by 20% between 1997 and 2002, twice as much as the national average. And, according to the SBA's Office of Advocacy Report published in April 2007, minorities owned 18% of all U.S. businesses in 2002. Start talking. Individually you are successful. Collectively you can be awesome.

Some readers are getting the message that the time has come to create a new story, to strive for a new beginning. Others may be thinking, 'Easier said than done' Wherever you fit in this spectrum of thinking is okay because change is already here, and more is coming. But so are opportunities. See the status quo for what it is. Make changes today to increase your opportunities to grow, compete and be successful-together. 

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