

This comment is directed to new Grant Assurance #19 (b):

This new Grant Assurance, section (b), while seeming to further the laudable intention of furthering DBE participation in Airport related concession activity, in reality is nothing more than a back door attempt to subvert current law on the subject of quotas.

While the US Supreme Court has recognized, and decided that contract awards or set asides based upon suspect classes are not constitutional, and quotas based on suspect classes cannot be enforced, and further, the FAA has hereinbefore adhered to that court decision, by eliminating the previous minimum 10% quota on DBE construction contract awards; it seems that the FAA is now trying to backdoor that Court Decision by imposing a minimum 10% DBE quota on concession awards by airports by imposing this quota via a contract requirement in order to obtain Federal AIP funds.

In addition, the tying of AIP grant funds to Concession contracts- where no federal funds are allocable or usable- is another attempt to subvert law by an imposed regulation via a contract for funds. The AIP funds are in no way for anything even remotely connected to concessions.

This section must be changed to reflect regional differences in population and business make up and make it a voluntary goal, as construction funds are.