
Southwest Georgia Regional Airport

Airport Concessions Disadvantaged
Business Enterprise (ACDBE) program

April 2017

US Department of Transportation Federal Aviation Administration
Airport Concession Disadvantaged Business Enterprise Program
49 CFR Parts 23
Southwest Georgia Regional Airport, Albany GA

POLICY STATEMENT

The City of Albany ("the City") on behalf of the Southwest Georgia Regional Airport ("the Airport"), has established an Airport Concession Disadvantaged Business Enterprise (ACDBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 23. The Airport is a primary non-hub airport and has received federal funds authorized for airport development after January 1988 (authorized under Title 49 of the United States Code). The City has signed airport grant assurances that it will comply with 49 CFR Part 23.


It is the policy of the City to ensure that ACDBEs, as defined in Part 23, have an equal opportunity to receive and participate in concession opportunities. It is also the policy:

1. To ensure nondiscrimination in the award and administration of opportunities for concessions by airports receiving DOT financial assistance;
2. To create a level playing field on which ACDBEs can compete fairly for opportunities for concessions;
3. To ensure that its ACDBE program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as ACDBEs at the airport;
5. To help remove barriers to the participation of ACDBEs in opportunities for concessions at the airport; and
6. To provide appropriate flexibility to our airport(s) in establishing and providing opportunities for ACDBEs.

Debbie Davis, Administrative Manager, Southwest Georgia Regional Airport, 3905 Newton Road, Suite 100, Albany, GA 31701, Phone: (229) 430-5177, debDavis@albany.ga.us has been designated as the ACDBE Liaison Officer (ACDBELO). Implementation of the ACDBE program is accorded the same priority as compliance with all other legal obligations incurred by the City in its financial assistance agreements with the Federal Aviation Administration.

This policy statement will be disseminated to the City Manager, and the Albany-Dougherty County Aviation Commission. It will also be distributed to ACDBE and non-ACDBE concessionaire communities in the market area.

1. This policy statement will be prepared as a handout, and made available at concession pre-proposal conferences, and/or outreach meetings conducted by the Airport.
2. Copies of the policy statement will be mailed to all of the agencies/organizations consulted during the development of the ACDBE goal methodology.



Sharon D. Subadan, City Manager
City of Albany



Date

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- (2) The concessionaire or contractor agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR Part 23, that it enters and cause those businesses to similarly include the statements in further agreements.

Section 23.11 Compliance and Enforcement

The City will comply with and is subject to the provisions of 49 CFR Part 26 (§§ 26.101 and 26.105 through 26.107).

The City will comply with this part or be subject to formal enforcement action under §26.105 or appropriate program sanctions, such as the suspension or termination of Federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied. Program sanctions may include actions consistent with 49 U.S.C. §§ 47106(d), 47111(d), and 47122.

2 C.F.R. Part 180, Government-wide Debarment and Suspension (Non-procurement), effective November 15, 2006, adopted and supplemented by DOT at 2 C.F.R. Part 1200, effective June 2, 2008, provides Office of Management and Budget (OMB) guidance for Federal agencies on the government-wide debarment and suspension system for non-procurement transactions, programs and activities. 2 C.F.R. Part 1200 adopts the OMB guidance in subparts A through I of 2 CFR part 180, as supplemented by part 1200, as the Department of Transportation policies and procedures for non-procurement suspension and debarment.

The City's compliance with all requirements of this part is enforced through the procedures of Title 49 of the United States Code, including 49 U.S.C. 47106(d), 47111(d), and 47122, and regulations implementing them.

Compliance reviews: The FAA may review the City's compliance with this part at any time, including but not limited to, reviews of paperwork, on-site reviews, and review of the City's monitoring and enforcement mechanism, as appropriate. The FAA Office of Civil Rights may initiate a compliance review based on complaints received.

Any person who knows of a violation of this part by the City may file a complaint under 14 CFR Part 16 with the Federal Aviation Administration Office of Chief Counsel.

The following enforcement actions apply to firms participating in the City's ACDBE program:

- (a) For a firm that does not meet the eligibility criteria of subpart C of this part and that attempts to participate as an ACDBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the Department of Transportation (DOT) or the Federal Aviation Administration (FAA) may initiate suspension or debarment proceedings against the firm under 49 CFR Part 29.

Debbie Davis, Administrative Manager
Southwest Georgia Regional Airport
3905 Newton Road, Suite 100
Albany, GA 31701
Phone: (229) 430-5177
Email: debDavis@albany.ga.us

In that capacity, the ACDBELO is responsible for implementing all aspects of the ACDBE program and ensuring that the City complies with all provision of 49 CFR Part 23. The ACDBELO has direct, independent access to the City Manager concerning ACDBE program matters. An organizational chart displaying the ACDBELO's position in the organization is found in **Attachment 1** to this program.

The ACDBELO is responsible for developing, implementing and monitoring the ACDBE program, in coordination with other appropriate officials. The ACDBELO is assisted as may be required by appropriate members of the Airport staff as well as the City's legal counsel to assist in the administration of the program. The duties and responsibilities include the following:

1. *Gathers and reports statistical data and other information as required by FAA or DOT.*
2. *Reviews third party contracts and purchase requisitions for compliance with this program.*
3. *Works with all departments to set overall triennial goals.*
4. *Ensures that bid notices and requests for proposals are available to ACDBEs in a timely manner.*
5. *Identifies contracts and procurements so that ACDBE goals are included in solicitations (both race-neutral methods and contract specific goals)*
6. *Analyzes the City's progress toward attainment and identifies ways to improve progress.*
7. *Attends pre-bid/pre-proposal meetings.*
8. *Advises the City of Albany on ACDBE matters and achievement.*
9. *Provides ACDBEs with information and assistance in preparing bids, obtaining bonding, financing, and insurance.*
10. *Acts as liaison to the Unified Certification Program in Georgia.*
11. *Provides outreach to ACDBEs and community organizations to advise them of opportunities.*

Directory: The Georgia Department of Transportation (GDOT) maintains a directory identifying all firms eligible to participate as ACDBEs. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as an ACDBE. The UCP revises the directory in real time. The City will refer potential bidders/offerors to GDOT's website to access the directory. The web link for the directory may be found in Attachment 2 to this program document.

Section 23.25 Ensuring Nondiscriminatory Participation of ACDBEs

The City will take the following measures to ensure nondiscriminatory participation of ACDBEs in concession, and other covered activities (23.25(a)):

Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.

2. The City will consider similar action under its own legal authorities, including responsibility determinations in future contracts. The City has listed the regulations, provisions, and contract remedies available to it in the event of non-compliance with the ACDBE regulation by a participant in procurement activities (see **Attachment 3**).
3. The City will also implement a monitoring and enforcement mechanism to ensure that work committed to ACDBEs at contract award is actually performed by the ACDBEs. This mechanism will provide for a running tally of actual ACDBE attainments (e.g., payment actually made to ACDBE firms), including a means of comparing these attainments to commitments. This will be accomplished by the following:
 - The City will utilize the legal instrument of a contract clause to ensure compliance with the bid specifications. After award of the contract, the ACDBELO will conduct such audits and reviews as necessary to ensure the Airport that the concessionaire is in compliance.
 - The Airport will implement a monitoring and enforcement mechanism that will include written certification that the Airport has reviewed records of all contracts, leases, joint venture agreements, or other concession-related agreements and monitored work sites for this purpose. This monitoring will be conducted during routine site visits by the ACDBELO on a monthly basis. The ACDBELO will sign off on the written certifications.
 - Prime concessionaires must also report to the ACDBELO if an ACDBE is terminated for any reason.
 - The ACDBELO will make prompt compliance determinations regarding its prime contractors. Documentation of noncompliance will include the specific areas in which the concessionaire/ sub-concessionaire failed to comply. In these instances, appropriate legal action consistent with the DBE and other contract provisions will be taken.
4. In its reports of ACDBE participation to the FAA, the City will show both commitments and attainments, as required by the USDOT reporting form.

SUBPART C – CERTIFICATION AND ELIGIBILITY

Section 23.31 Unified Certification Program

The Airport is a member of a Unified Certification Program (UCP) administered by GDOT, which will make certification decisions on behalf of the City for ACDBEs. The UCP will use the procedures and standards of Part 26, except as provided in 23.31, for certification of ACDBEs to

prime concession agreement with a recipient. The UCP recognizes that the eligibility of Alaska Native Corporations (ANC)-owned firms for purposes of Part 23 is governed by Part 26 section 26.73(h). (23.39(c)(d)).

The UCP will use the certification standards of Part 23 to determine the ACDBE eligibility of firms that provide goods and services to concessionaires (23.39(i)).

In instances when the eligibility of a concessionaire is removed after the concessionaire has entered into a concession agreement because the firm exceeded the size standard or the owner has exceeded the PNW standard, and the firm in all other respects remains an eligible DBE, the Airport may continue to count the concessionaire's participation toward ACDBE goals during the remainder of the current concession agreement. The Airport will not count the concessionaire's participation toward ACDBE goals beyond the termination date for the concession agreement in effect at the time of the decertification (23.39(e)).

The UCP will use the Uniform Application Form found in Appendix F to Part 26 with additional instruction as stated in 23.39(g).

SUBPART D – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 23.41 Basic Overall Goal Requirement

The City will establish two separate overall ACDBE goals; one for car rentals and another for concessions other than car rentals. The overall goals will cover a three-year period and the City will review the goals annually to make sure the goal continues to fit its circumstances. The City will report any significant overall goal adjustments to the FAA.

If the average annual concession revenues for car rentals over the preceding 3 years do not exceed \$200,000, the City will not need to submit an overall goal for car rentals. Likewise, if the average annual concession revenues for concessions other than car rentals over the preceding 3 years do not exceed \$200,000, the City needs not submit an overall goal for concessions other than car rentals. The City understands that "revenue" means total revenue generated by concessions, not the fees received by the airport from concessionaires.

The City's overall goals will provide for participation by all certified ACDBEs and will not be subdivided into group-specific goals.

Section 23.43 Consultation in Goal Setting

The City consults with stakeholders before submitting the overall goals to the FAA. Stakeholders will include, but not be limited to, minority and women's business groups, community organizations, trade associations representing concessionaires currently located at the airport, as well as existing concessionaires themselves, and other officials or organizations

A description of the methodology to calculate the overall goal for concessions other than car rentals, the goal calculations, and the data on which the Airport relied can be found in **Attachment 5** to this program.

Projection of Estimated Race-Neutral & Race-Conscious Participation (23.45(f), 23.25(d-e))

The breakout of estimated race-neutral and race-conscious participation can be found with the goal methodologies in **Attachments 4 and 5** to this program. This section of the program will be reviewed annually when the goal calculation is reviewed under 23.41(c).

Concession-specific Goals (23.25 (c)(e)(1)(iv))

The City will use concession-specific goals to meet any portion of the overall goals the City does not project being able to meet using race-neutral means. Concession-specific goals are established so that, over the period to which the overall goals apply, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

The City will establish concession-specific goals only on those concessions that have direct ownership arrangements (except car rentals), sublease, or subcontracting possibilities. The City will require businesses subject to ACDBE goals at the airport (except car rental companies) to make good faith efforts to explore all available options to meet goals, to the maximum extent practicable, through direct ownership arrangements with DBEs (23.25 (f)). Car rental firms are not required to change their corporate structure to provide for direct ownership arrangements. In the case of a car rental goal, where it appears that all or most of the goal is likely to be met through the purchases by car rental companies of vehicles or other goods or services from ACDBEs, one permissible alternative is to structure the goal entirely in terms of purchases of goods and services.)

The City needs not establish a concession-specific goal on every such concession, and the size of concession-specific goals will be adapted to the circumstances of each such concession (e.g., type and location of concession, availability of ACDBEs.)

If the objective of a concession-specific goal is to obtain ACDBE participation through direct ownership with an ACDBE, the City will calculate the goal as a percentage of the total estimated annual gross receipts from the concession. (23.25(e)(1)(i))

If the concession-specific goal applies to purchases and/or leases of goods and services, the City will calculate the goal by dividing the estimated dollar value of such purchases and/or leases from ACDBEs by the total estimated dollar value of all purchases to be made by the concessionaire. (23.25(e)(1)(ii))

5. *Written and signed confirmation from the ACDBE that it is participating in the concession as provided in the prime concessionaire's commitment and*
6. *If the contract goal is not met, evidence of good faith efforts.*

Bidders are required to submit the above-referenced information at the time of the bid opening.

Administrative reconsideration (26.53(d))

Within seven (7) business days of being informed by the City that it is not responsive because it has not documented sufficient good faith efforts, a concessionaire may request administrative reconsideration. Concessionaire should make this request in writing to the following reconsideration official:

C. Nathan Davis
City of Albany Attorney
222 Pine Avenue, Suite 560
Albany GA 31702
ndavis2@dougherty.ga.us

The reconsideration official will not have played any role in the original determination that the concessionaire did not document sufficient good faith efforts.

As part of this reconsideration, the concessionaire will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The concessionaire will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The City will send the concessionaire a written decision on reconsideration, explaining the basis for finding that the concessionaire did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is **not** administratively appealable to the US Department of Transportation.

Good Faith Efforts when an ACDBE is replaced on a concession (26.53(f))

The City will require a concessionaire to make good faith efforts to replace an ACDBE that is terminated or has otherwise failed to complete its concession agreement, lease, or subcontract with another certified ACDBE, to the extent needed to meet the concession-specific goal. The City will require the concessionaire to notify the ACDBELO immediately of the ACDBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, the City will require the concessionaire to obtain prior approval of the substitute ACDBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts. The City will provide such written consent only if the City agrees, for reasons stated in a

In addition to post-award terminations, the provisions of this section apply to pre-award deletions of or substitutions for ACDBE firms put forward by offerors in negotiated procurements.

The City will require a concessionaire to make good faith efforts to replace an ACDBE that is terminated or has otherwise failed to complete its work on a concession with another certified ACDBE. These good faith efforts shall be directed at finding another ACDBE to perform at least the same amount of work under the concession contract as the ACDBE that was terminated, to the extent needed to meet the concession contract goal that the City established for the procurement. The good faith efforts shall be documented by the concessionaire. If the City requests documentation from the concessionaire under this provision, the concessionaire shall submit the documentation within 7 days, which may be extended for an additional 7 days if necessary at the request of the concessionaire, and the City shall provide a written determination to the concessionaire stating whether or not good faith efforts have been demonstrated.

The City will include in each prime concession contract the contract clause required by § 26.13(b) stating that failure by the concessionaire to carry out the requirements of this part is a material breach of the contract and may result in the termination of the concession contract or such other remedies set forth in that section that is deemed appropriate if the prime concessionaire fails to comply with the requirements of this section.

If the concessionaire fails to comply with this provision, the contracting officer may issue a termination for default proceeding.

Sample Proposal/Bid Specification:

The requirements of 49 CFR Part 23, regulations of the U.S. Department of Transportation, applies to this concession. It is the policy of the City to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this concession will be conditioned upon satisfying the requirements of this proposal/bid specification. These requirements apply to all concessions firms and suppliers, including those who qualify as an ACDBE. An ACDBE concession-specific goal of ___ percent of has been established for this concession. The concession firm shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26, to meet the concession-specific goal for ACDBE participation in the performance of this concession.

The concession firm will be required to submit the following information: (1) the names and addresses of ACDBE firms and suppliers that will participate in the concession, (2) A description of the work that each ACDBE will perform; (3) The dollar amount of the participation of each ACDBE firm participating; (4) Written and signed documentation of commitment to use a ACDBE whose participation it submits to meet a contract goal; (5) Written and signed confirmation from the ACDBE that it is participating in the concession as provided in the prime concessionaire's commitment; and (6) If the contract goal is not met, evidence of good faith efforts

Long-Term Exclusive Agreements

The City will not enter into a long-term exclusive agreement for concessions without prior approval of the FAA Regional Civil Rights Office. The City understands that a “long-term” agreement is one having a term of longer than 5 years. The City understands that an “exclusive” agreement is one in which an entire category of a particular business opportunity is limited to a single business entity. If special, local circumstances exist that make it important to enter into a long-term and exclusive agreement, we will submit detailed information to the FAA Regional Civil Rights Office for review and approval.

Section 23.79 Geographic Preferences

The City will not use a “local geographic preference”, i.e., any requirement that gives an ACDBE located in one place (e.g., *Dougherty County*) an advantage over ACDBEs from other places in obtaining business as, or with, a concession at the Airport.

ATTACHMENTS

Attachment 1	Organizational Chart
Attachment 2	Georgia UCP DBE Directory weblink
Attachment 3	Monitoring and Enforcement Mechanisms (26.37)
Attachment 4	Overall Goal Calculations for Car Rentals
Attachment 5	Overall Goal Calculations for Concessions Other Than Car Rentals
Attachment 6	Form 1 & 2 for Demonstration of Good Faith Efforts
Attachment 7	Certification Application Forms
Attachment 8	Regulations: 49 CFR Parts 23
Attachment 9	Goals and Elements for Privately-Owned or Leased Terminal Buildings (N/A)

ATTACHMENT 2

ACDBE DIRECTORY

The DBE Directory for the State of Georgia may be found at
<http://www.dot.ga.gov/PS/Business/DBE>.

ATTACHMENT 4

Section 23.45: Overall Goal Calculation for Car Rentals

Amount of Goal

The City of Albany's overall car rental goal for the period beginning October 1, 2016 and ending September 30, 2019 is the following: **5.12%** of the total rental car purchases (excluding the purchase of cars) at the Southwest Georgia Regional Airport.

There may be new car rental concession opportunities anticipated for this time period, which are included in this goal. When new car rental concession opportunities arise prior to the end of this goal period and the estimated average of annual gross revenues are anticipated to be \$200,000 or greater, the City will attempt to submit an appropriate adjustment to the overall goal. The City will attempt to submit it to FAA for approval at least 90 days before executing the new concession agreement (23.45(i)).

Table 1: Car Rental Lease Dates

Concession	Lease start	Lease end
Avis	December 1, 2016	November 30, 2018
Budget	December 1, 2016	November 30, 2018
Enterprise	December 1, 2016	November 30, 2018
Hertz	December 1, 2016	November 30, 2018

A. Projected Concessions Opportunities: October 1, 2016 - September 30, 2019

Concessions revenue opportunity for the 3-year period is based upon the gross receipts for the preceding three years. The table below describes the gross concession receipts for that period.

**Table 2: Gross Receipts for Car Rental Concessions
for FY 2014 to FY 2016**

Fiscal Year	Car Rental Concessions Revenue
FY 2014	\$2,573,409
FY 2015	\$2,796,366
FY 2016	\$2,636,531
Total	\$8,006,306

Source: Airport, compiled by KWA

Based on the information provided in the table above, the total gross receipts for the three (3) year period for car rental concessions is \$8,006,306. This figure was multiplied

In order to determine the relative availability of ACDBEs in the area of car rental concessions, the availability of DBE car rental concessions in the market area must be compared to the overall availability of all car rental concessions in the market area.

Table 3: Determination of Relative Availability of ACDBEs (suppliers of goods and services)

Concession Type	NAICS Codes	Activity	ACDBE Firms	All Firms
Car Rentals	423850	Janitorial supplies	2	3
	424720	Fuel supplies	0	4
	441320	Tire dealers	0	13
	453210	Office supplies	0	3
	811111	General car repair	0	29
	811121	Auto body/paint	1	15
	811122	Auto glass repair/replacement	0	1
	811192	Auto car wash/detailing	1	11
			4	79
STEP 1 BASE GOAL =			4/78 = 5.06%	

Source:

1. 2015 Metropolitan and Micropolitan Statistical Areas, U.S. Census Bureau, April 2017.
2. Georgia Department of Administrative Services Procurement Registry, April 2017.
3. Georgia Department of Transportation DBE Directory, April 2017.

The Step 1 base goal for car rental ACDBEs is **5.06%**.

D. Step 2: 23.51(d)

After calculating a base figure of the relative availability of ACDBEs, the City examined evidence to determine whether or not the base figure needs to be adjusted in order to arrive at the overall goal.

The data used to determine the adjustment to the base figure was:

1. **Past participation** – The City evaluated the current capacity of ACDBEs to perform work in car-rental concessions program by measuring the volume of work ACDBEs have performed in the past.

1. Locating and identifying ACDBEs and other small businesses who may be interested in participating as concessionaires under 49 CFR Part 23;
2. Notifying ACDBEs of concession opportunities and encouraging them to compete, when appropriate;
3. When practical, structuring concession activities so as to encourage and facilitate the participation of ACDBEs;
4. Providing technical assistance to ACDBEs in overcoming limitations.
5. Ensuring that competitors for concession opportunities are informed during pre-solicitation meetings about how the sponsor's ACDBE program will affect the procurement process;
6. Providing information concerning the availability of ACDBE firms to competitors to assist them in obtaining ACDBE participation.

The City estimates that, in meeting its overall goal of 5.12%, it will utilize race-neutral measures. The City has previously established ACDBE goals on the basis of gross revenue, but is now calculating the goal based on the purchase of goods and services.

If the City projects that race-neutral measures, standing alone, are not sufficient to meet an overall goal, it will use the following race-conscious measures to meet the overall goal:

1. Establish concession-specific goals for particular concession opportunities;
2. Negotiate with potential concessionaires to include ACDBE participation through direct ownership arrangements or measures, in the operation of the concession; and
3. Utilize, with prior FAA approval, other methods that take a competitor's ability to provide ACDBE participation into account in awarding a concession.

In order to ensure that the ACDBE program will be narrowly tailored to overcome the effects of discrimination, if the City uses concession-specific goals, it will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual ACDBE participation (see 26.51(f)) and the City will track and report race-neutral and race conscious participation separately. For reporting purposes, race-neutral ACDBE participation includes, but is not necessarily limited to the following:

- ACDBE participation through a prime contract that an ACDBE obtains through customary competitive procurement procedures
- ACDBE participation through a subcontract on a prime contract that does not carry an ACDBE goal

Appendix A

Stakeholders meeting synopsis

The ACDBE stakeholders meeting was held on Wednesday, July 12, 2017 at 10:30 am via web conference. The Airport sent invitations to current and potential concessionaires, and there were two attendees for the meeting. There was a presentation on the requirements of the ACDBE program, and a discussion about the ACDBE goal. There were no questions or comments.

ATTACHMENT 6

LETTER OF INTENT

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of ACDBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by ACDBE firm:

The bidder/offeror is committed to utilizing the above-named ACDBE firm for the work described above. The estimated dollar value of this work is \$ _____.

Affirmation

The above-named ACDBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By _____
(Signature) (Title)

If the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.

(Submit this page for each ACDBE subcontractor.)

ATTACHMENT 8

49 CFR Part 23

The federal regulations, Title 49
Code of Federal Regulations
Part 23, may be found at
www.ecfr.gov.