
Southwest Georgia Regional Airport

Airport Concessions Disadvantaged
Business Enterprise (ACDBE) program

October 2024

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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 promote the use of ACDBEs in all types of concession activities conducted by recipients.
7. To assist the development of firms that can compete successfully in the marketplace outside the ACDBE program.
8. To provide appropriate flexibility to the airport in establishing and providing opportunities for ACDBEs.

Deborah Davis, Administrative Manager, Southwest Georgia Regional Airport 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 outreach meetings conducted by the Airport.
2. This policy statement will be posted on the Airport's website.



TERRELL D. JACOBS, CITY MANAGER, CITY OF ALBANY

OCTOBER 1, 2024

DATE

SUBPART A – GENERAL REQUIREMENTS

SECTION 23.1 OBJECTIVES

The objectives are found in the policy statement on the first page of this program.

SECTION 23.3 DEFINITIONS

The Southwest Georgia Regional Airport (hereafter “the Airport”) will use terms in this program that have the meaning defined in Section 23.3 and Part 26 Section 26.5 where applicable.

SECTION 23.5 APPLICABILITY

The Southwest Georgia Regional Airport is a non-hub primary airport and the sponsor of federal airport funds authorized for airport development after January 1988 that was authorized under Title 49 of the United States Code.

SECTION 23.9 NON-DISCRIMINATION REQUIREMENTS

The City of Albany (“the City”) will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any concession agreement, management contract or subcontract, purchase or lease agreement or other agreement covered by 49 CFR Part 23 on the basis of race, color, sex, or national origin.

In administering its ACDBE program, the City will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the ACDBE program with respect to individuals of a particular race, color, sex, or national origin.

The City acknowledges these representations are also in accordance with obligations contained in its Civil Rights, DBE and ACDBE airport grant assurances.

The City will include the following assurances in all concession agreements and management contracts it executes with any firm:

- (1) This agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. The concessionaire or contractor agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23.

- (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.

- (b) For a firm that, in order to meet ACDBE goals or other DBE program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria of subpart C of this part, DOT or FAA may initiate suspension or debarment proceedings against the firm under 49 CFR Part 29.
- (c) In a suspension or debarment proceeding brought under paragraph (a) or (b) of this section, the FAA may consider the fact that a purported ACDBE has been certified. However, such certification does not preclude DOT from determining that the purported ACDBE, or another firm that has used or attempted to use it to meet ACDBE goals, should be suspended or debarred.
- (d) DOT may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the ACDBE program whose conduct is subject to such action under 49 CFR Part 31.
- (e) DOT may refer to the Department of Justice, for prosecution under 18 U.S.C. §§ 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of an ACDBE in the City's ACDBE program or otherwise violates applicable Federal statutes.

SUBPART B – ACDBE PROGRAMS

SECTION 23.21 ACDBE PROGRAM UPDATES

Since the Airport is a non-hub primary airport, it is required to have an ACDBE program plan. As a condition of eligibility for FAA financial assistance, the City will submit its ACDBE program plan and overall goals to the FAA in accordance with 23.45(a) of this section.

When the City makes significant changes to its ACDBE program plan, the City will provide the amended program plan to the FAA for approval prior to implementing the changes.

SECTION 23.23 ADMINISTRATIVE PROVISIONS

Policy Statement: The City is committed to operating its ACDBE program in a nondiscriminatory manner. The City's policy statement is described on the third page of this program plan.

ACDBE Liaison Officer (ACDBELO): The City has designated the following individual as the ACDBELO:

Deborah Davis, Administrative Manager
Southwest Georgia Regional Airport
3905 Newton Road, Suite 100
Albany, GA 31701
Phone: 229.302.1502
Email: debDavis@albanyga.gov

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. Determines bidders'/proposers' compliance with good faith efforts.
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.

Bidders/offerors may also be referred to the FAA's directory of firms at FAA Matchmaker (<https://faa.dbesystem.com>).

Financial institutions: It is the policy of the City to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, and to make reasonable efforts to use these institutions, when established. The City will also encourage prime concessionaires to use such institutions.

To date, the City's efforts have not identified any such institutions within its service area. The City will evaluate on a yearly basis, and if any such institutions are established in the Airport's service area, the City will consider the services offered by these institutions and refer them to concessionaires.

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)):

- The City will follow all federal, state and local nondiscrimination laws, as well as comply with all of the City's policies and procedures designed to ensure nondiscrimination. These laws, policies and procedures include but are not limited to: Title VI and the regulations found at 49 CFR Parts 23 and 26.
- The City will seek ACDBE participation in all types of concession activities, rather than concentrating participation in one category or a few categories to the exclusion of others (23.25(c)).
- The City's overall goal methodology, a description of the race-neutral measures it will take to meet the goals, are described in Section 23.25 and [Attachment 4](#) of this plan. The goals are set consistent with the requirements of Subpart D (23.25(b), (d)).
- If the City projects that race-neutral measures, standing alone, are not sufficient to meet an overall goal, it will use race-conscious measures as described in Section 23.25 (e) (1-2) and [Attachment 4](#) of this plan (23.25(e)).
- 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 ACDBEs.
- The City will not use set-asides or quotas as a means of obtaining ACDBE participation (23.25 (f)(g)).

SECTION 23.26 FOSTERING SMALL BUSINESS PARTICIPATION

The City has created a small business element to provide for the structuring of concession opportunities to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of concession opportunities that may preclude small business participation in solicitations.

The small business element is included as [Attachment 11](#) to this ACDBE program plan. The program elements will be actively implemented to foster small business participation. The City

acknowledges that active use of the small business element is a requirement of the good faith implementation of this ACDBE program plan.

The City will submit an annual report on small business participation obtained through the use of this small business element. The report must be submitted in the format acceptable to the FAA based on a schedule established and posted to the agency's website, available at https://www.faa.gov/about/office_org/headquarters_offices/acr/bus_ent_program.

SECTION 23.27 REPORTING

The City will submit annually, by or before March 1, the USDOT-FAA Uniform Report of ACDBE Participation, as modified for use by FAA recipients, via the FAA Civil Rights Connect system (<https://faa.civilrightsconnect.com/>). These reports will reflect concession revenue actually received by all concessionaires.

The City will retain sufficient basic information about its ACDBE program implementation, ACDBE certification and the award and performance of agreements and contracts to enable the FAA to determine its compliance with Part 23. This data will be retained for a minimum of three (3) years following the end of the concession agreement or other covered contract.

The City will create and maintain active participants list information and enter it into a system designated by the FAA. The City will collect the data using the form in [Attachment 7](#). The City will collect the following information about ACDBE and non-ACDBEs who seek to work on each of its concession opportunities.

- a. Firm name.
- b. Firm address including ZIP code.
- c. Firm status as an ACDBE or non-ACDBE.
- d. Race and gender information for the firm's majority owner.
- e. NAICS code applicable to the concession contract in which the firm is seeking to perform.
- f. Age of the firm
- g. The annual gross receipts of the firm.

SECTION 23.29 COMPLIANCE AND ENFORCEMENT PROCEDURES

The City will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 23:

1. The City will bring to the attention of the US Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT 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 CERTIFICATION STANDARDS AND PROCEDURES

The Airport is a non-certifying member of a Unified Certification Program (UCP) administered by GDOT, which will make certification decisions on behalf of the City for ACDBEs (see [Attachment 6](#)). The UCP will use the procedures and standards of Part 26, except as provided in 23.31, for certification of ACDBEs to participate in the concessions program at the Airport and such standards are incorporated herein.

The UCP's directory of eligible DBEs will specify whether a firm is certified as a DBE for purposes of Part 26, an ACDBE for purposes of Part 23, or both.

For information about the certification process or to apply for certification, firms should contact:

Georgia Department of Transportation
Equal Opportunity Division
600 West Peachtree Street, N.W., 7th Floor
Atlanta, Georgia 30308
(404) 631-1972
<https://www.dot.ga.gov/GDOT/Pages/DBE.aspx>

A link to the certification application forms and documentation requirements is found in [Attachment 9](#) to this program.

SECTION 23.33 BUSINESS SIZE STANDARDS

The City of Albany will treat a firm as a small business eligible to be certified as an ACDBE if its gross receipts, averaged over the firm's previous five (5) fiscal years, do not exceed \$56.42 million for non-car rental ACDBEs and \$75.23 million for car rental ACDBEs. The size standard for banks and other financial institutions is \$1 billion in assets; for pay telephone companies, 1,500 employees; and for ACDBE automobile dealers, 350 employees.

For size purposes, gross receipts (as defined in [13 CFR 121.104\(a\)](#)) of affiliates are included in a manner consistent with [13 CFR 121.104\(d\)](#), except in the context of joint ventures. For gross receipts attributable to joint venture partners, a firm must include in its gross receipts its proportionate share of joint venture receipts, unless the proportionate share already is accounted for in receipts reflecting transactions between the firm and its joint ventures (e.g., subcontracts from a joint venture entity to joint venture partners).

SECTION 23.35 PERSONAL NET WORTH LIMITS

The personal net worth standard used in determining eligibility for purposes of Part 23 is posted online on the Departmental Office of Civil Rights' webpage, available at <https://www.transportation.gov/DBEPNW>. Any individual who has a PNW exceeding this amount is not a socially and economically disadvantaged individual for purposes of this part, even if the individual is a member of a group otherwise presumed to be disadvantaged.

SECTION 23.37 BASIC OVERALL GOAL REQUIREMENT

The City will presume that a firm that is certified as a DBE under Part 26 is eligible to participate as an ACDBE. However, before certifying such a firm, the TNUCP will ensure that the

disadvantaged owners of a DBE firm certified under Part 26 are able to control the firm with respect to its activity in the concessions program.

SECTION 23.39 OTHER ACDBE CERTIFICATION REQUIREMENTS

The provisions of § 26.83(c)(1) of 49 CFR part 26 do not apply to ACDBE certifications.

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 goals continue 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 three 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 three 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 that could be expected to have information concerning the availability of disadvantaged businesses, the effects of discrimination on opportunities for ACDBEs, and the City's efforts to increase participation of ACDBEs.

When submitting the overall goals, the City will identify the stakeholders that were consulted with and provide a summary of the information obtained from the stakeholders.

SECTION 23.45 OVERALL GOALS

The Southwest Georgia Regional Airport is a **non-hub primary** airport. As a condition of eligibility for FAA financial assistance, the City will submit its overall goals according to the following schedule:

Primary Airport Size	Region	Date Due	Period Covered	Next Goal Due
Non-Hubs	All regions	October 1, 2022	2023/2024/2025	October 1, 2025 (2026/2027/2028)

Overall ACDBE goals are submitted on a triennial basis. If a new concession opportunity arises at a time that falls between the normal submission dates above and the estimated average of annual gross revenues are anticipated to be \$200,000 or greater, the City will submit an appropriate adjustment to the overall goal to FAA for approval at least 90 days before issuing the solicitation for the new concession opportunity.

The City will establish overall goals in accordance with the two-step process as specified in section 23.51. After determining the total gross receipts for the concession activity, the first step is to determine the relative availability of ACDBEs in the market area, or the “base figure”.

The second step is to examine all relevant evidence reasonably available in the Airport’s jurisdiction to determine if an adjustment to the Step 1 “base figure” is necessary so that the goal reflects as accurately as possible the ACDBE participation the Airport would expect in the absence of discrimination. Evidence may include, but is not limited to, past participation by ACDBEs; a disparity study; evidence from related fields that affect ACDBE opportunities to form, grow, and compete (such as statistical disparities in ability to get required financing, bonding, and insurance); or data on employment, self-employment, education, training, and union apprenticeship).

A description of the methodology to calculate the overall goal for car rentals, the goal calculations, and the data on which the Airport relied can be found in [Attachment 4](#) to this program.

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).

If the FAA determines that the City's goals have not been correctly calculated or the justification is inadequate, the FAA may, after consultation with the City, adjust the overall goal or race-conscious/race-neutral "split." In such a case, the adjusted goal is binding on the City.

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)).

Good Faith Efforts on Concession-specific Goals (23.25(e)(1)(iii), (iv))

To be eligible to be awarded a concession that has a concession-specific goal, bidders/offerors must make good faith efforts to meet the goal. A bidder/offeror may do so either by obtaining enough ACDBE participation to meet the goal or by documenting that it made sufficient good faith efforts to do so (23.25(e)(1)(iv)). Examples of good faith efforts are found in [Appendix A to 49 CFR Part 26](#). The procedures applicable to 49 CFR Sections 26.51 and 26.53, regarding contract goals apply to the City's concession-specific goals.

Demonstration of good faith efforts (26.53(a) & (c))

The Airport Administrative Manager is responsible for determining whether a concessionaire who has not met the concession-specific goal has documented sufficient good faith efforts to be regarded as responsive.

The City will ensure that all information is complete and accurate and adequately documents the bidder/offeree's good faith efforts before a commitment to the concession agreement with the bidder/offeree is made.

Information to be submitted (26.53(b))

In its solicitations for concession contracts for which a contract goal has been established, the City will require the following:

1. Award of the contract will be conditioned on meeting the requirements of this section;
2. All bidders or offerors will be required to submit the following information to the recipient, at the time provided in paragraph (b)(3) of this section:
 - a. The names and addresses of ACDBE firms that will participate in the contract;
 - b. A description of the work that each ACDBE will perform. To count toward meeting a goal, each ACDBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
 - c. The dollar amount of the participation of each ACDBE firm participating;
 - d. Written documentation of the bidder/offeree's commitment to use an ACDBE sub-concession whose participation it submits to meet a contract goal; and
 - e. Confirmation from each listed ACDBE firm that it is participating in the contract in the kind and amount of work provided in the prime concessionaire's commitment.
 - f. If the contract goal is not met, evidence of good faith efforts (see Appendix A of this part). The documentation of good faith efforts must include copies of each ACDBE and non-ACDBE sub-concession quote submitted to the bidder when a non-ACDBE sub-concession was selected over an ACDBE for work on the contract
3. The City will require that the bidder/offeree present the information required by paragraph (b)(2) of this section at the time of bid opening as a matter of responsiveness.

Administrative reconsideration (26.53(d))

Within seven (7) calendar 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. The concessionaire should make this request in writing to the following reconsideration official:

Mrs. Michael M. Custer
City of Albany
City Attorney's Office
PO Box 447
Albany, GA 31702
(229) 431-2805
mcuster@albanyga.gov

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. 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 USDOT.

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 concurrence document, that the prime concessionaire has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the following circumstances:

- (1) The listed ACDBE subconcessionaire fails or refuses to execute a written contract.
- (2) The listed ACDBE subconcessionaire fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided however, that good cause does not exist if the failure or refusal of the ACDBE subconcessionaire to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor.
- (3) The listed ACDBE subconcessionaire fails or refuses to meet the prime contractor's reasonable, non-discriminatory bond requirements.
- (4) The listed ACDBE subconcessionaire becomes bankrupt, insolvent, or exhibits credit unworthiness.

- (5) The listed ACDBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state law.
- (6) The City has determined that the listed ACDBE subcontractor is not a responsible contractor.
- (7) The listed ACDBE subcontractor voluntarily withdraws from the project and provides to the City written notice of its withdrawal.
- (8) The listed ACDBE is ineligible to receive ACDBE credit for the type of work required.
- (9) An ACDBE owner dies or becomes disabled with the result that the listed ACDBE subcontractor is unable to complete its work on the contract.
- (10) Other documented good cause that the City has determined compels the termination of the ACDBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate an ACDBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the ACDBE subcontractor was engaged or so that the prime contractor can substitute another ACDBE or non-ACDBE contractor after contract award.

Before transmitting its request to the City to terminate and/or substitute an ACDBE subcontractor, the prime contractor must give notice in writing to the ACDBE subcontractor, with a copy to the City, of its intent to request to terminate and/or substitute, and the reason for the request.

The prime contractor must give the ACDBE five days to respond to the prime contractor's notice and advise the City and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why the City should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), the City may provide a response period shorter than five days.

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 contractor 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 contractor. If the City requests documentation from the contractor under this provision, the contractor shall submit the documentation within seven (7) days, which may be extended for an additional seven (7) days, if necessary, at the request of the contractor, and the City shall provide a written determination to the contractor 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 of Albany 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

SECTION 23.53 COUNTING ACDBE PARTICIPATION FOR CAR RENTAL GOALS

The City will count ACDBE participation toward overall goals for car rental concessions as provided in 49 CFR 23.53.

When an ACDBE is decertified because one or more of its disadvantaged owners exceed the PNW cap or the firm exceeds the business size standards of part 23 during the performance of a contract or other agreement, the firm's participation may continue to be counted toward ACDBE goals for the remainder of the term of the contract or other agreement. However, the City will verify that the firm in all other respects remains an eligible ACDBE. To accomplish this verification, the City will require the firm to provide, annually on December 1, a Declaration of Eligibility, affirming that there have been no changes in the firm's circumstances affecting its ability to meet ownership or control requirements of [subpart C](#) of part 23 or any other material changes, other than changes regarding the firm's business size or the owner's personal net

worth. The City will not count the former ACDBE's participation toward ACDBE goals beyond the termination date for the agreement in effect at the time of the decertification (e.g., in a case where the agreement is renewed or extended, or an option for continued participation beyond the current term of the agreement is exercised).

Firms are required to inform the City in writing of any change in circumstances affecting their ability to meet ownership or control requirements of [subpart C of this part](#) or any material change. Reporting must be made as provided in [§ 26.83\(i\) of this chapter](#).

SECTION 23.55 COUNTING ACDBE PARTICIPATION FOR CONCESSIONS OTHER THAN CAR RENTALS

The City will count ACDBE participation toward overall goals for concessions other than car rentals as provided in 49 CFR 23.55.

SECTION 23.57 GOAL SETTING AND ACCOUNTABILITY

If the awards and commitments shown on the City's Uniform Report of ACDBE Participation at the end of any fiscal year are less than the overall applicable to that fiscal year, the Airport will:

1. Analyze in detail the reason for the difference between the overall goal and the actual awards/commitments.
2. Establish specific steps and milestones to correct the problems identified in the analysis.
3. Prepare, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraph (c)(1) and (2) of this section. The City will retain a copy of the analysis and corrective actions in its records for a minimum of three years. The City will make it available to the FAA upon request.

The FAA may impose conditions as part of its approval of the City's analysis and corrective actions including, but not limited to, modifications to its overall goal methodology, changes in its race-conscious/race-neutral split, or the introduction of additional race-neutral or race-conscious measures.

The City may be regarded as being in noncompliance with this part, and therefore subject to the remedies in § 23.11 of this part and other applicable regulations, for failing to implement the ACDBE program in good faith if any of the following things occur:

- The City does not submit the analysis and corrective actions to FAA in a timely manner as required under paragraph (b)(3) of § 23.57.
- FAA disapproves the analysis or corrective actions; or
- The City does not fully implement:
 - The corrective actions to which it has committed, or

- Conditions that FAA has imposed following review of the analysis and corrective actions.
- If information coming to the attention of FAA demonstrates that current trends make it unlikely that the City will achieve ACDBE awards and commitments that would be necessary to allow us to meet the overall goal at the end of the fiscal year, FAA may require the City to make further good faith efforts, such as modifying the race-conscious/race-neutral split or introducing additional race-neutral or race-conscious measures for the remainder of the fiscal year.

SECTION 23.61 QUOTAS OR SET-ASIDES

The City will not use quotas or set-asides as a means of obtaining ACDBE participation.

SUBPART E – OTHER PROVISIONS

SECTION 23.71 EXISTING AGREEMENTS

The City will assess potential for ACDBE participation when an extension or option to renew an existing agreement is exercised, or when a material amendment is made. The City will use any means authorized by Part 23 to obtain a modified amount of ACDBE participation in the renewed or amended agreement.

SECTION 23.73 PRIVATELY-OWNED OR LEASED TERMINAL BUILDINGS

The Airport does not have any privately-owned or leased terminal buildings.

SECTION 23.75 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 10 years, including any combination of base term and options or holdovers to extend the term of the agreement, if the effect is a term of more than 10 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.

The City may enter into a long-term, exclusive concession agreement only under the following conditions:

- 1) Special local circumstances exist that make it important to enter such agreement; and
- 2) FAA approves the City’s plan for meeting the standards of paragraph (c) of § 23.75.

To obtain FAA approval of a long-term exclusive concession agreement, the City will submit the following information to the FAA. The items in paragraphs (1) through (3) below will be submitted at least 60 days before the solicitation is released; items in paragraphs (4) through (7) will be submitted at least 45 days before contract award:

- 1) A description of the special local circumstances that warrant a long-term, exclusive agreement;
- 2) A copy of the solicitation;
- 3) ACDBE contract goal analysis developed in accordance with this part;
- 4) Documentation that ACDBE participants are certified in the appropriate NAICS code in order for the participation to count towards ACDBE goals;
- 5) A general description of the type of business or businesses to be operated by the ACDBE, including location and concept of the ACDBE operation;
- 6) Information on the investment required on the part of the ACDBE and any unusual management or financial arrangements between the prime concessionaire and ACDBE, if applicable;
- 7) Final long-term exclusive concession agreement, subleasing or other agreements;
 - a. In order to obtain FAA approval of a long-term exclusive concession agreement that has been awarded through direct negotiations, The Airport will submit the items in paragraphs (1) and (3) through (7) of this section at least 45 days before contract award;
 - b. In order to obtain FAA approval of an exclusive concession agreement that becomes long-term as a result of a holdover tenancy, the City will submit to the responsible FAA regional office a holdover plan for FAA approval at least 60 days prior to the expiration of the current lease term. The holdover plan shall include the following information:
 - i. A description of the special local circumstances that warrant the holdover;
 - ii. Anticipated date for renewal or re-bidding of the agreement;
 - iii. The method to be applied for renewal or re-bidding of the agreement;
 - iv. Submission of all items required under (3), (4), (6), and (7) of this section for the agreement in holdover status or an explanation as to why the item is not available or cannot be submitted.

SECTION 23.77 PREEMPTION OF LOCAL REQUIREMENTS

In the event that a state or local law, regulation, or policy differs from the requirements of this part, the City will, as a condition of remaining eligible to receive federal financial assistance from USDOT, take such steps as may be necessary to comply with the requirements of 49 CFR Part 23. However, nothing in Part 23 preempts any state or local law, regulation, or policy enacted by the governing body of the City, or the authority of any state or local government or recipient to adopt

or enforce any law, regulation, or policy relating to ACDBEs, as long as the law, regulation, or policy does not conflict with Part 23.

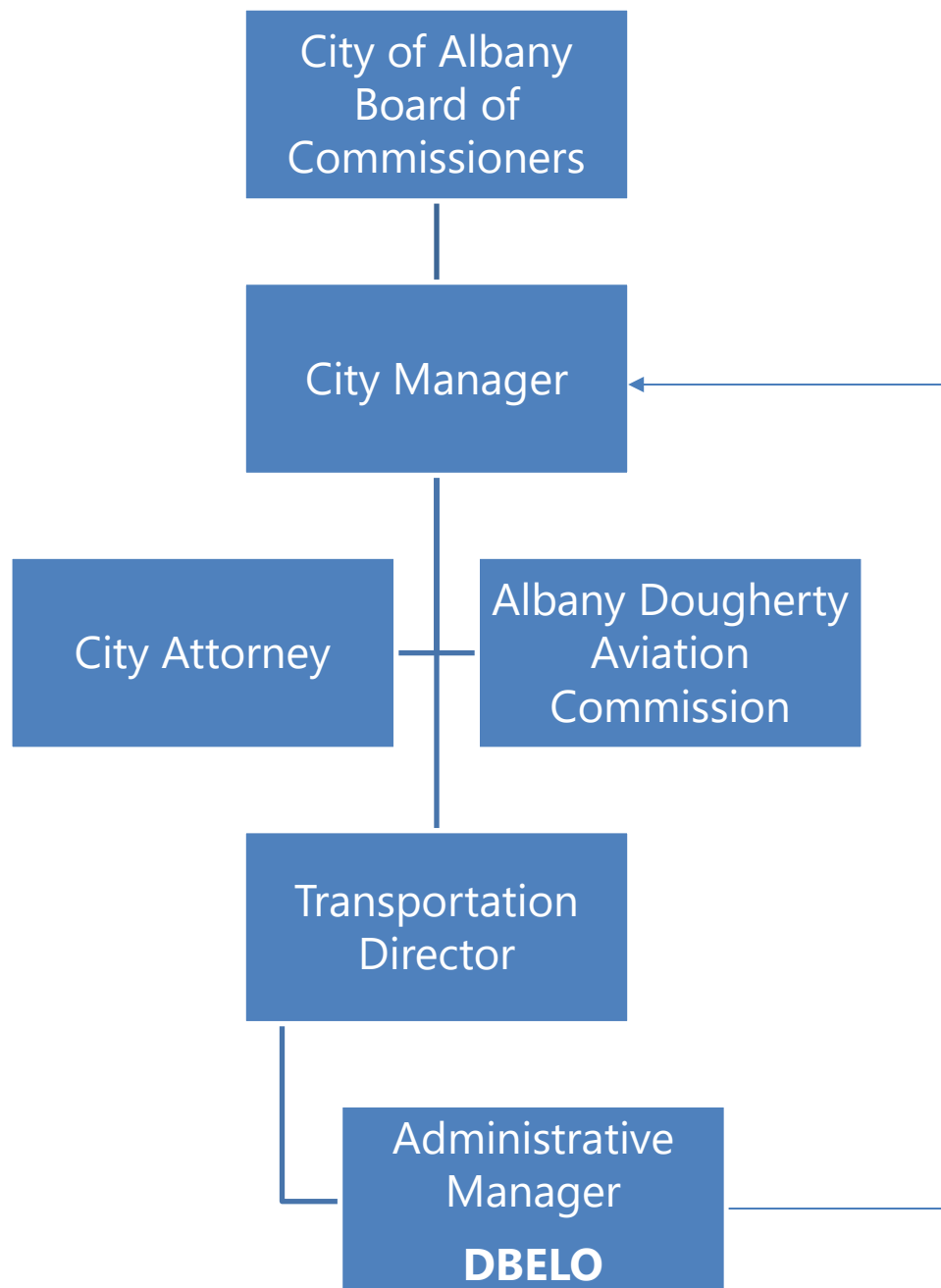
SECTION 23.79 GEOGRAPHIC PREFERENCES

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
Attachment 4	Overall Goal Calculations for Car Rentals
Attachment 5	Overall Goal Calculations for Concessions Other Than Car Rentals
Attachment 6	UCP Agreement
Attachment 7	Active Participants List Data Collection Form
Attachment 8	Forms 1 & 2 for Demonstration of Good Faith Efforts
Attachment 9	Certification Application Forms
Attachment 10	Regulations: 49 CFR Parts 23
Attachment 11	ACDBE Small Business Element

Organizational chart



ACDBE DIRECTORY

The DBE/ACDBE Directory for the State of Georgia may be found at <https://www.dot.ga.gov/GDOT/Pages/DBE.aspx>.

ATTACHMENT 3

Monitoring and Enforcement Mechanisms

The Airport has available several remedies to enforce the ACDBE requirements contained in its contracts, including, but not limited to, the following:

1. Breach of contract action, pursuant to [O.C.G.A. § 13-6-1](#).
2. Breach of contract action, pursuant to the terms of the contract.
3. Other actions deemed appropriate, including responsibility reviews on future concession award opportunities.

In addition, the federal government has available several enforcement mechanisms that it may apply to firms participating in the ACDBE program, including, but not limited to, the following:

1. Suspension or debarment proceedings pursuant to 49 CFR Part 23;
2. Enforcement action pursuant to 49 CFR part 31; and
3. Prosecution pursuant to 18 USC 1001.

The Airport will implement various mechanisms to monitor program participants to ensure they comply with Part 23, including, but not limited to the following:

1. The Airport will insert the following provisions into concessions agreements and management contracts at the next lease renewal:
 - A. The ACDBELO will conduct reviews of attainments versus commitments, on an as-needed basis. This review will ensure the actual attainments of the ACDBE, as committed at contract award.
2. The Airport will implement the following additional monitoring and compliance procedures, consistent with concession contract provisions:
 - A. The Airport has the right to inspect books and records of the ACDBE concerning operations at the Airport, directly or indirectly, at the discretion of the Airport.
3. The Airport will implement its compliance and monitoring procedures as follows:
 - A. All concessions will be required to submit, to the Airport, monthly revenue reports. Concessionaires will submit the ACDBE Attainment Reports annually.

ATTACHMENT 4

SECTION 23.45: OVERALL GOAL CALCULATION FOR CAR RENTAL CONCESSIONS

ATTACHMENT 5

SECTION 23.45: OVERALL GOAL CALCULATION FOR CONCESSIONS OTHER THAN CAR RENTALS

UCP Agreement

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
THE GEORGIA DEPARTMENT OF TRANSPORTATION,
And Southwest Georgia Regional Airport**

This Memorandum of Understanding documents the participation of U.S. DOT Recipients and funding arrangements for the creation and implementation of the Unified Certification Program (UCP) in the State of Georgia.

PREAMBLE

WHEREAS, the Georgia Department of Transportation (GDOT), an agency of the State of Georgia, has undertaken a Unified Certification Program to certify all Disadvantaged Business Enterprises in the State of Georgia with the cooperation of The Metropolitan Atlanta Rapid Transit Authority (MARTA)

WHEREAS, the initial assessment involves compiling information and developing tools regarding the development of a UCP in the State of Georgia; and

WHEREAS, this MOU will establish the certification procedures for Disadvantaged Business Enterprises participating in federally funded projects; and

WHEREAS, the certification program will require expertise to carry out its implementation on a statewide level; and

WHEREAS, the Georgia Department of Transportation will be the Lead Agency for the Unified Certification Program and accepts the responsibility for the statewide certification program, and;

WHEREAS, the State of Georgia Unified Certification Program is consistent with the laws, rules and regulation of Title VI of the 1964 Civil Rights Act and 49 Code of Federal Regulation, Part 26, and,

WHEREAS, the U. S. DOT Recipients have a mission to:

1. Coordinate and participate in the certification review processes that affect socially and economically disadvantaged businesses.
2. Promote and maintain a UCP directory of socially and economically disadvantaged businesses.

Now, Therefore, in consideration of the mutual promises and covenant herein contained, it is hereby agreed by and between the parties:

(1) PURPOSE

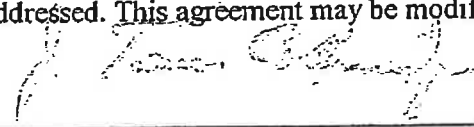
- (a) This Memorandum of Understanding outlines the scope of work including the obligations and responsibilities.
- (b) GDOT, FHWA, MARTA, FAA, FTA and other recipients will have access to all work completed as part of the Unified Certification Program.

(2) SUPPORTIVE SERVICES FOR THE UNIFIED CERTIFICATION PROGRAM:

- (a) All of the signatory parties must consult and agree on services required to complete the work described in the certification procedures and process prior to the work beginning.
- (c) All of the signatory parties agree to consult on the use of services for work described in the certification procedure and process provided that all services will be used for documentation and dissemination of the information on Disadvantaged Business Enterprises.

This agreement is entered into, by and among the recipients of Georgia Department of Transportation and **Southwest Georgia Regional Airport**. This agreement will take effect at the time of approval by all entities.

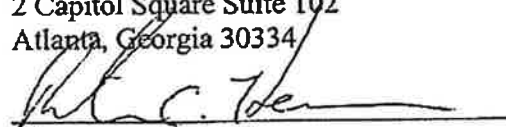
The signatory parties mutually agree to consult regarding any amendments or issues to be addressed. This agreement may be modified by written mutual consent of the signatory parties.



J. Tom Coleman, Jr., Commissioner
Georgia Department of Transportation
2 Capitol Square Suite 102
Atlanta, Georgia 30334

1-9-02

Date



Mr. Richard Howell
Manager
Southwest Georgia Regional Airport
3905 Newton Road
Albany, GA 31707

2-25-02

Date

Active Participants List Data Collection Form

Active Participants List Data Collection Form

[illegible]

Forms 1 & 2 for Demonstration of Good Faith Efforts

FORM 1: AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) UTILIZATION

The undersigned bidder/respondent has satisfied the ACDBE requirements of the concession **[bid/RFP/RLI]** in the following manner:

- ☐ Bidder/respondent has met the ACDBE goal
The bidder/offeror is committed to a minimum of ____ % ACDBE participation in this opportunity.
- ☐ Bidder/respondent has not met the ACDBE goal
The bidder/respondent is committed to a minimum of ____% ACDBE participation in this opportunity and has submitted documentation demonstrating good faith efforts.

Legal name of bidder/respondent’s firm: _____

Bidder/Respondent Representative:

Name & Title

Signature

Date

FORM 2: ACDBE LETTER OF INTENT

(THIS PAGE SHALL BE SUBMITTED FOR EACH ACDBE PARTICIPATING FIRM)

Proposer Name: _____

Address: _____

City: _____ State: _____ Zip: _____

ACDBE Participant: Firm Name: _____

Address: _____

City: _____ State: _____ Zip: _____

ACDBE Contact Person: Name: _____ Phone: (____) _____

Firm is performing as: ☐ Certified ACDBE Sub ☐ Certified ACDBE Joint Venture Team Member

Certification #: _____

Applicable NAICS code (note: ACDBE must be certified in the trade of the contract): _____

Description of Work Item(s) To Be Performed By ACDBE Description of Work Item	Estimated Gross Revenue Dollars (\$) To Be Earned	Percentage (%) of Total Contract Gross Revenues
TOTAL ACDBE % Credit Claimed for this Contractor		

The Proposer is committed to utilizing the above-named ACDBE firm for the work described above and the ACDBE agrees to participate as listed. The estimated participation is as follows:

ACDBE estimated gross revenues: \$ _____ Percent of total contract: _____%

Total Contract estimated gross revenues: \$ _____

The above-named firms affirm that it will perform the portion of the contract for the estimated gross revenues as stated above.

By: _____

(Proponent Authorized Representative name) (Title)

(signature)

(date)

By: _____

(ACDBE Authorized Representative name) (Title)

(signature)

(date)

*** In the event the Proposer does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void (make copies of this form as needed for each participant)**

Certification Application Forms

The ACDBE certification application for the State of Georgia
may be found at

<https://www.dot.ga.gov/GDOT/Pages/DBE.aspx>.

49 CFR Part 23

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

ACDBE Race-Neutral Small Business Element

Section 23.26 ACDBE Small Business Element

I. Objectives and Strategies

A. Objective

This element, 49 CFR Part 23.26, is included as an amendment to the ACDBE program plan for the City of Albany (“the City”), on behalf of Southwest Georgia Regional Airport (“the Airport”). The element is herein referenced as the ACDBE Small Business Element. This part calls for the inclusion of an element to

“provide for the structuring of concession opportunities to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of concession opportunities that may preclude small business participation in solicitations” ([49 CFR 23.26\(a\)](#)).

The City views its ACDBE Small Business Element as a significant initiative to comply with regulations and maximize its overall ACDBE goal through race-neutral methods. Consequently, the City will implement this element based on business size, irrespective of the race or gender of the business owner.

The City’s policy statement and this small business element are consistent with the Airport’s mission of creating and encouraging business opportunities at all levels.

B. Strategy

The Airport intends to carry out the objectives of this part by employing the following strategies and supporting activities:

1. Establishment of a Race-neutral Set-aside

The Airport proposes to establish a race-neutral set-aside on certain prime concession opportunities. Where practical, the Airport proposes to set aside concessions opportunities for award without regard to the race or gender of the business owner.

The Airport will evaluate and select certain concession opportunities for set-asides, where feasible, based on the following criteria:

- a. Market Analysis: The Airport will conduct an assessment of the availability and capacity of small businesses to successfully operate the concession.

- b. Concession Size: Opportunities that are deemed manageable in scale for small businesses, typically those with lower capital and operational requirements.
- c. Business Needs: The Airport will take into consideration its need for goods and services at the Airport, ensuring that set-aside opportunities align with service demands while being feasible for small business operations.

2. Consideration of “Unbundling” of Large Concessions Contracts

The Airport will give consideration to “unbundling” as a small business strategy. Where feasible, the Airport will evaluate larger concessions contracts to determine if they can be unbundled into smaller, more manageable packages that are accessible to small businesses.

II. Definitions

A. Small Business

For the purpose of the ACDBE Small Business Element, which is part of the Airport’s ACDBE program plan, the City shall define “small business” as the following:

- 1. The business is independently owned and operated.
- 2. The majority owner must be a citizen or lawfully admitted permanent resident of the United States.
- 3. The business is lawfully licensed to operate in the State of Georgia
- 4. The business has 300 or fewer permanent full-time employees
- 5. Has gross receipts averaged over the previous three years that do not exceed **\$30 million**.

B. Airport Concessions Disadvantaged Business Enterprise

Airport Concessions Disadvantaged Business Enterprise (ACDBE) means a for-profit small business that meets the standards of 49 CFR Part 23, i.e.

- At least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals.
- Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- Whose socially and economically disadvantaged owners do not exceed the personal net worth (PNW) of \$2.047 million.
- Has been certified as an ACDBE by a certifying member of the Georgia UCP in accordance with the full requirements of 49 CFR Part 23.

The Airport understands that in the implementation of this element, all of the “small business concerns” may not be DBE firms. However, small businesses that are also owned and controlled by individuals who meet the DBE standard will be encouraged to seek ACDBE certification. Only ACDBE-certified firms who participate as small business concerns, pursuant to this element, will be counted towards ACDBE race-neutral participation in the ACDBE program.

III. Verification Standards and Procedures

The Airport will accept the following certifications for participation in the small business element of the Airport’s ACDBE Program with applicable stipulations:

A. Georgia Unified Certification Program ACDBE Certification

ACDBE certification by a certifying member of the Georgia UCP that stipulates that a firm has met all the requirements in accordance with 49 CFR Part 23. All certification determinations are evidenced by a letter of ACDBE certification issued by a certifying member of the Georgia UCP. The City of Albany is a non-certifying member of the Georgia UCP. The certifying members of the Georgia UCP are Georgia Department of Transportation (GDOT) and Metropolitan Atlanta Rapid Transit Authority (MARTA). The UCP certification staff applies the standards and procedures for ACDBE certification applicants contained in Subparts D and E of 49 CFR 26.61 – 26.91.

B. Georgia Department of Administrative Services (DOAS)

DOAS small business certification – The Airport will accept the certification of a Georgia small business that has been certified as a veteran-owned small business via the DOAS website (<https://doas.ga.gov/state-purchasing/georgia-business-certification-program>).

C. Small business status

A non-ACDBE certified small business may have to complete a simplified application and/or provide at the time of response to a solicitation or proposal the following information, as evidence of the small business status:

1. Evidence of SBA 8(a) or SBD Certification (as described in 13 CFR Parts [121](#) and [124](#));
2. A copy of the business tax returns for the most recent three-year period indicating the gross receipts; and/or
3. A notarized statement from a certified public accountant indicating the firm’s average gross receipts for the past three years.

D. Use of Personal Net Worth

The Airport, in addition to the standards for small businesses described above, plans to establish a personal net worth cap of **\$2,047,000** for its ACDBE Small Business Element.

IV. Monitoring and Recordkeeping

A. Monitoring of Participation

The City of Albany will track and monitor the participation by ACDBEs and other small businesses that results from the implementation of the ACDBE Small Business Element. The City will report the participation on an annual basis as a part of the Uniform Report of ACDBE Participation.

B. Recordkeeping

The City will maintain records of participation by ACDBEs and other small businesses that result from the implementation of the ACDBE Small Business Element, and will make those records available to the FAA upon request.

V. Assurances

To ensure the successful implementation of the ACDBE Small Business Element, the City accepts the following assurances:

- (1) The element is authorized under state law.
- (2) Certified ACDBEs that meet the size criteria established under the City's ACDBE Small Business Element are presumptively eligible to participate in this element.
- (3) The City will not impose any geographic preferences or limitations on any concession opportunities included in the ACDBE Small Business Element
- (4) The City will not place limits on the number of concession opportunities awarded to firms participating in the ACDBE Small Business Element. Every effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses
- (5) The City will take aggressive steps to encourage those minority- and women-owned firms that are eligible for ACDBE certification to become certified.
- (6) The City will make the ACDBE Small Business Element open to small businesses regardless of their location (i.e., that there is no local or other geographic preference) per [§ 23.79](#).

The City may not use a state, local, or other program that requires race, gender, or other criteria in addition to business size for eligibility to comply with the requirements of this part.