

Disadvantaged Business Enterprise Program
Capital Region Airport Authority
Capital Region International Airport, Lansing, Michigan

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POLICY STATEMENT

Section 26.1.23 Objectives/Policy Statement

The Capital Region Airport Authority (CRAA) 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 Capital Region International Airport is a primary airport and has received federal funds authorized for airport development after January 1988 (authorized under Title 49 of the United States Code). The CRAA has signed airport grant assurances that it will comply with 49 CFR Part 23.

It is the policy of the CRAA to ensure that ACDBEs as defined in Part 23, have an equal opportunity to receive and participate in concession opportunities. It is also our 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 our 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 our airport(s);
5. To help remove barriers to the participation of ACDBEs in opportunities for concessions at our airport(s); and
6. To provide appropriate flexibility to our airports in establishing and providing opportunities for ACDBEs.

The Chief Financial Officer has been designated as the ACDBE Liaison Officer (ACDBELO). In that capacity, the Chief Financial Officer is responsible for implementing all aspects of the ACDBE program. Implementation of the ACDBE program is accorded the same priority as compliance with all other legal obligations incurred by the CRAA in its financial assistance agreements with the Department of Transportation.

The CRAA has disseminated this policy statement to the CRAA Board and all of the components of our organization. We have distributed this statement to ACDBE and non-ACDBE concessionaire communities in our area. CRAA has made this policy accessible to the public through its website, <http://www.flylansing.com/about-craa/business-opportunities>

(signed)

8/1/17

Wayne Sieloff,
Chief Executive Officer

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 CRAA 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 Capital Region International 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 CRAA 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 CRAA 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 CRAA acknowledges these representations are also in accordance with obligations contained in its Civil Rights, DBE and ACDBE Airport grant assurances.

The CRAA 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 CRAA will comply with and is subject to the provisions of 49 CFR Part 26 (§§ 26.101, 26.105, 26.107 and 2 CFR parts 180 and 1200.

The CRAA 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 CRAA'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.

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

- (a) For a firm that does not meet the eligibility criteria of subpart D 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 2 CFR parts 180 and 1200.
- (b) For a firm that, in order to meet ACDBE goals or other AC/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 D of this part, DOT or FAA may initiate suspension or debarment proceedings against the firm under 2 CFR parts 180 and 1200.
- (c) 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.
- (d) 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 [*Sponsor's*] ACDBE program or otherwise violates applicable Federal statutes.

Compliance reviews: The FAA may review the CRAA's compliance with this part at any time, including but not limited to, reviews of paperwork, on-site reviews, and review of the airport sponsor'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 CRAA may file a complaint under 14 CFR Part 16 with the Federal Aviation Administration Office of Chief Counsel.

SUBPART B – ACDBE PROGRAMS

Section 23.21 ACDBE Program Updates

The Capital Region International Airport is a non-hub primary airport required to have an ACDBE program.

As a condition of eligibility for FAA financial assistance, the CRAA will submit its ACDBE program and overall goals to FAA according to 23.45(a) of this section.

Until the CRAA's new ACDBE program is submitted and approved, we will continue to implement our ACDBE program that was in effect previously, except with respect to any provision that is contrary to 49 CFR Part 23.

This ACDBE program will be implemented at the Capital Region International Airport.

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

Section 23.23 Administrative Provisions

Policy Statement: The Capital Region Airport Authority is committed to operating its ACDBE program in a nondiscriminatory manner.

The CRAA's Policy Statement is elaborated on the first page of this program.

ACDBE Liaison Officer (ACDBELO): We have designated the following individual as our ACDBELO:

Dale Feldpausch, Chief Financial Officer
Capital Region Airport Authority
 4100 Capitol City Boulevard
 Lansing, MI 48906
 517.321.3021x3713
dfeldpausch@craa.com

In that capacity, the ACDBELO is responsible for implementing all aspects of the ACDBE program and ensuring that the CRAA complies with all provision of 49 CFR Part 23. The ACDBELO has direct, independent access to the Chief Executive Officer, 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 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 annual 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 CRAA's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO/governing body on ACDBE matters and achievement.
9. Chairs the ACDBE Advisory Committee.
10. Provides ACDBEs with information and assistance in preparing bids, obtaining bonding, financing, and insurance; acts as a liaison to the OSDBU-Minority Resource Center (MRC).
11. Plans and participates in ACDBE training seminars.
12. Acts as liaison to the Unified Certification Program (UCP) in Michigan.
13. Provides outreach to ACDBEs and community organizations to advise them of opportunities.
14. Maintains the CRAA's updated directory on certified ACDBEs and distinguishes them from DBEs.

Directory: The CRAA through the Michigan Unified Certification Program (UCP), maintains a directory identifying all firms eligible to participate as DBEs and 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 will ensure that the Directory lists each type of work for which a firm is eligible to be certified by using the most specific NAICS code available to describe each type of work. The UCP will make any changes to the current directory entries necessary to meet the requirements of this paragraph.

The UCP revises the Directory *annually*. We make the Directory available as follows:

(<https://mdotjboss.state.mi.us/UCP/HomePageServlet>) The Directory may be found in Attachment 2 to this program document. (26.31)

Section 23.25 Ensuring Nondiscriminatory Participation of ACDBEs

The CRAA will take the following measures to ensure nondiscriminatory participation of ACDBEs in concessions, and other covered activities (23.25(a)).

The CRAA 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 CRAA's overall goal methodology and a description of the race-neutral measures it will use 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 CRAA projects that race-neutral measures 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 and 5 of this plan. (23.25(e))

The CRAA 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. (23.25(f))

The CRAA will not use set-asides or quotas as a means of obtaining ACDBE participation. (23.25(g)).

Section 23.27 Reporting

The CRAA 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. These data will be retained for a minimum of three (3) years following the end of the concession agreement or other covered contract.

Section 23.29 Compliance and Enforcement Procedures

The CRAA will use the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 23.

1. We will bring to the attention of the 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. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts. We have listed the regulations, provisions, and contract remedies available to us in the events of non-compliance with the ACDBE regulation by a participant in our procurement activities. (26.37)

SUBPART C – CERTIFICATION AND ELIGIBILITY

Section 23.31 We will use the procedures and standards of Part 26, except as provided in 23.31, for certification of ACDBEs to participate in our concessions program and such standards are incorporated herein.

The CRAA is a member of the Unified Certification Program (UCP) administered by *State of Michigan*. The UCP will meet all of the requirements of this section.

The CRAA is a member of a Unified Certification Program (UCP) administered by the State of Michigan which will make ACDBE certification decisions on behalf of the CRAA for ACDBEs.

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

Prior to entering into a new contract, extension, or option with a currently certified ACDBE, we will review their eligibility at that time (i.e., “as soon as possible”) rather than waiting until the latest date allowed under Part 23.

We 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 three 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, 1500 employees for pay telephone companies and 350 employees for ACDBE automobile dealers.

Section 23.35 The personal net worth standard used in determining eligibility for purposes of Part 23 is \$1.32 million.

We recognize that Personal net worth means the net value of the assets of an individual remaining after total liabilities are deducted. An individual’s personal net worth (PNW) does not include the following:

- (1) The individual’s ownership interest in an ACDBE firm or a firm that is applying for ACDBE certification;
- (2) The individual’s equity in his or her primary place of residence; and
- (3) Other assets that the individual can document are necessary to obtain financing or a franchise agreement for the initiation or expansion of his or her ACDBE firm (or have in fact been encumbered to support existing financing for the individual’s ACDBE business) to a maximum of \$3 million.

The effectiveness of this paragraph (3) of this definition is suspended with respect to any application for ACDBE certification made or any financing or franchise agreement obtained after June 20, 2012. (23.3)

An individual's personal net worth includes only his or her own share of assets held jointly or as community property with the individual's spouse.

Any person who has a personal net worth exceeding this amount is not a socially and economically disadvantaged individual, even if a member of a group otherwise presumed to be disadvantaged. (See 23.3 - *Personal Net Worth* definition and 23.35)

We 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, we will ensure that the disadvantaged owners of a DBE certified under part 26 are able to control the firm with respect to its activity in our concessions program. We are not obligated to certify a part 26 DBE as an ACDBE if the firm does not perform work relevant to our concessions program. (23.37).

We recognize that the provisions of part 26, sections 26.83(c) (2-6) do not apply to certifications for purposes of part 23. We will obtain resumes or work histories of the principal owners of the firm and personally interview these individuals. We will analyze the ownership of stock of the firm, if it is a corporation. We will analyze the bonding and financial capacity of the firm. We will determine the work history of the firm, including any concession contracts or other contracts it may have received. We will compile a list of the licenses of the firm and its key personnel to perform the concession contracts or other contracts it wishes to receive. We will obtain a statement from the firm of the types of concessions it prefers to operate or the type of other contracts it prefers to perform. We will ensure that the ACDBE firm meets the applicable size standard. (23.39(a), (b)).

We acknowledge that a prime contractor includes a firm holding a prime contract with an airport concessionaire to provide goods or services to the concessionaire or a firm holding a prime concession agreement with a recipient. We recognize 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)).

We 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, we may continue to count the concessionaire’s participation toward ACDBE goals during the remainder of the current concession agreement. We 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))

We 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 CRAA 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 sponsor will review the goals annually to make sure the goal continues to fit the sponsor’s circumstances. We 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, we need not 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, we need not submit an overall goal for concessions other than car rentals. We understand that “revenue” means total revenue generated by concessions, not the fees received by the airport from concessionaires.

The Recipient’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 CRAA 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 which could be expected to have information concerning the availability of disadvantaged businesses, the effects of discrimination on opportunities for ACDBEs, and the sponsors efforts to increase participation of ACDBEs.

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

Section 23.45 Overall Goals

The sponsor is a *non - hub primary* airport. As a condition of eligibility for FAA financial assistance, the sponsor 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, 2013	2014/2015/2016	October 1, 2016 (2017/2018/2019)

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 sponsor will submit an appropriate adjustment to our overall goal to FAA for approval no later than 90 days before issuing the solicitation for the new concession opportunity. (23.45i)

The sponsor will establish overall goals in accordance with the 2-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, "base figure". The second step is to examine all relevant evidence reasonably available in the sponsor'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 sponsor 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, insurance; or data on employment, self-employment, education, training and union apprenticeship)

The sponsor will arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by ACDBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under § 26.39 of this part.

A description of the methodology to calculate the overall goal for car rentals, the goal calculations, and the data we relied on can be found in *Attachment 5* 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 we relied on can be found in *Attachment 4* 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 methodology 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 (Also include this language in the DBE goal attachment) (23.25 (c)(e)(1)(iv))

The CRAA will use concession specific goals to meet any portion of the overall goals it 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.

We will establish concession specific goals only on those concessions that have direct ownership arrangements (except car rentals), sublease, or subcontracting possibilities. We 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.)

We need 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 CRAA 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 CRAA 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 CRAA's concession specific goals. Specifically:

- 1.) Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing)
- 2.) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under 49 CFR Part 26.
- 3.) Providing technical assistance and other services;

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

The following personnel are responsible for determining whether a concessionaire who has not met the concession specific goal has documented sufficient good faith efforts to be regarded as responsible.

Dale Feldpausch, CFO
ACDBELO

We will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before we commit to the concession agreement with the bidder/offeror.

Information to be submitted (26.53(b))

The CRAA treats bidder/offeror's compliance with good faith effort requirements as a matter of *responsibility*.

Each solicitation for which a concession specific goal has been established will require the concessionaires to submit the following information:

1. The names and addresses of ACDBE firms or ACDBE suppliers of goods and services 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/supplier 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

Administrative reconsideration (26.53(d))

Within 15 days of being informed by the CRAA that it is not *responsible* 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: Wayne Sieloff, Chief Executive Officer, 517.321.3021x3301, wsieloff@craa.com. 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. We 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 Department of Transportation.

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

The CRAA 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. We will require the concessionaire to notify the ACDBE immediately of the ACDBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, we will require the concessionaire to obtain our prior approval of the substitute ACDBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

If the concessionaire fails or refuses to comply in the time specified, our contracting office will, after thirty (30) days, impose liquidated damages of \$50.00 per day, until satisfactory action has been taken. If the concessionaire still fails to comply, the contracting officer may issue a termination for default.

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 Capital Region Airport Authority 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.

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

We will count ACDBE participation toward overall goals other than car rental as provided in 49 CFR 23.53.

Section 23.55 Counting ACDBE Participation for Concessions Other than Car Rentals

We will count ACDBE participation toward overall goals other than car rental as provided in 49 CFR 23.55.

Section 23.57 (b) Goal shortfall accountability. If the awards and commitments on our Uniform Report of ACDBE Participation (found in Appendix A to this Part) at the end of any fiscal year are less than the overall goal applicable to that fiscal year, we will:

- (1) Analyze in detail the reasons for the difference between the overall goal and our awards and commitments in that fiscal year;
- (2) Establish specific steps and milestones to correct any problems we have identified in our analysis to enable us to fully meet our goal for the new fiscal year;

Section 23.61 Quotas or Set-asides

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

SUBPART E – OTHER PROVISIONS**Section 23.71 Existing Agreements**

We 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. We 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

We will pass through applicable provisions of part 23 to private terminal owner or lessee via our agreement with the owner or lessee (*other means – identify.*) We will ensure that the owner or lessee complies with part 23. We will obtain from the owner or lessee the goals and other elements of the ACDBE program required under Part 23 and it is incorporated herein and submitted as Attachment 11.

We will pass through applicable provisions of part 23 to private terminal owner or lessee via our agreement with the owner or lessee (*other means – identify.*) We will ensure that the owner or lessee complies with part 23. We will obtain from the owner or lessee the goals and other elements of the ACDBE program required under Part 23 and it is incorporated herein and submitted as Attachment 11.

Section 23.75 Long-Term Exclusive Agreements

We will not enter into a long-term and exclusive agreements for concessions without prior approval of the FAA Regional Civil Rights Office. We understand that a “long-term” agreement is one having a term of longer than 5 years. We understand 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

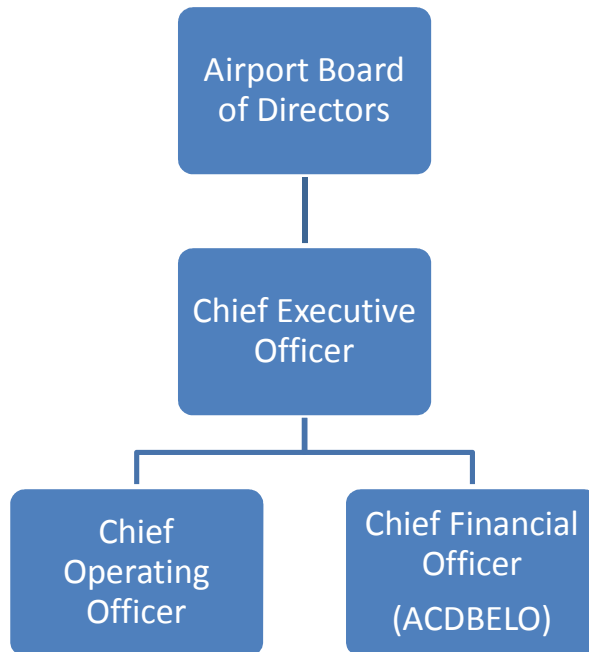
We will not use a “local geographic preference” i.e., any requirement that gives an ACDBE located in one place (e.g., *your local area*) an advantage over ACDBEs from other places in obtaining business as, or with, a concession at your airport.

ATTACHMENTS

Attachment 1	Organizational Chart
Attachment 2	DBE/ACDBE Directory (or website link)
Attachment 3	Monitoring and Enforcement Mechanisms
Attachment 4	Overall Goal for Concessions other than Car Rental Calculation, Consultation, Breakout of Estimated Race-Neutral & Race- Conscious Participation
Attachment 5	Overall Goals for Car Rentals Calculation, Consultation, Breakout of Estimated Race-Neutral & Race- Conscious Participation
Attachment 6	Form 1 & 2 for Demonstration of Good Faith Efforts
Attachment 7	Certification Application Forms
Attachment 8	Procedures for Removal of ACDBEs Eligibility
Attachment 9	State’s UCP Agreement
Attachment 10	Regulations: 49 CFR Part 23
Attachment 11	Goals and Elements for Privately-Owned or Leased Terminal Buildings

Attachment 1

Organizational Chart



Attachment 2- ACDBE Directory

**Michigan Department of Transportation
2700 Port Lansing Rd, Lansing, MI 48906**

Michigan Unified Certification Program: Directory

Located at: <http://mdotjboss.state.mi.us/UCP/HomePageServlet>

Attachment 3

Monitoring and Enforcement Mechanisms

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

1. Breach of contract action, pursuant to the terms of the contract;

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

1. Suspension or debarment proceedings pursuant to 49 CFR part 23 and 2 CFR parts 180 and 1200
2. Enforcement action pursuant to 49 CFR part 31; and
3. Prosecution pursuant to 18 USC 1001.

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

1. CRAA will insert the following provisions into concessions agreements and management contracts:
 - A. Concessionaire shall at all times maintain and keep books, ledgers, accounts or other records, wherein are accurately kept all entries reflecting the statistics, including but not limited to payments made to ACDBE firms, to be reported pursuant to the CRAA. Such records shall be retained by Concessionaire for the greater period of three (3) years subsequent to the activities reported therein, or such other retention period as set forth in 49 CFR Part 23, and made available to the CRAA for audit and/or examination or its duly authorized representative during all normal business hours. Concessionaire shall produce such books and records for the CRAA within thirty (30) calendar days of the CRAA's notice to do so, or pay all reasonable expenses, including but not limited to transportation, food and lodging, necessary for an auditor selected by the CRAA to audit said books and records.
 - B. The cost of audit, with the exception of the aforementioned expenses, shall be paid by the CRAA provided, however, the total cost of said audit shall be borne by Concessionaire if either or both of the following conditions exist:
 1. The audit reveals an underpayment of more than five percent (5%) of payments made to ACDBE firms as compared to the commitments made by Concessionaire, as determined by said audit; and/or .
 2. Concessionaire has failed to maintain true and complete books, records, accounts, and supportive source documents as required herein.
2. The CRAA may implement the following additional monitoring and compliance procedures:
 - A. The CRAA will monitor that work committed to ACDBEs by the concessionaire at contract award is actually performed by the ACDBEs. The concessionaire will submit upon demand of the CRAA a running tally of actual ACDBE attainments (e.g., payments actually made to ACDBE firm).
 - B. The CRAA may conduct on-site reviews of the concessionaire's workplace to verify that ACDBEs are actually performing the work or providing the materials and supplies as reported by the concessionaire.
3. The CRAA will implement our compliance and monitoring procedures as follows:

- A. The CRAA will review at a minimum the concessionaire's attainments report quarterly during the initial year of the lease and annually during subsequent lease years. The frequency of the reviews may increase based upon the findings.
- B. On-site reviews of the concession workplaces will be conducted monthly during the initial year of the lease/contract, and quarterly during subsequent lease/contract years. The frequency of the reviews may increase based upon the findings.

Attachment 4

Section 23.45: Overall Goal Calculation for Concessions Other Than Car Rentals

Introduction

In fulfillment of the requirements of 49 CFR Part 23, The CRAA has developed an overall goal for fiscal years 2017, 2018, and 2019 for concessions other than car rental concessions.

In accordance with 49 CFR Part 23, the overall goal has been prepared using a two-step process. The CRAA first determines a base figure for the relative availability of ACDBEs in the relevant market area. Second, CRAA examines relevant evidence to determine what adjustment to the base figure, if any, is needed in order to arrive at the overall goal. The final adjusted figure is CRAA’s overall goal, which represents the proportion of participation by ACDBEs in concessions other than car rentals during the subsequent three fiscal years. Once the adjusted overall goal is determined, the regulations require considering what portion of the goal will be met by race and gender-neutral measures.

Overall Three-Year Goal:

CRAA’s overall goal for concessions other than car rental during the period beginning October 1, 2016 and ending September 30, 2019 (FY2017, FY2018, FY2019) is the following: 1.30% of the total gross receipts for concessions at Lansing’s airport to be accomplished through 0.0% race and gender conscious (RC) measures and 1.30% through race and gender-neutral (RN) measures.

The following are not included in the total gross receipts for concessions: (a) the gross receipts of car rental operations; (b) the dollar amount of a management contract or subcontract with a non-ACDBE; (c) the gross receipts of business activities to which a management contract or subcontract with a non-ACDBE pertains; and (d) any portion of a firm’s estimated gross receipts that will not be generated from a concession.

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, CRAA will submit an appropriate adjustment to our overall goal to FAA for approval at least ninety days before issuing a solicitation for the new concession opportunity.

Market Area for Non-Car Rental Concessionaires

The market area is the geographical area in which the substantial majority of firms which seek to do concessions business with the airport are located and the geographical area in which the firms receive a substantial majority of concessions related revenues are located.

The CRAA has determined the market area to be the entire State of Michigan.

Type of Concession	Company	City	State	Nationwide
Limited Food Service and Vending Machine			MI	
Taxi Service			MI	
Banking-ATM				XX

Base of Goal

To calculate the base of the goal the CRAA considered the previous 3 years of gross concession receipts and the projected potential concession revenue (gross receipts) three years into the future including upcoming new opportunities.

Table 1: Gross Receipts for "All Other" (Non-Car Rental Concessions) for FY 2014-2016

Fiscal Year	All Concessions (excluding Car Rentals)
FY 2014	\$ 1,497,706.56
FY 2015	\$ 1,354,711.01
FY 2016	\$ 1,158,830.81
Total	\$ 4,011,248.38

Based upon averaging the CPI for FY 2014-2016 CRAA used an estimated growth rate of 1% for FY2017, 2% in 2018, and 3% in 2019 to project estimated revenues for the goal period. See future non-car rental concession revenues below:

Table 2: Estimated Gross Receipts for "All Other" (Non-Car Rental Concessions) for FY 2017-2019

FY 2016 Revenue	\$1,158,830.81
FY 2017: \$1,158,830.81 + 1% growth =	\$ 1,170,419.12
FY 2018: \$1,170,419.12 + 2 % growth =	\$ 1,193,827.50
FY 2019: \$1,193,827.50 + 3% growth =	\$ 1,229,642.33
Total: FY 2017 - FY 2019	\$ 3,593,888.94

The concession opportunities anticipated during this goal period are in the following areas: 1) Limited Food Service; 2) Taxi Service, 3) Banking-ATM and 4) Public Parking.

Methodology used to Calculate Overall Goal

Goods and Services

We can meet the percentage goal by including the purchase from ACDBEs of goods and services used in businesses conducted at the airport. We, and the businesses at the airport, shall make good faith efforts to explore all available options to achieve, to the maximum extent practicable, compliance with the goal through direct ownership arrangements, including joint ventures and franchises. The dollar value from purchases of goods and services from ACDBEs may be added to the numerator, and the dollar value from purchases of goods and services from all firms (ACDBEs and non-ACDBEs) may be added to the denominator.

Management Contract or Subcontract

We can meet the percentage goal by including any business operated through a management contract or subcontract with an ACDBE. We, and the businesses at the airport, will add the dollar amount of a management contract or subcontract with an ACDBE to the total participation by ACDBEs in airport concessions (both the numerator AND the denominator) and to the base from which the airport's percentage goal is calculated. However, the dollar amount of a management contract or subcontract with a non-ACDBE and the gross revenue of business activities to which the management contract or subcontract pertains will not be added to this base in either the numerator or denominator. *While we realize that this appears to go against the normal rules and rationale for goal-setting, we understand that this method is nevertheless required by statute.*

Step 1: 23.51(c)

CRAA determined the base figure for the relative availability of ACDBEs other than car rentals. The base figure was calculated as follows:

Table 3: Determination of Relative Availability of ACDBEs (Suppliers of Goods and Services)

Concession Activity	NAICS Codes	ACDBE Firms	All Firms	Relative Availability	Ratio of Estimated Gross Receipts	Weighted Availability
Limited Food Service	722513	11	/ 6916	=	0.16% x	3.19%
Vending Machine	454210					
ATM	522320	0	/ 74	=	0.00% x	0.00%
Taxi Service	485310	1	/ 64	=	1.56% x	3.35%
Parking Lots	812930	2	/ 150	=	1.33% x	93.57%
STEP 1 Base Figure						1.30%

The Step 1 base goal for “all other” (i.e. non-car rental) ACDBEs is 1.30 %

Step 2: 23.51(d)

After calculating a base figure of the relative availability of ACDBEs, we examined evidence to determine what adjustment was needed to the Step 1 base figure in order to arrive at the overall goal.

In order to reflect as accurately as possible the ACDBE participation we would expect in the absence of discrimination we have adjusted our base figure by 0%. Our overall goal for non-car rental concessions is 1.30%

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

- a) Past participation—Although we have not previously used ACDBE goals, we did consult with current concessionaires to find out the level of ACDBE participation at the airport. Based on feedback from the concessionaires, approximately 0% of dollars are going to ACDBEs.
- b) Disparity study—There are no disparity studies conducted within our jurisdiction that relate to concessions. We will continue to contact state and local agencies to determine when a disparity study becomes available.

Past History Participation

Data used to determine the adjustment to the base figure was the median of historical ACDBE accomplishments

FY	ACDBE Goals			Accomplishments		
	RC	RN	Total	RC	RN	Total
14	0%	0%	0%	0%	0%	0%
15	0%	0%	0%	0%	0%	0%
16	0%	0%	0%	0%	0%	0%

CRAA chose not to adjust our figure based on past participation because there is no historical DBE data to reference to make an adjustment to the Step 1 base figure.

PUBLIC PARTICIPATION

Consultation: Section 23.43.

The goal setting process used by recipients to establish their annual overall goal submitted to the operating administrations for approval must include “consultation with minority, women’s and general contractor groups, community organizations, and other officials or organizations” which could be expected to have information concerning the availability of ACDBEs and non-ACDBEs. This consultation process is also intended to gather

information concerning the effects of discrimination on opportunities for ACDBEs, if present - and establishing a level playing field for the participation of ACDBEs.

By definition, the process of consultation involves a scheduled face-to-face conference or meeting of some kind with individuals or groups of interested persons for the purpose of developing and/or assessing a proposed goal and methodology and seeking information or advice before a decision is made.

Recipients should identify groups within their market that are likely to have information relevant to the goal setting process or that have a stake in the outcome of the process. Those groups should be contacted and invited to participate in a face-to-face exchange (which may occur at a public meeting) aimed at obtaining the kind of information set out in the regulation regarding establishing the overall ACDBE goal. Efforts should be made to engage in a dialogue with as many interested stakeholders as possible. An advisory committee may be one method of consultation (but not the exclusive method, since this could lead to a recipient talking only to the same people all the time). A description of the consultation process and its purpose should be provided to all invitees.

The consultation is expected to occur before the proposed goal is established and prior to publication of the proposed overall goal for inspection and comment by the general public

Prior to submitting this goal to the FAA, the CRAA consulted with existing concessionaires themselves concerning the ACDBE goal process.

Breakout of Estimated Race-Neutral & Race Conscious Participation **Section 23.51**

CRAA will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating ACDBE participation. CRAA uses the following race-neutral measures.

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, such as inability to obtain bonding or financing;*
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; and*
7. *Establishing a business development program (see 49 CFR Part 26.35); technical assistance program or taking other steps to foster ACDBE participation in concessions.*

We estimate that, in meeting our overall goal of 1.30%, we will obtain 1.30% from race-neutral participation and 0.00% through race-conscious measures.

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

1. *We will establish concession-specific goals for particular concession opportunities.*
2. *We will negotiate with potential concessionaires to include ACDBE participation through direct ownership arrangements or measures, in the operation of the concession.*
3. *With prior FAA approval, we will use other methods that take a competitor's ability to provide ACDBE participation into account in awarding a concession.*

In order to ensure that our ACDBE program will be narrowly tailored to overcome the effects of discrimination, if we use concession specific goals we will adjust the estimated breakout of race-neutral and race-conscious

participation as needed to reflect actual ACDBE participation (see 26.51(f)) and we 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 ACDBE goal; ACDBE participation on a prime contract exceeding a concession specific goal; and ACDBE participation through a subcontract from a prime contractor that did not consider a firm's ACDBE status in making the award.

We will maintain data separately on ACDBE achievements in those contracts with and without concession specific goals, respectively.

ATTACHMENT 5
Section 23.45: Overall Goal Calculation for Car Rental Concessions

AMOUNT OF GOAL

The CRAA's overall car rental goal for the period October 1, 2016 and ending September 30, 2019 is the following: 1.0% of the total gross receipts of car rental operations at the Lansing Airport. No new car rental concession opportunities anticipated for this time period.

Table 1: Gross Receipts for Car Rental Concessions FY 2014-2016

<u>Fiscal Year</u>	<u>Concessions Revenue</u>
FY 2014	\$ 5,494,304.93
FY 2015	\$ 5,059,164.73
FY 2016	\$ 5,000,903.24
Total	\$ 15,554,372.90

Based on the information provided by the car rental companies shown in above table, the total gross revenue for the three (3) year period for car rental concessions is \$15,554,372.90. This base number was multiplied by 0.10%, which is an estimated historic growth rate for car rentals over the last 8 years for a total car rental concessions base of \$15,709,916.63.

Determination of Market Area

The market area is defined by the geographical area in which the substantial majority of firms which seek to do concessions business with the airport are located and the geographical area in which the firms which receive the substantial majority of concessions-related revenues are located.

Based upon a list of current car rental concessionaires at the airport, the market area for car rental concessions at the Lansing Airport was determined to be nationwide. This market area was established based on the fact that car rental concession businesses at the Lansing Airport are based in various states across the country as described in the following table.

Table 2: Location of Car Rental Companies

Company	Operating As	City	State
Avis Rent-A-Car	Avis	Pasippany	NJ
Budget Rent-A-Car	Budget	Pasippany	NJ
The Hertz Corporation	Hertz	Sneville	GA

METHODOLOGY USED TO DEVELOP THE GOAL**Goods and Services**

The CRAA can meet the percentage goal by including the purchases from ACDBEs of goods and services used in business at the airport. The dollar value from purchases of goods and services from ACDBEs may be added to the numerator, and the dollar value from purchases of goods and services from all firms (ACDBEs and non-ACDBEs) may be added to the denominator.

Management Contract or Subcontract

The CRAA can meet the percentage goal by including any businesses operated through a management contract or subcontract with an ACDBE. The CRAA and the businesses at the airport will add the dollar amount of a management contract or subcontract with an ACDBE to the total participation by ACDBEs in airport concessions (both the numerator and the denominator) and to the base from which the CRAA's percentage goal is calculated. However, the dollar amount of a management contract or subcontract with a non-ACDBE and the gross revenue of business activities to which the management contract or subcontract pertains will not be added to this base in either the numerator or denominator.

Step 1: Base Goal – 23.51 (c)

The CRAA determined the base figure for the relative availability of car rental ACDBEs. The base figure was calculated as follows:

- In order to determine the relative availability of ACDBEs in the area for car rental concessions, we must compare the overall availability of all car rental concessionaires. The standard NAICS code 53211, which refers to Passenger Car Rental firms, was used for two reasons:
 - The U.S. Census Bureau's 2015 County Business Patterns for the entire U.S. says there are a total of 10,288 Passenger Car Rental firms in the U.S.;
 - The 2012 Survey of Business Owners, as presented by the U.S. Census Bureau (American FactFinder), for NAICS code 53211 says that there are 2,391 total firms in the code with paid employees and that there are 310 minority firms within the code. From this 2012 survey we believe that there is at least the potential for up to 10% of firms in the code to be certified as ACDBEs across the nation.
- However, since none of the passenger car rental firms currently at the Lansing Airport are ACDBEs, since there are no passenger car rental firms certified on the Michigan UCP list, and that there is no national ACDBE listing of certified ACDBEs in NAICS code 53211, we have set the Step 1 base goal for car rental ACDBEs to be 0.0%

We do, though, acknowledge that nationwide car rental companies do purchase goods and services from ACDBE firms. During this 3-year goal period we will collect reports from all car rental companies as to their utilization of ACDBEs to determine how we can apply that information to revising and adjusting car rental ACDBE goals in future goal setting periods. If the car rental companies can demonstrate through a cost allocation plan for vehicles, insurance, fuel and other goods and services that are either purchased directly for Lansing Airport's car rental operations, or indirectly purchased and allocated individually as in an allocation for car insurance, then we will take that information into consideration as it applies to each car rental company's ACDBE goal and cumulatively evaluate progress towards meeting the defined 3-year goals.

Step 2: Adjustments to the Base Goal 23.51 (d)

After calculating a base figure of the relative availability of ACDBEs, the CRAA 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:

- Past Participation (Car Rental Concessions) – Once the base figure has been calculated, the regulations require that the recipient "examine all relevant evidence reasonably available to determine what adjustment, if any, is needed to the base figure in order to arrive at your overall goal" 49 CFR Part 23.51 (d).

The regulations further state that there are many types of evidence which must be considered when adjusting the base figure. These include:

The current capacity of ACDBEs to perform work in your concessions program, as measured by the volume of work ACDBEs have performed in recent years; and

The historical ACDBE accomplishments at the airports in recent years were examined relative to the above consideration. Specifically, the annual Concessions Activity Report for the reporting periods was assessed. The CRAA has not had any ACDBE car rental concessionaires or achievement, therefore, past ACDBE car rental achievement is 0.0%.

- Potential Participation (Car Rental Concessions) – While nationally there may not be potential for ACDBE participation, we do recognize that there may be local businesses that could provide goods or services to Passenger Car Rental companies. Among these could be car cleaning supplies, windshield repair services or towing services. In a review of the Michigan UCP list of certified ACDBEs, we do not find certified local businesses that might fulfill as car rental need.
- Disparity Study – The regulations also states that other evidence may be considered. This includes:
Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure.

The CRAA is not aware of any disparity studies that have been conducted in the Lansing area.

- Adjustments to the Step 1 Base Goal – After considering the past participation of ACDBEs at the Lansing Airport, the potential for future services to be provided by existing ACDBEs and investigating any disparity studies completed within the jurisdiction, the Step 1 Base Goal was adjusted. The CRAA will establish a 1.0% goal for car rental concessions into each car rental agreement as it is renewed annually.

As an ongoing effort, the CRAA will also require annual reporting of car rental progress towards the goal, to include both the total dollar volume of ACDBE participation and the NAICS code and individual participation of each ACDBE as they have participated.

With this modification the final overall goal for car rental concessions is 1.0%.

PUBLIC PARTICIPATION

Consultation: Section 23.43.

- *The goal setting process used by recipients to establish their annual overall goal submitted to the operating administrations for approval must include “consultation with minority, women’s and general contractor groups, community organizations, and other officials or organizations” which could be expected to have information concerning the availability of ACDBEs and non-ACDBEs. This consultation process is also intended to gather information concerning the effects of discrimination on opportunities for ACDBEs, if present - and establishing a level playing field for the participation of ACDBEs.*
- *By definition, the process of consultation involves a scheduled face-to-face conference or meeting of some kind with individuals or groups of interested persons for the purpose of developing and/or assessing a proposed goal and methodology and seeking information or advice before a decision is made.*
- *Recipients should identify groups within their market that are likely to have information relevant to the goal setting process or that have a stake in the outcome of the process. Those groups should be contacted and invited to participate in a face-to-face exchange (which may occur at a public meeting) aimed at obtaining the kind of information set out in the regulation regarding establishing the overall ACDBE goal. Efforts should be made to engage in a dialogue with as many interested stakeholders as possible. An advisory committee may be one method of consultation (but not the exclusive method, since this could lead to a recipient talking only to the same people all the time). A description of the consultation process and its purpose should be provided to all invitees.*
- *The consultation is expected to occur before the proposed goal is established and prior to publication of the proposed overall goal for inspection and comment by the general public.*
- *The consultation process must be documented in the recipient’s annual goal submission.*

Prior to submitting this goal to the FAA, the CRAA consulted with existing concessionaires themselves concerning the ACDBE goal process and opportunities to increase participation of ACDBEs.

Breakout of Estimated Race-Neutral & Race Conscious Participation
Section 23.51

The CRAA will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating ACDBE participation. The CRAA uses the following race-neutral measures

We understand that we will be expected to actually take these steps, and this is not merely a paper exercise.

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, such as inability to obtain bonding or financing;*
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; and*
7. *Establishing a business development program (see 49 CFR Part 26.35); technical assistance program or taking other steps to foster ACDBE participation in concessions.*

We estimate that, in meeting our overall goal of 1.0% we will obtain 1.0% from race-neutral participation and 0% through race-conscious measures.

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

1. *We will establish concession-specific goals for particular concession opportunities.*
2. *We will negotiate with potential concessionaires to include ACDBE participation through direct ownership arrangements or measures, in the operation of the concession.*
3. *With prior FAA approval, we will use other methods that take a competitor's ability to provide ACDBE participation into account in awarding a concession.*

In order to ensure that our ACDBE program will be narrowly tailored to overcome the effects of discrimination, if we use concession specific goals we will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual ACDBE participation (see 26.51(f)) and we 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 ACDBE goal; ACDBE participation on a prime contract exceeding a concession specific goal; and ACDBE participation through a subcontract from a prime contractor that did not consider a firm's ACDBE status in making the award.

We will maintain data separately on ACDBE achievements in those contracts with and without concession specific goals, respectively.

Attachment 6

Forms 1 & 2 for Demonstration of Good Faith Efforts

Forms 1 and 2 should be provided as part of the solicitation documents.

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

The undersigned bidder/offeror has satisfied the requirements of the bid/proposal specification in the following manner (please check the appropriate space):

_____ The bidder/offeror is committed to a minimum of _____ % ACDBE utilization on this contract.

_____ The bidder/offeror (if unable to meet the ACDBE goal of _____ %) is committed to a minimum of _____ % ACDBE utilization on this contract and submitted documentation demonstrating good faith efforts.

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____
(Signature) Title

FORM 2: 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 7

ACDBE Certification Application Form

Application can be found at: <http://mdotjboss.state.mi.us/webforms/GetDocument.htm?fileName=0166A.pdf>

Attachment 8**Procedures for Removal of ACDBEs Eligibility*****(a) Ineligibility complaints.***

(1) Any person may file with you a written complaint alleging that a currently-certified firm is ineligible and specifying the alleged reasons why the firm is ineligible. You are not required to accept a general allegation that a firm is ineligible or an anonymous complaint. The complaint may include any information or arguments supporting the complainant's assertion that the firm is ineligible and should not continue to be certified. Confidentiality of complainants' identities must be protected as provided in § 26.109(b).

(2) You must review your records concerning the firm, any material provided by the firm and the complainant, and other available information. You may request additional information from the firm or conduct any other investigation that you deem necessary.

(3) If you determine, based on this review, that there is reasonable cause to believe that the firm is ineligible, you must provide written notice to the firm that you propose to find the firm ineligible, setting forth the reasons for the proposed determination. If you determine that such reasonable cause does not exist, you must notify the complainant and the firm in writing of this determination and the reasons for it. All statements of reasons for findings on the issue of reasonable cause must specifically reference the evidence in the record on which each reason is based.

(b) Recipient-initiated proceedings. If, based on notification by the firm of a change in its circumstances or other information that comes to your attention, you determine that there is reasonable cause to believe that a currently certified firm is ineligible, you must provide written notice to the firm that you propose to find the firm ineligible, setting forth the reasons for the proposed determination. The statement of reasons for the finding of reasonable cause must specifically reference the evidence in the record on which each reason is based.

(c) DOT directive to initiate proceeding.

(1) If the concerned operating administration determines that information in your certification records, or other information available to the concerned operating administration, provides reasonable cause to believe that a firm you certified does not meet the eligibility criteria of this part, the concerned operating administration may direct you to initiate a proceeding to remove the firm's certification.

(2) The concerned operating administration must provide you and the firm a notice setting forth the reasons for the directive, including any relevant documentation or other information.

(3) You must immediately commence and prosecute a proceeding to remove eligibility as provided by paragraph (b) of this section.

(d) Hearing. When you notify a firm that there is reasonable cause to remove its eligibility, as provided in paragraph (a), (b), or (c) of this section, you must give the firm an opportunity for an informal hearing, at which the firm may respond to the reasons for the proposal to remove its eligibility in person and provide information and arguments concerning why it should remain certified.

(1) In such a proceeding, you bear the burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards of this part.

(2) You must maintain a complete record of the hearing, by any means acceptable under state law for the retention of a verbatim record of an administrative hearing. If there is an appeal to DOT under § 26.89, you must provide a transcript of the hearing to DOT and, on request, to the firm. You must retain the original record of the hearing. You may charge the firm only for the cost of copying the record.

(3) The firm may elect to present information and arguments in writing, without going to a hearing. In such a situation, you bear the same burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards, as you would during a hearing.

(e) Separation of functions. You must ensure that the decision in a proceeding to remove a firm's eligibility is made by an office and personnel that did not take part in actions leading to or seeking to implement the proposal to remove the firm's eligibility and are not subject, with respect to the matter, to direction from the office or personnel who did take part in these actions.

(1) Your method of implementing this requirement must be made part of your DBE program.

(2) The decisionmaker must be an individual who is knowledgeable about the certification requirements of your DBE program and this part.

(3) Before a UCP is operational in its state, a small airport or small transit authority (i.e., an airport or transit authority serving an area with less than 250,000 population) is required to meet this requirement only to the extent feasible.

(f) Grounds for decision. You may base a decision to remove a firm's eligibility only on one or more of the following grounds:

(1) Changes in the firm's circumstances since the certification of the firm by the recipient that render the firm unable to meet the eligibility standards of this part;

(2) Information or evidence not available to you at the time the firm was certified;

(3) Information relevant to eligibility that has been concealed or misrepresented by the firm;

(4) A change in the certification standards or requirements of the Department since you certified the firm;

(5) Your decision to certify the firm was clearly erroneous;

(6) The firm has failed to cooperate with you (see § 26.109(c));

(7) The firm has exhibited a pattern of conduct indicating its involvement in attempts to subvert the intent or requirements of the DBE program (see § 26.73(a)(2)); or

(8) The firm has been suspended or debarred for conduct related to the DBE program. The notice required by paragraph (g) of this section must include a copy of the suspension or debarment action. A decision to remove a firm for this reason shall not be subject to the hearing procedures in paragraph (d) of this section.

(g) Notice of decision. Following your decision, you must provide the firm written notice of the decision and the reasons for it, including specific references to the evidence in the record that supports each reason for the decision. The notice must inform the firm of the consequences of your decision and of the availability of an appeal to the Department of Transportation under § 26.89. You must send copies of the notice to the complainant in an ineligibility complaint or the concerned operating administration that had directed you to initiate the proceeding. Provided that, when sending such a notice to a complainant other than a DOT operating administration, you must not include information reasonably construed as confidential business information without the written consent of the firm that submitted the information.

(h) [Reserved]

(i) Status of firm during proceeding.

(1) A firm remains an eligible DBE during the pendency of your proceeding to remove its eligibility.

(2) The firm does not become ineligible until the issuance of the notice provided for in paragraph (g) of this section.

(j) Effects of removal of eligibility. When you remove a firm's eligibility, you must take the following action:

(1) When a prime contractor has made a commitment to using the ineligible firm, or you have made a commitment to using a DBE prime contractor, but a subcontract or contract has not been executed before you issue the decertification notice provided for in paragraph (g) of this section, the ineligible firm does not count

toward the contract goal or overall goal. You must direct the prime contractor to meet the contract goal with an eligible DBE firm or demonstrate to you that it has made a good faith effort to do so.

(2) If a prime contractor has executed a subcontract with the firm before you have notified the firm of its ineligibility, the prime contractor may continue to use the firm on the contract and may continue to receive credit toward its DBE goal for the firm's work. In this case, or in a case where you have let a prime contract to the DBE that was later ruled ineligible, the portion of the ineligible firm's performance of the contract remaining after you issued the notice of its ineligibility shall not count toward your overall goal, but may count toward the contract goal.

(3)Exception: If the DBE's ineligibility is caused solely by its having exceeded the size standard during the performance of the contract, you may continue to count its participation on that contract toward overall and contract goals.

(k)Availability of appeal. When you make an administratively final removal of a firm's eligibility under this section, the firm may appeal the removal to the Department under § 26.89.

ATTACHMENT 9

State's UCP Agreement

Located at: **<https://mdotiboss.state.mi.us/webforms/GetDocument.htm?fileName=0166A.pdf>**

Attachment 10

Regulations: 49 CFR Part 23

Located at: http://www.faa.gov/about/office_org/headquarters_offices/acr/

Attachment 11

Goals and Elements for Privately-Owned or Leased Terminal Buildings

NOT APPLICABLE