



**Request for Proposals (RFP)
Capital Region Airport Authority (CRAA)**

Solicitation Number	Request for Proposals (RFP) 2025-05
Solicitation Title	Advisory and Technical Services related to Airport Civil Rights requirements
Purpose	CRAA is seeking proposals to advise the Authority regarding current statutory and regulatory requirements related to civil rights issues, and to assist the Authority in preparing or updating its DBE and ACDBE Plans (and any supporting documents) as necessary. The Authority may also consider the selected firm for related implementation support services.
Deadline for Submissions	4:30 p.m. Eastern time on Friday, May 23, 2025
Submit Response to	Elliott Black Director of Finance & Administration eblack@craa.com
Required Bid Copies	One (1) electronic submission via email
Direct All Inquiries To	Elliott Black Director of Finance & Administration eblack@craa.com
This RFP includes	Section 1—Glossary of Terms Section 2—Details of the RFP Section 3—Submission Requirements and Criteria Section 4—Federal Requirements Exhibit A—existing ACDBE Plan (2020-2022)

REQUEST FOR PROPOSALS (RFP) 2025-05
for
Advisory and Technical Services related to Update Airport Civil
Rights requirements

Issue Date: Monday, April 28, 2025

Deadline for any questions: Friday, May 9, 2025, by 4:30 p.m. Eastern

Submission deadline: Friday, May 23, 2025, by 4:30 p.m. Eastern

CRAA Contact: Elliott Black
Director of Finance & Administration
eblack@craa.com

DESCRIPTION: The Capital Region Airport Authority (CRAA or “the Authority”) is seeking proposals to advise the Authority regarding current statutory and regulatory requirements related to civil rights issues, and to assist the Authority in updating its Disadvantaged Business Enterprise (DBE) and Airport Concessions Disadvantaged Business Enterprise (and ACDBE) Plans (and any supporting documents) as necessary. The Authority may also consider the selected firm for related implementation support services. The ACDBE plan was last updated in 2021 (covering 2020-2022).

IMPORTANT: It is the responsibility of prospective respondents to monitor the Authority’s website for potential updates to this RFP.

SECTION 1- GLOSSARY OF TERMS

- 1) **Airport:** Capital Region International Airport, Lansing, Michigan.
- 2) **Board:** The governing body of the airport.
- 3) **Business:** An individual, firm, vendor, association, corporation, limited liability company, partnership, joint venture, sole proprietorship, or other legal entity.
- 4) **Currency:** All monetary references in this document are in U.S. dollars.
- 5) **Contractor:** The successful awarded bidder of a solicitation, who is legally bound to the contract.
- 6) **Capital Region Airport Authority:** Owner of the Capital Region International Airport and Mason Jewett Field.
- 7) **Form of Agreement or FOA:** The contract documents associated with this solicitation. The Authority anticipates issuing a simple professional services agreement for this engagement.
- 8) **Freedom of Information Act (FOIA):** Regulates and sets requirements for the disclosure of public records and defines when, how, and what information may be obtained from the Airport Authority by an interested party.
- 9) **Holiday:** The legal holidays observed by the Airport Authority. (New Year's Day, Martin Luther King Jr. Birthday, Presidents' Day, Memorial Day, Juneteenth, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, Christmas Eve, Christmas Day, New Year's Eve)
- 10) **Joint Venture:** A partnership or other legal cooperative agreement between two or more persons or entities.
- 11) **Nonresponsible Bid:** A bid submitted in reply to an RFB issued by the Airport Authority where the bidder does not meet all the minimum qualifications.
- 12) **Nonresponsive Bid:** A bid submitted in reply to an RFB issued by the Airport Authority, which does not conform to all material requirements of the RFB.
- 13) **Notice of Award:** Written notification from the Airport Authority to the successful bidder that they have been awarded the contract.
- 14) **Notice to Proceed:** Written authorization from the Airport Authority to the successful bidder to proceed with the work defined in the contract.

- 15) **Partnership:** An agreement under which two or more persons agree to carry on a business, sharing in the profit or losses, but each liable for the losses to the extent of his or her personal assets.
- 16) **Responsible Bidder:** A bidder who is qualified in all respects to fully preform the required services or to provide the required goods and who possesses the integrity, experience, and the reliability necessary for the good faith performance.
- 17) **Responsive Bidder:** A bid timely submitted by a bidder in reply to, and in conformity with all material requirements of a Request for Bids.

SECTION 2 – DETAILS OF THE RFP

- 1) The Authority needs broad guidance to understand the full scope of its current responsibilities in the area of civil rights compliance. This may include reviewing the Authority's existing documents and advising on what needs to be updated and when.
- 2) The Authority needs assistance in updating its Airport Concessions Disadvantaged Business Enterprise (ACDBE). The ACDBE plan was last updated in 2021 (for 2020-2022). This will include any required coordination with the Federal Aviation Administration (FAA) and U.S. Department of Transportation.
- 3) The Authority may also consider the selected firm for related implementation support services.
- 4) If the Authority needs to prepare and submit a Disadvantaged Business Enterprise (DBE) plan, then the Authority will look to the selected consultant to assist in that process as well. The Capital Region International Airport (LAN) is a commercial service airport supporting both scheduled and charter passenger service, including international as well as domestic destinations, as well as significant cargo operations, corporate and general aviation activities. The airport is currently designated by the Federal Aviation Administration (FAA) as a Non-hub Primary airport. The airport's scheduled and charter passenger services support a significant catchment area covering much of the central region of the State of Michigan.
- 5) For ease of reference, the Authority is integrating its weighted selection criteria into Section 3, "Submission Requirements."
- 6) The Authority reserves the right to update or cancel this solicitation at any point in the process.
- 7) The Authority cannot reimburse any entity for costs incurred in responding to this opportunity.

SECTION 3 – SUBMISSION REQUIREMENTS AND SELECTION CRITERIA

- 1) All proposals must be submitted in PDF format, with one-inch (1”) margins and 12-point typeface throughout.
- 2) The evaluation and selection criteria follow in the table on the following page. However, the Authority reserves the right to make a selection based on the full range of criteria, including other considerations not specifically listed below.

3) Submission requirements and evaluation criteria:

Section Content	Required Format	Weight (Points)
<p>Section A. Relevant experience. This section must clearly demonstrate that the respondent has the necessary capability, experience, and resources to provide the required services.</p>	<p>Limit 3 pages.</p>	<p>Maximum 30 points</p>
<p>Section B. Proposed key staff. Provide resumes for the individual(s) who would provide the primary substantive input for this scope of work. List other supporting personnel who would support this effort, including 3-5 bullets highlighting their relevant experience and capabilities.</p>	<p>Limit 5 pages (no more than 2 resumes for key team leads (2 pages each), followed by up to 1 page outlining any other supporting personnel.</p>	<p>Maximum 30 points</p>
<p>Section C. Timetable. List the key steps involved and the proposed timeline for development of an updated ACDBE plan (and DBE plan if needed). This timetable must reflect the respondent's current and anticipated workload as well as capacity for completion. It is the Authority's desire to complete the updated ACDBE plan (and any other required documents) as quickly as possible.</p>	<p>Limit 2 pages</p>	<p>Maximum 25 points</p>
<p>Section D. Cost Proposal. Provide a proposal that identifies the total estimated cost to complete the ACDBE plan, along with hourly rates to provide additional advisory and implementation support services.</p>	<p>Limit 2 pages</p>	<p>Maximum 15 points</p>
<p>Totals</p>	<p>Limit 12 pages</p>	<p>Up to 100 points</p>

SECTION 4 – FEDERAL REQUIREMENTS

The Authority is legally bound by a number of Federal requirements, many of which also apply to contractors retained by the Authority. In the language that follows below, the term “Contractor” should be understood to refer to a successful Firm/Team under this anticipated procurement.

Title VI Solicitation Notice

The **Capital Region Airport Authority**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that any contract entered into pursuant to this advertisement, airport concessions disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

Compliance with Nondiscrimination Requirements

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “Contractor”), agrees as follows:

1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor’s obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination

Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as

amended (prohibits discrimination based on race, creed, color, national origin, or sex);

- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et seq).

Certification of Offerer / Bidder Regarding Debarment

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

Certification of Lower Tier Contractors Regarding Debarment

The successful bidder, by administering each lower tier subcontract that exceeds \$25,000 as a “covered transaction,” must verify each lower tier participant of a “covered transaction” under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. The successful bidder will accomplish this by:

1. Checking the System for Award Management at website: <http://www.sam.gov>.
2. Collecting a certification statement similar to the Certification of Offerer /Bidder Regarding Debarment, above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract.

If the Federal Aviation Administration later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

Texting When Driving

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving", (10/1/2009) and DOT Order 3902.10, "Text Messaging While Driving", (12/30/2009), the Federal Aviation Administration encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.

In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding \$3,500 that involve driving a motor vehicle in performance of work activities associated with the project.

Trade Restriction Certification

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror –

- 1) is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);
- 2) has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and
- 3) has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18 USC Section 1001.

The Offeror/Contractor must provide immediate written notice to the Owner if the Offeror/Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to an Offeror or subcontractor:

- 1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR or
- 2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list or
- 3) who incorporates in the public works project any product of a foreign country on such USTR list.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless the Offeror has knowledge that the certification is erroneous:

“This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration (FAA) may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.”

SECTION 5 – ADDITIONAL INFORMATION

- 1) All proposals received become and remain the property of the Authority.
- 2) The Authority cannot reimburse respondents for any costs associated with developing their proposals.
- 3) All information submitted may be subject to public disclosure under the Freedom of Information Act (FOIA) in accordance with state law.
- 4) The Authority reserves the right to develop a short list and conduct interviews based solely on the contents of the proposals submitted.
- 5) The Authority reserves the right to cancel this solicitation, or to conduct a separate solicitation if necessary in the Authority's sole interest.

EXHIBIT A – EXISTING ACDBE PLAN (2020-2022)

Disadvantaged Business Enterprise Program

Capital Region Airport Authority

Capital Region International Airport, Lansing, Michigan

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POLICY STATEMENT

Section 26.1.23

Policy Statement and Objectives

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 Director of Finance & Accounting has been designated as the ACDBE Liaison Officer (ACDBELO). In that capacity, the Director of Finance & Accounting 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/>.


 Robert Benstein
 Interim President & CEO

2/10/21
 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 ACDBE 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 CRAA'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:

Sophie Giviyani-Kermani, Director of Finance & Accounting
Capital Region Airport Authority
4100 Capital City Boulevard
Lansing, MI 48906
517-886-3713
sgiviyani@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 provisions of 49 CFR Part 23. The ACDBELO has direct, independent access to the President & CEO, 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, 2019	2020/2021/2022	October 1, 2022 (2023/2024/2025)

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 (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.

Sophie Giviyani-Kermani, Director of Finance & Accounting
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 an 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: Robert Benstein, Interim President & CEO 517-886-3716, rbenstein@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 so. 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 ACDBELO immediately of the ACDBEs 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) ACDBE Goal 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. 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. 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

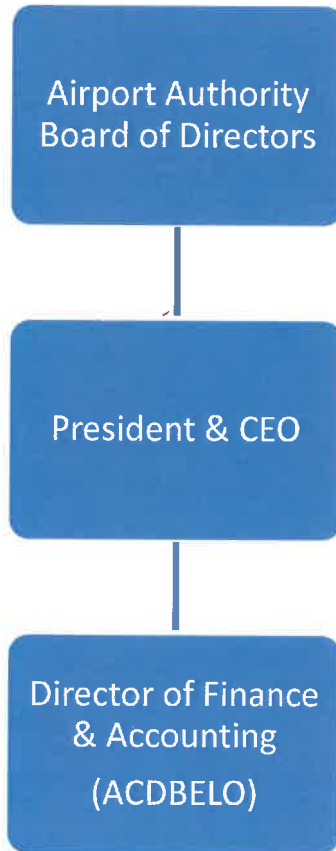
We will not use a “local geographic preference” i.e., any requirement that gives an ACDBE located in one place (e.g., Lansing, MI) an advantage over ACDBEs from other places in obtaining business as, or with, a concession at your airport.

ATTACHMENTS

Attachment 1	Organizational Chart
Attachment 2	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	ACDBE 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:
 - i. 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
 - ii. 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 2020, 2021, and 2022 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, 2019 and ending September 30, 2022 (FY2020, FY2021, FY2022) is the following: 0.23% of the total gross receipts for concessions at Capitol Region International Airport to be accomplished through 0.23% race and gender conscious (RC) measures and 0.00% 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 2017-2019

Fiscal Year	All Concessions (excluding Car Rentals)
FY 2017	\$1,438,087
FY 2018	\$1,374,526
FY 2019	\$1,413,901
Total	\$4,226,514

Based upon the current conditions CRAA used an actual rate of -30% for FY2020, and an estimated decline of -71% in 2021, and growth of 220% in 2022 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 2020-2022

FY 2019 Revenue	\$1,413,901
FY 2020: \$1,413,901 - 30% decline	\$991,544.00
FY 2021: \$991,544.00 - 71% decline	\$287,225.00
FY 2022: \$287,225.00 + 220% growth	\$919,035.00
Total FY 2020 – FY 2022	\$2,197,804.00

The concession opportunities anticipated during this goal period are in the following areas: 1) Limited Service Restaurants; 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	% Availability
Limited Service Restaurants	722513	15	6762	0.22%
ATM	522320	0	591	0.00%
Taxi Service	485310	1	143	0.70%
Parking lots, Automobile	812930	2	84	2.38%
Vending Machine	454210	0	263	0.00%
			Step 1 Base Figure	0.23%

The Step 1 base goal for “all other” (i.e. non-car rental) ACDBEs is 0.23%

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 0.23%

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

- a) Past participation—Although our previous ACDBE goal was 0%, we continue to 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
17	1.30%	0.00%	1.30%	0.00%	0.00%	0.00%
18	1.30%	0.00%	1.30%	0.02%	0.00%	0.02%
19	1.30%	0%	1.30%	0.04%	0.00%	0.04%

CRAA chose not to adjust our figure based on past participation because there is not significant historical DBE data 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 0.23%, we will obtain 0.00% from race-neutral participation and 0.23% 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, 2019 and ending September 30, 2022 is the following: 1% of the total non-fleet goods and services purchased by car rental operations at the Capital Region International Airport. No new car rental concession opportunities are anticipated for this time period.

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.

The Airport Authority has determined that Lansing Michigan, including Clinton, Eaton and Ingham counties constitutes the market area for most firms seeking to provide goods and services to the car rental companies located at the airport with the exception of insurance which would be nationwide.

Methodology Used to Develop the Goal

Goods and Services

We determined the goal based on outreach for the purchases of goods and services from certified ACDBE or potential ACDBE firms. This basis is in lieu of a goal based upon a percentage of total gross receipts of car rental operations at the Airport. We will make a good faith effort to pursue opportunities to meet the goal. We will continue to consult with the Michigan DOT UCP, our car rentals at the airport, airports in our region, minority and women businesses in the State and other publications to find prospects. We will work with our car rental agencies and outreach to ACDBEs for car rental goods and services and encourage certified ACDBEs to apply for certification in Michigan so we can count the ACDBE participation in goals and uniform form reports. The Michigan DOT UCP is aware of this requirement and is on board to assist and process certifications as required.

We have the following car rentals operating at the airport: Enterprise, Hertz and Avis/Budget. Car Rentals stated the services they may need are: key blanks, oil change services, insurance, environmental services, tires, auto repair services and detailing.

Step 1: Base Goal – 23.51 (c)

To calculate the base of the goal the Airport Authority considered the previous 3 years of purchases and the projected potential purchases three years into the future.

Fiscal Year	Car Rental Expenditures/Purchases	Increase (Decrease)
FY 2017	\$1,046,987	
FY 2018	\$7,220,782	+590%
FY 2019	\$1,006,336	-86%
Total	\$9,274,105.00	

The Airport Authority does not anticipate any major changes that would increase or decrease purchases of goods and services over next three years.

$$\$1,006,336 + \$1,006,336 + \$1,006,336 = \$3,019,008$$

Therefore, the recipient's base of goal is the car rental goods and services purchases of \$3,019,008.

Step 1: Base Goal – 23.51 (c)

Fiscal Year	Car Rental Expenditures/Purchases	Increase (Decrease)
FY 2017	\$1,046,987	
FY 2018	\$7,220,782	+590%
FY 2019	\$1,006,336	-86%
Average	\$3,091,368.33	

The average car rental goods and services purchases at the airport for the last three years was \$3,091,368.33. The anticipated car rental ACDBE purchases through outreach is \$0. The \$0 was determined by considering the national certified ACDBEs already being used by our car rental companies and also potential outreach to other national certified ACDBEs. We anticipate being able to encourage national certified ACDBEs already being used by our car rental companies to certify in the Michigan UCP. We also expect we will be able to encourage other certified ACDBEs to certify in Michigan and encourage our car rental companies to utilize them, amounting in at least \$0 of ACDBE participation. To arrive at a Step 1 goal, we divided \$3,091,368.33 by \$0 which equals 0.00%.

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, repair services as well as environmental and insurance services.
- Disparity Study – The regulations also state 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 Capital Region International 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 0%.

With this modification the final overall goal for car rental concessions is 1%.

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 achieve the 1% goal by using race-conscious means of facilitating ACDBE participation.

The Airport will make every reasonable effort to meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating ACDBE participation. The Airport will use the following race-neutral measures to increase ACDBE participation. 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.

Since the Airport Authority projects that race-neutral measures, standing alone, are not sufficient to meet our overall goal, we will use the following race-conscious measures to meet the overall goal:

1. The CRAA will establish a 1% goal for car rental concessions into each car rental agreement as it is renewed. 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.
2. We will establish concession-specific goals for particular concession opportunities.
3. We will negotiate with potential concessionaires to include ACDBE participation through direct ownership arrangements or measures, in the operation of the concession.
4. 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://mdotiboss.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