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**DISADVANTAGED BUSINESS ENTERPRISE PLAN
FOR CONCESSIONS**

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**Federal Aviation Administration
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POLICY STATEMENT

Section 23.1, 23.23 Objectives/Policy Statement

The Louis Armstrong New Orleans International Airport (LANOIA) is owned by the City of New Orleans and operated by the New Orleans Aviation Board (NOAB), which is an unattached board under the Executive Branch of the City of New Orleans under the City Charter. LANOIA is located in Kenner, Louisiana (Jefferson Parish, the city in which the largest portion of the airport is located) and the Parish of St. Charles (the parish in which a portion of the airport is located). LANOIA is approximately fifteen (15) miles west of the City of New Orleans (Orleans Parish).

LANOIA 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 effective April 21, 2005, as may be amended from time to time. LANOIA 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). LANOIA has signed airport grant assurances that it will comply with 49 CFR Part 23.

It is the policy of LANOIA 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.

Philistine Ferrand has been designated as the ACDBE Liaison Officer (ACDBELO). In that capacity, the ACDBELO 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 LANOIA in its financial assistance agreements with the Department of Transportation.

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

LANOIA 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

LANOIA is a 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

LANOIA 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 DBE program, LANOIA 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.

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

LANOIA will include the following assurances in all concession agreements and management contracts it executes with any firm after April 21, 2005:

- (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

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

LANOIA 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.

As provided in statute, LANOIA will not be subject to compliance actions or sanctions for failing to carry out any requirements of this part because it has been prevented from complying because a Federal court has issued a final order in which the court found that the requirement is unconstitutional.

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

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

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

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

(b) For a firm that, in order to meet ACDBE goals or other DBE program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or representations or under circumstances indicating a

serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria of subpart C of this part, DOT or FAA may initiate suspension or debarment proceedings against the firm under 49 CFR Part 29.

(c) In a suspension or debarment proceeding brought under paragraph (a) or (b) of this section, the FAA may consider the fact that a purported ACDBE has been certified. However, such certification does not preclude DOT from determining that the purported ACDBE, or another firm that has used or attempted to use it to meet ACDBE goals, should be suspended or debarred.

(d) DOT may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the ACDBE program whose conduct is subject to such action under 49 CFR Part 31.

(e) DOT may refer to the Department of Justice, for prosecution under 18 U.S.C. §§ 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of an ACDBE in the LANOIA's ACDBE program or otherwise violates applicable Federal statutes.

SUBPART B – ACDBE PROGRAMS

Section 23.21 ACDBE Program Updates

Since LANOIA is a medium hub primary airport we are required to have an ACDBE program. As a condition of eligibility for FAA financial assistance, the LANOIA will submit its ACDBE program and overall goals to FAA according to the following schedule:

Type of Airport	Initial Program and Goal Due	Second Goal Due	Subsequent Goals Due
Large/Medium Hub Primary	January 1, 2006	October 1, 2008	Every 3 years on October 1

Until our new ACDBE program is submitted and approved we will continue to implement our concessions DBE program that was in effect before April 21, 2005, except with respect to any provision that is contrary to 49 CFR Part 23.

This ACDBE program will be implemented at LANOIA. However, if applicable we will establish separate ACDBE goals on each location. We will take appropriate outreach steps to encourage available ACDBEs to participate as concessionaires whenever there is an opportunity.

When LANOIA 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: LANOIA is committed to operating its ACDBE program in a nondiscriminatory manner. LANOIA'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:

Philistine Ferrand
P. O. Box 20007
New Orleans, LA 70141

504-465-8867 phone
504-463-1041 fax
philisti@flymsy.com

In that capacity, the ACDBELO is responsible for implementing all aspects of the ACDBE program and ensuring that LANOIA complies with all provision of 49 CFR Part 23 found in **Attachment 1**. The ACDBELO has direct, independent access to the Director of Aviation concerning ACDBE program matters. An organizational chart displaying the ACDBELO's position in the organization is found in **Attachment 2** to this program.

The ACDBELO is responsible for developing, implementing and monitoring the ACDBE program, in coordination with other appropriate officials. The ACDBELO has a staff of four (4) who are assigned to the ACDBE program on a full-time basis. A consultant has also been retained to provide technical and outreach assistance on an as-needed basis. Professionals within LANOIA's Legal Counsel's office and Program Manager's office also have direct responsibility to ensure the flow of information to the ACDBELO. 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 LANOIA progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the Director of Aviation on ACDBE matters and achievement.
9. Provides ACDBEs with information and assistance in preparing bids, obtaining bonding, financing, and insurance.
10. Plans and participates in ACDBE training seminars.
11. Acts as liaison to the Uniform Certification Program in Louisiana
12. Provides outreach to ACDBEs and community organizations to advise them of opportunities.
13. Maintains the LANOIA's updated directory on certified ACDBEs and distinguishes them from DBEs.

Directory: LANOIA through the Louisiana Uniform Certification Program (LAUCP) maintains a directory identifying all firms eligible to participate as ACDBEs. The Directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as an ACDBE. The LAUCP revises the Directory monthly. ACDBE certification is valid for three years unless the ACDBE has had a change in business organization. Each year the ACDBE submits a "no change affidavit" or submits documentation about any business organization change. Every three (3) years the ACDBE must submit a recertification application. We make the Directory available as follows: on the LAUCP's website, www.laucp.org; LANOIA's website, www.flymsy.com; and distribute upon request. The Directory may be found in **Attachment 3** to this program document.

Section 23.25 Ensuring Nondiscriminatory Participation of ACDBEs

LANOIA will not 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 contract covered by 49 CFR Part 23 on the basis of race, color, sex, or national origin.

In administering its DBE program, LANOIA 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 the respect to individuals of a particular race, color, sex, or national origin.

LANOIA 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))

LANOIA's overall goal methodology and description of the race-neutral measures it will take to meet the goals are described in Section 23.25 and **Attachments 4 and 5** of this plan. The goals are set consistent with the requirements of Subpart D. (23.25(b), (d))

If LANOIA projects that race-neutral measures, standing alone, are not sufficient to meet an overall goal, it will use race-conscious measures as described in Section 23.25 (e) (1-2) and **Attachments 4 and 5** of this plan. (23.25(e))

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

Section 23.27 Reporting

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

Beginning March 1, 2006 we will submit to the FAA Regional Civil Rights Office, an annual ACDBE participation report on the form in Appendix A of Part 23.

Section 23.29 Compliance and Enforcement Procedures

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.

We will consider similar action under our own legal authorities, including responsibility determinations in future contracts.

We will also implement a monitoring and enforcement mechanism to ensure that work committed to ACDBEs at contract award is actually performed by the ACDBEs. This mechanism will provide for a running tally of actual ACDBE attainments (e.g., payment actually made to ACDBE firms), including a means of comparing these attainments to commitments. These actions are not all inclusive and other tasks may be instituted to effectively verify ACDBE participation. Actions may include desk audits to review all

material information concerning the concessionaire's compliance; on-site reviews that include interviews, visits to concession locations, and inspection of documents and/or information not available at the desk audit that pertains to the concessionaire's compliance. Any additional investigation that may be called for by a lack of proper record keeping, failure of the concessionaire to cooperate; failure of ACDBE's to cooperate, visible evidence of unsatisfactory performance or other evidence as may warrant further investigation.

In our reports of ACDBE participation to FAA, we will show both commitments and attainments, as required by the DOT reporting form.

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. We are a member of a Unified Certification Program (UCP) administered by the Louisiana Department of Transportation (LADOTD), the Alexandria International Airport through the England Economic and Industrial Development District, the New Orleans Metropolitan Certifying Agency and the City of Shreveport. The LAUCP's directory of eligible DBEs will specify whether a firm is certified as a DBE for purposes of Part 26, and ACDBE for purposes of part 23, or both.

We will review the eligibility of currently certified ACDBEs to make sure that they will meet the standards of part 23. We will complete these reviews as soon as possible, but in no case later than April 21, 2006 or three years from the anniversary date of each firm's most recent certification, whichever is later. Also, 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. Our schedule for this review process has been completed.

We directed all currently certified ACDBEs to submit by April 21, 2006, a personal net worth statement, a certification of disadvantage, and an affidavit of no change. 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 \$30 million. The size standard for banks and other financial institutions is \$275 million in assets, for car rental companies it is \$40 million, and for pay telephone companies the standard is 1,500 employees. (23.33). the personal net worth standard used in determining eligibility for purposes of part 23 is \$1.32 million. We recognize that in calculating personal net worth, the following exclusions apply: the individual's ownership interest in an ACDBE firm or a firm that is applying for ACDBE certification; the individual's equity in his or her primary place of residence; and 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, to a maximum of \$3 million. 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 do 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

LANOIA 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. The LANOIA 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 LANOIA'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

LANOIA 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

LANOIA is a medium hub airport. As a condition of eligibility for FAA financial assistance, the sponsor will submit its overall goals according to the following schedule:

Type of Airport	Initial Goal Due	Second Goal Due	Subsequent Goals Due
Large/Medium Hub Primary	January 1, 2006	October 1, 2008	Every 3 years on October 1
Small Hub Primary	October 1, 2006	October 1, 2009	
Non-Hub Primary	October 1, 2007	October 1, 2010	

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 at least six months before executing the new concession agreement.

LANOIA 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).

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 4** to this program.

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

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

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

Concession Specific Goals (Also include this language in the DBE goal attachment) (23.25 (c)(e)(1)(iv))

LANOIA will use concession specific goals to meet any portion of the overall goals LANOIA 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, LANOIA 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, LANOIA 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 LANOIA's concession specific goals.

Specifically,

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 responsive.¹

¹

When, as a recipient, you establish a contract goal on a DOT-assisted contract, a bidder/offeror must, in order to be responsible and/or responsive, make good faith efforts to meet the goal. The bidder can meet this requirement in either of two ways. First, the bidder can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn't meet the goal, the bidder can document adequate good faith efforts. This means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

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))

LANOIA treats bidder/offeror's compliance with good faith effort requirements as a matter of responsiveness.¹

Each solicitation for which a concession specific goal has been established will require the concessionaires to submit a Schedule of Contract Participation Form found in **Attachment 6** and the following information:

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

Administrative reconsideration (26.53(d))

Within fourteen (14) days of being informed by LANOIA that it is not responsive because it has not documented sufficient good faith efforts, a concessionaire may request administrative reconsideration. Concessionaire should make this request in writing to the Director of Aviation who will designate the reconsideration official. The reconsideration official will not have played any role in the original determination that the concessionaire did not document sufficient good faith efforts.

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

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

LANOIA 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 issue an order stopping all or part of payment/work until satisfactory action has been taken. If the concessionaire still fails to comply, the contracting officer may issue a termination for default proceeding.

Sample Proposal/Bid Specification:

The requirements of 49 CFR Part 23, regulations of the U.S. Department of Transportation, applies to this concession. It is the policy of the LANOIA to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this concession will be conditioned upon satisfying the requirements of this proposal/bid specification. These requirements apply to all concessions firms and suppliers, including those who qualify as an ACDBE. An ACDBE concession specific goal of ____ percent of (*annual gross receipts; value of leases and/or purchases of goods and services*) has been established for this concession. The concession firm shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 6), to meet the concession specific goal for ACDBE participation in the performance of this concession.

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

Section 23.53 Counting ACDBE Participation for Car Rental Goals

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 23.61 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 23.75 Long-Term Exclusive Agreements

We will not enter into a long-term exclusive agreement 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., *our local area*) an advantage over ACDBEs from other places in obtaining business as, or with, a concession at our airport.

ATTACHMENTS

Attachment 1:

Regulations: 49 CFR Part 23

Attachment 2:

Organizational Chart

Attachment 3:

ACDBE Directory

Attachment 4:

Overall Goal Methodology for Rental Car Concessions

Attachment 5:

Overall Goal Methodology for Non-Rental Car Concessions

Attachment 6:

Schedule of Contract Participation

Attachment 1: Regulations: 49 CFR Part 23

Authority: 49 U.S.C. 47107; 42 U.S.C. 2000d; 49 U.S.C. 322; Executive Order 12138.

Source: 70 FR 14508, Mar. 22, 2005, unless otherwise noted.

SUBPART A—GENERAL

§23.1 What are the objectives of this part?

This part seeks to achieve several objectives:

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

§23.3 What do the terms used in this part mean?

Administrator means the Administrator of the Federal Aviation Administration (FAA).

Affiliation has the same meaning the term has in the Small Business Administration (SBA) regulations, 13 CFR part 121, except that the provisions of SBA regulations concerning affiliation in the context of joint ventures (13 CFR §121.103(f)) do not apply to this part.

- (1) Except as otherwise provided in 13 CFR part 121, concerns are affiliates of each other when, either directly or indirectly:
 - (i) One concern controls or has the power to control the other; or
 - (ii) A third party or parties controls or has the power to control both; or
 - (iii) An identity of interest between or among parties exists such that affiliation may be found.
- (2) In determining whether affiliation exists, it is necessary to consider all appropriate factors, including common ownership, common management, and contractual relationships. Affiliates must be considered together in determining whether a concern meets small business size criteria and the statutory cap on the participation of firms in the ACDBE program.

Airport Concession Disadvantaged Business Enterprise (ACDBE) means a concession that is a for-profit small business concern—

- (1) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and

- (2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

Alaska Native Corporation (ANC) means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)

Car dealership means an establishment primarily engaged in the retail sale of new and/or used automobiles. Car dealerships frequently maintain repair departments and carry stocks of replacement parts, tires, batteries, and automotive accessories. Such establishments also frequently sell pickup trucks and vans at retail. In the standard industrial classification system, car dealerships are categorized in NAICS code 441110.

Concession means one or more of the types of for-profit businesses listed in paragraph (1) or (2) of this definition:

- (1) A business, located on an airport subject to this part, that is engaged in the sale of consumer goods or services to the public under an agreement with the recipient, another concessionaire, or the owner or lessee of a terminal, if other than the recipient.
- (2) A business conducting one or more of the following covered activities, even if it does not maintain an office, store, or other business location on an airport subject to this part, as long as the activities take place on the airport: Management contracts and subcontracts, a web-based or other electronic business in a terminal or which passengers can access at the terminal, an advertising business that provides advertising displays or messages to the public on the airport, or a business that provides goods and services to concessionaires.

Example to paragraph (2): A supplier of goods or a management contractor maintains its office or primary place of business off the airport. However the supplier provides goods to a retail establishment in the airport; or the management contractor operates the parking facility on the airport. These businesses are considered concessions for purposes of this part.

- (3) For purposes of this subpart, a business is not considered to be "located on the airport" solely because it picks up and/or delivers customers under a permit, license, or other agreement. For example, providers of taxi, limousine, car rental, or hotel services are not considered to be located on the airport just because they send shuttles onto airport grounds to pick up passengers or drop them off. A business is considered to be "located on the airport," however, if it has an on-airport facility. Such facilities include in the case of a taxi operator, a dispatcher; in the case of a limousine, a booth selling tickets to the public; in the case of a car rental company, a counter at which its services are sold to the public or a ready return facility; and in the case of a hotel operator, a hotel located anywhere on airport property.
- (4) Any business meeting the definition of concession is covered by this subpart, regardless of the name given to the agreement with the recipient, concessionaire, or airport terminal owner or lessee. A concession may be operated under various types of agreements, including but not limited to the following:
 - (i) Leases.
 - (ii) Subleases.
 - (iii) Permits.
 - (iv) Contracts or subcontracts.
 - (v) Other instruments or arrangements.
- (5) The conduct of an aeronautical activity is not considered a concession for purposes of this subpart. Aeronautical activities include scheduled and non-scheduled air carriers, air taxis, air charters, and air couriers, in their normal passenger or freight carrying capacities; fixed base operators; flight schools; recreational service providers (e.g., sky-diving, parachute-jumping, flying guides); and air tour services.
- (6) Other examples of entities that do not meet the definition of a concession include flight kitchens and in-flight caterers servicing air carriers, government agencies, industrial plants, farm leases, individuals leasing hangar space, custodial and security contracts, telephone and electric service to the airport facility, holding companies, and skycap services under contract with an air carrier or airport.

Concessionaire means a firm that owns and controls a concession or a portion of a concession.

Department (DOT) means the U.S. Department of Transportation, including the Office of the Secretary and the Federal Aviation Administration (FAA).

Direct ownership arrangement means a joint venture, partnership, sublease, licensee, franchise, or other arrangement in which a firm owns and controls a concession.

Good faith efforts means efforts to achieve an ACDBE goal or other requirement of this part that, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to meet the program requirement.

Immediate family member means father, mother, husband, wife, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, mother-in-law, father-in-law, brother-in-law, sister-in-law, or registered domestic partner.

Indian tribe means any Indian tribe, band, nation, or other organized group or community of Indians, including any ANC, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or is recognized as such by the State in which the tribe, band, nation, group, or community resides. See definition of "tribally-owned concern" in this section.

Joint venture means an association of an ACDBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the ACDBE is responsible for a distinct, clearly defined portion of the work of the contract and whose shares in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest. Joint venture entities are not certified as ACDBEs.

Large hub primary airport means a commercial service airport that has a number of passenger boardings equal to at least one percent of all passenger boardings in the United States.

Management contract or subcontract means an agreement with a recipient or another management contractor under which a firm directs or operates one or more business activities, the assets of which are owned, leased, or otherwise controlled by the recipient. The managing agent generally receives, as compensation, a flat fee or a percentage of the gross receipts or profit from the business activity. For purposes of this subpart, the business activity operated or directed by the managing agent must be other than an aeronautical activity, be located at an airport subject to this subpart, and be engaged in the sale of consumer goods or provision of services to the public.

Material amendment means a significant change to the basic rights or obligations of the parties to a concession agreement. Examples of material amendments include an extension to the term not provided for in the original agreement or a substantial increase in the scope of the concession privilege. Examples of nonmaterial amendments include a change in the name of the concessionaire or a change to the payment due dates.

Medium hub primary airport means a commercial service airport that has a number of passenger boardings equal to at least 0.25 percent of all passenger boardings in the United States but less than one percent of such passenger boardings.

Native Hawaiian means any individual whose ancestors were natives, prior to 1778, of the area that now comprises the State of Hawaii.

Native Hawaiian Organization means any community service organization serving Native Hawaiians in the State of Hawaii that is a not-for-profit organization chartered by the State of Hawaii, and is controlled by Native Hawaiians

Noncompliance means that a recipient has not correctly implemented the requirements of this part.

Nonhub primary airport means a commercial service airport that has more than 10,000 passenger boardings each year but less than 0.05 percent of all passenger boardings in the United States.

Part 26 means 49 CFR part 26, the Department of Transportation's disadvantaged business enterprise regulation for DOT-assisted contracts.

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.

Primary airport means a commercial service airport that the Secretary determines to have more than 10,000 passengers enplaned annually.

Primary industry classification means the North American Industrial Classification System (NAICS) code designation that best describes the primary business of a firm. The NAICS Manual is available through the National Technical Information Service (NTIS) of the U.S. Department of Commerce (Springfield, VA, 22261). NTIS also makes materials available through its Web site (<http://www.ntis.gov/naics>).

Primary recipient means a recipient to which DOT financial assistance is extended through the programs of the FAA and which passes some or all of it on to another recipient.

Principal place of business means the business location where the individuals who manage the firm's day-to-day operations spend most working hours and where top management's business records are kept. If the offices from which management is directed and where business records are kept are in different locations, the recipient will determine the principal place of business for ACDBE program purposes.

Race-conscious means a measure or program that is focused specifically on assisting only ACDBEs, including women-owned ACDBEs. For the purposes of this part, race-conscious measures include gender-conscious measures.

Race-neutral means a measure or program that is, or can be, used to assist all small businesses, without making distinctions or classifications on the basis of race or gender.

Secretary means the Secretary of Transportation or his/her designee.

Set-aside means a contracting practice restricting eligibility for the competitive award of a contract solely to ACDBE firms.

Small Business Administration or SBA means the United States Small Business Administration.

Small business concern means a for profit business that does not exceed the size standards of §23.33 of this part.

Small hub airport means a publicly owned commercial service airport that has a number of passenger boardings equal to at least 0.05 percent of all passenger boardings in the United States but less than 0.25 percent of such passenger boardings.

Socially and economically disadvantaged individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is—

- (1) Any individual determined by a recipient to be a socially and economically disadvantaged individual on a case-by-case basis.
- (2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
 - (i) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
 - (ii) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

- (iii) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
- (iv) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;
- (v) "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
- (vi) Women;
- (vii) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

Recipient means any entity, public or private, to which DOT financial assistance is extended, whether directly or through another recipient, through the programs of the FAA.

Tribally-owned concern means any concern at least 51 percent owned by an Indian tribe as defined in this section.

You refers to a recipient, unless a statement in the text of this part or the context requires otherwise (i.e., "You must do XYZ" means that recipients must do XYZ).

[70 FR 14508, Mar. 22, 2005, as amended at 72 FR 15616, Apr. 2, 2007; 77 FR 36931, June 20, 2012]

§23.5 To whom does this part apply?

If you are a recipient that has received a grant for airport development at any time after January 1988 that was authorized under Title 49 of the United States Code, this part applies to you.

§23.7 Program reviews.

In 2010, and thereafter at the discretion of the Secretary, the Department will initiate a review of the ACDBE program to determine what, if any, modifications should be made to this part.

[75 FR 16358, Apr. 1, 2010]

§23.9 What are the nondiscrimination and assurance requirements of this part for recipients?

- (a) As a recipient, you must meet the non-discrimination requirements provided in part 26, §26.7 with respect to the award and performance of any concession agreement, management contract or subcontract, purchase or lease agreement, or other agreement covered by this subpart.
- (b) You must also take all necessary and reasonable steps to ensure nondiscrimination in the award and administration of contracts and agreements covered by this part.
- (c) You must include the following assurances in all concession agreements and management contracts you execute with any firm after April 21, 2005:
 - (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."

§23.11 What compliance and enforcement provisions are used under this part?

The compliance and enforcement provisions of part 26 (§§26.101 and 26.105 through 26.109) apply to this part in the same way that they apply to FAA recipients and programs under part 26.

[70 FR 14508, Mar. 22, 2005, as amended at 72 FR 15616, Apr. 2, 2007]

§23.13 How does the Department issue guidance, interpretations, exemptions, and waivers pertaining to this part?

- (a) Only guidance and interpretations (including interpretations set forth in certification appeal decisions) consistent with this part 23 and issued after April 21, 2005, express the official positions and views of the Department of Transportation or the Federal Aviation Administration.
- (b) The Secretary of Transportation, Office of the Secretary of Transportation, and the FAA may issue written interpretations of or written guidance concerning this part. Written interpretations and guidance are valid, and express the official positions and views of the Department of Transportation or the FAA, only if they are issued over the signature of the Secretary of Transportation or if they contain the following statement:

The General Counsel of the Department of Transportation has reviewed this document and approved it as consistent with the language and intent of 49 CFR part 23.

- (c) You may apply for an exemption from any provision of this part. To apply, you must request the exemption in writing from the Office of the Secretary of Transportation or the FAA. The Secretary will grant the request only if it documents special or exceptional circumstances, not likely to be generally applicable, and not contemplated in connection with the rulemaking that established this part, that make your compliance with a specific provision of this part impractical. You must agree to take any steps that the Department specifies to comply with the intent of the provision from which an exemption is granted. The Secretary will issue a written response to all exemption requests.
- (d) You can apply for a waiver of any provision of subpart B or D of this part including, but not limited to, any provisions regarding administrative requirements, overall goals, contract goals or good faith efforts. Program waivers are for the purpose of authorizing you to operate an ACDBE program that achieves the objectives of this part by means that may differ from one or more of the requirements of subpart B or D of this part. To receive a program waiver, you must follow these procedures:
 - (1) You must apply through the FAA. The application must include a specific program proposal and address how you will meet the criteria of paragraph (d)(2) of this section. Before submitting your application, you must have had public participation in developing your proposal, including consultation with the ACDBE community and at least one public hearing. Your application must include a summary of the public participation process and the information gathered through it.
 - (2) Your application must show that—
 - (i) There is a reasonable basis to conclude that you could achieve a level of ACDBE participation consistent with the objectives of this part using different or innovative means other than those that are provided in subpart B or D of this part;
 - (ii) Conditions at your airport are appropriate for implementing the proposal;
 - (iii) Your proposal would prevent discrimination against any individual or group in access to concession opportunities or other benefits of the program; and
 - (iv) Your proposal is consistent with applicable law and FAA program requirements.

- (3) The FAA Administrator has the authority to approve your application. If the Administrator grants your application, you may administer your ACDBE program as provided in your proposal, subject to the following conditions:
- (i) ACDBE eligibility is determined as provided in subpart C of this part, and ACDBE participation is counted as provided in §§23.53 through 23.55.
 - (ii) Your level of ACDBE participation continues to be consistent with the objectives of this part;
 - (iii) There is a reasonable limitation on the duration of the your modified program; and
 - (iv) Any other conditions the Administrator makes on the grant of the waiver.
- (4) The Administrator may end a program waiver at any time and require you to comply with this part's provisions. The Administrator may also extend the waiver, if he or she determines that all requirements of this section continue to be met. Any such extension shall be for no longer than period originally set for the duration of the program waiver.

[70 FR 14508, Mar. 22, 2005, as amended at 72 FR 15616, Apr. 2, 2007]

SUBPART B—ACDBE PROGRAMS

§23.21 Who must submit an ACDBE program to FAA, and when?

- (a) Except as provided in paragraph (e) of this section, if you are a primary airport that has or was required to have a concessions DBE program prior to April 21, 2005, you must submit a revised ACDBE program meeting the requirements of this part to the appropriate FAA regional office for approval.
- (1) You must submit this revised program on the same schedule provided for your first submission of overall goals in §23.45(a) of this part.
 - (2) Timely submission and FAA approval of your revised ACDBE program is a condition of eligibility for FAA financial assistance.
 - (3) Until your new ACDBE program is submitted and approved, you must continue to implement your concessions DBE program that was in effect before the effective date of this amendment to part 23, except with respect to any provision that is contrary to this part.
- (b) If you are a primary airport that does not now have a DBE concessions program, and you apply for a grant of FAA funds for airport planning and development under 49 U.S.C. 47107 et seq., you must submit an ACDBE program to the FAA at the time of your application. Timely submission and FAA approval of your ACDBE program are conditions of eligibility for FAA financial assistance.
- (c) If you are the owner of more than one airport that is required to have an ACDBE program, you may implement one plan for all your locations. If you do so, you must establish a separate ACDBE goal for each location.
- (d) If you make any significant changes to your ACDBE program at any time, you must provide the amended program to the FAA for approval before implementing the changes.
- (e) If you are a non-primary airport, non-commercial service airport, a general aviation airport, reliever airport, or any other airport that does not have scheduled commercial service, you are not required to have an ACDBE program. However, you must take appropriate outreach steps to encourage available ACDBEs to participate as concessionaires whenever there is a concession opportunity.

§23.23 What administrative provisions must be in a recipient's ACDBE program?

- (a) If, as a recipient that must have an ACDBE program, the program must include provisions for a policy statement, liaison officer, and directory, as provided in part 26, §§26.23, 26.25, and 26.31, as well as

certification of ACDBEs as provided by Subpart C of this part. You must include a statement in your program committing you to operating your ACDBE program in a nondiscriminatory manner.

- (b) You may combine your provisions for implementing these requirements under this part and part 26 (e.g., a single policy statement can cover both Federally-assisted airport contracts and concessions; the same individual can act as the liaison officer for both part 23 and part 26 matters).

§23.25 What measures must recipients include in their ACDBE programs to ensure nondiscriminatory participation of ACDBEs in concessions?

- (a) You must include in your ACDBE program a narrative description of the types of measures you intend to make to ensure nondiscriminatory participation of ACDBEs in concession and other covered activities.
- (b) Your ACDBE program must provide for setting goals consistent with the requirements of Subpart D of this part.
- (c) Your ACDBE program must provide for seeking ACDBE participation in all types of concession activities, rather than concentrating participation in one category or a few categories to the exclusion of others.
- (d) Your ACDBE program must include race-neutral measures that you will take. You must maximize the use of race-neutral measures, obtaining as much as possible of the ACDBE participation needed to meet overall goals through such measures. These are responsibilities that you directly undertake as a recipient, in addition to the efforts that concessionaires make, to obtain ACDBE participation. The following are examples of race-neutral measures you can implement:
 - (1) Locating and identifying ACDBEs and other small businesses who may be interested in participating as concessionaires under this part;
 - (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 recipient'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 part 26, §26.35); technical assistance program; or taking other steps to foster ACDBE participation in concessions.
- (e) Your ACDBE program must also provide for the use of race-conscious measures when race-neutral measures, standing alone, are not projected to be sufficient to meet an overall goal. The following are examples of race-conscious measures you can implement:
 - (1) Establishing concession-specific goals for particular concession opportunities.
 - (i) If the objective of the concession-specific goal is to obtain ACDBE participation through a direct ownership arrangement with a ACDBE, calculate the goal as a percentage of the total estimated annual gross receipts from the concession.
 - (ii) If the goal applies to purchases and/or leases of goods and services, 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.

- (iii) To be eligible to be awarded the concession, competitors must make good faith efforts to meet this goal. A competitor 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.
- (iv) The administrative procedures applicable to contract goals in part 26, §26.51-53, apply with respect to concession-specific goals.
- (2) Negotiation with a potential concessionaire to include ACDBE participation, through direct ownership arrangements or measures, in the operation of the concession.
- (3) With the prior approval of FAA, other methods that take a competitor's ability to provide ACDBE participation into account in awarding a concession.
- (f) Your ACDBE program must 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.
- (g) As provided in §23.61 of this part, you must not use set-asides and quotas as means of obtaining ACDBE participation.

§23.27 What information does a recipient have to retain and report about implementation of its ACDBE program?

- (a) As a recipient, you must retain sufficient basic information about your program implementation, your certification of ACDBEs, and the award and performance of agreements and contracts to enable the FAA to determine your compliance with this part. You must retain this data for a minimum of three years following the end of the concession agreement or other covered contract.
- (b) Beginning March 1, 2006, you must submit an annual report on ACDBE participation using the form found in appendix A to this part. You must submit the report to the appropriate FAA Regional Civil Rights Office.

§23.29 What monitoring and compliance procedures must recipients follow?

As a recipient, you must implement appropriate mechanisms to ensure compliance with the requirements of this part by all participants in the program. You must include in your concession program the specific provisions to be inserted into concession agreements and management contracts setting forth the enforcement mechanisms and other means you use to ensure compliance. These provisions must include a monitoring and enforcement mechanism to verify that the work committed to ACDBEs is actually performed by the ACDBEs. This mechanism must include a written certification that you have reviewed records of all contracts, leases, joint venture agreements, or other concession-related agreements and monitored the work on-site at your airport for this purpose. The monitoring to which this paragraph refers may be conducted in conjunction with monitoring of concession performance for other purposes.

[77 FR 36931, June 20, 2012]

SUBPART C—CERTIFICATION AND ELIGIBILITY OF ACDBES

§23.31 What certification standards and procedures do recipients use to certify ACDBEs?

- (a) As a recipient, you must use, except as provided in this subpart, the procedures and standards of part 26, §§26.61-91 for certification of ACDBEs to participate in your concessions program. Your ACDBE program must incorporate the use of these standards and procedures and must provide that certification decisions for ACDBEs will be made by the Unified Certification Program (UCP) in your state (see part 26, §26.81).
- (b) The UCP's directory of eligible DBEs must specify whether a firm is certified as a DBE for purposes of part 26, an ACDBE for purposes of part 23, or both.

- (c) As an airport or UCP, you must review the eligibility of currently certified ACDBE firms to make sure that they meet the eligibility standards of this part.
 - (1) You must complete these reviews as soon as possible, but in no case later than April 21, 2006 or three years from the anniversary date of each firm's most recent certification, whichever is later.
 - (2) You must direct all currently certified ACDBEs to submit to you by April 21, 2006, a personal net worth statement, a certification of disadvantage, and an affidavit of no change.

§23.33 What size standards do recipients use to determine the eligibility of ACDBEs?

- (a) As a recipient, you must, except as provided in paragraph (b) of this section, 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.
- (b) The following types of businesses have size standards that differ from the standard set forth in paragraph (a) of this section:
 - (1) Banks and financial institutions: \$1 billion in assets;
 - (2) Car rental companies: \$75.23 million average annual gross receipts over the firm's three previous fiscal years, as adjusted by the Department for inflation every two years from April 3, 2009.
 - (3) Pay telephones: 1,500 employees;
 - (4) Automobile dealers: 350 employees.
- (c) The Department adjusts the numbers in paragraphs (a) and (b)(2) of this section using the Department of Commerce price deflators for purchases by State and local governments as the basis for this adjustment. The Department publishes a Federal Register document informing the public of each adjustment.

[77 FR 36931, June 20, 2012]

§23.35 What is the personal net worth standard for disadvantaged owners of ACDBEs?

The personal net worth standard used in determining eligibility for purposes of this part is \$1.32 million. Any individual who has a personal net worth exceeding this amount is not a socially and economically disadvantaged individual for purposes of this part, even if the individual is a member of a group otherwise presumed to be disadvantaged.

[70 FR 14508, Mar. 22, 2005, as amended at 77 FR 36931, June 20, 2012]

§23.37 Are firms certified under 49 CFR part 26 eligible to participate as ACDBEs?

- (a) You must presume that a firm that is certified as a DBE under part 26 is eligible to participate as an ACDBE. By meeting the size, disadvantage (including personal net worth), ownership and control standards of part 26, the firm will have also met the eligibility standards for part 23.
- (b) However, before certifying such a firm, you must ensure that the disadvantaged owners of a DBE certified under part 26 are able to control the firm with respect to its activity in the concessions program. In addition, you are not required to certify a part 26 DBE as a part 23 ACDBE if the firm does not do work relevant to the airport's concessions program.

§23.39 What other certification requirements apply in the case of ACDBEs?

- (a) The provisions of part 26, §§26.83 (c)(2) through (c)(6) do not apply to certifications for purposes of this part. Instead, in determining whether a firm is an eligible ACDBE, you must take the following steps:
 - (1) Obtain the resumes or work histories of the principal owners of the firm and personally interview these individuals;
 - (2) Analyze the ownership of stock of the firm, if it is a corporation;

- (3) Analyze the bonding and financial capacity of the firm;
 - (4) Determine the work history of the firm, including any concession contracts or other contracts it may have received;
 - (5) Obtain or 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;
 - (6) Obtain a statement from the firm of the type(s) of concession(s) it prefers to operate or the type(s) of other contract(s) it prefers to perform.
- (b) In reviewing the affidavit required by part 26, §26.83(j), you must ensure that the ACDBE firm meets the applicable size standard in §23.33.
- (c) For purposes of this part, the term prime contractor in part 26, §26.87(i) 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.
- (d) With respect to firms owned by Alaska Native Corporations (ANCs), the provisions of part 26, §26.73(i) do not apply under this part. The eligibility of ANC-owned firms for purposes of this part is governed by §26.73(h).
- (e) When you remove a concessionaire's eligibility after the concessionaire has entered a concession agreement, because the firm exceeded the small business size standard or because an owner has exceeded the personal net worth standard, and the firm in all other respects remains an eligible DBE, you may continue to count the concessionaire's participation toward DBE goals during the remainder of the current concession agreement. However, you must not count the concessionaire's participation toward DBE goals beyond the termination date for the concession agreement in effect at the time of the decertification (e.g., in a case where the agreement is renewed or extended, or an option for continued participation beyond the current term of the agreement is exercised).
- (f) When UCPs are established in a state (see part 26, §26.81), the UCP, rather than individual recipients, certifies firms for the ACDBE concession program.
- (g) You must use the Uniform Application Form found in appendix F to part 26. However, you must instruct applicants to take the following additional steps:
- (1) In the space available in section 2(B)(7) of the form, the applicant must state that it is applying for certification as an ACDBE.
 - (2) With respect to section 4(C) of the form, the applicant must provide information on an attached page concerning the address/location, ownership/lease status, current value of property or lease, and fees/lease payments paid to the airport.
 - (3) The applicant need not complete section 4(I) and (J). However, the applicant must provide information on an attached page concerning any other airport concession businesses the applicant firm or any affiliate owns and/or operates, including name, location, type of concession, and start date of concession.
- (h) Car rental companies and private terminal owners or lessees are not authorized to certify firms as ACDBEs. As a car rental company or private terminal owner or lessee, you must obtain ACDBE participation from firms which a recipient or UCPs have certified as ACDBEs.
- (i) You must use the certification standards of this part to determine the ACDBE eligibility of firms that provide goods and services to concessionaires.

SUBPART D—GOALS, GOOD FAITH EFFORTS, AND COUNTING

§23.41 What is the basic overall goal requirement for recipients?

- (a) If you are a recipient who must implement an ACDBE program, you must, except as provided in paragraph (b) of this section, establish two separate overall ACDBE goals. The first is for car rentals; the second is for concessions other than car rentals.
- (b) If your annual car rental concession revenues, averaged over the three-years preceding the date on which you are required to submit overall goals, do not exceed \$200,000, you are not required to submit a car rental overall goal. If your annual revenues for concessions other than car rentals, averaged over the three years preceding the date on which you are required to submit overall goals, do not exceed \$200,000, you are not required to submit a non-car rental overall goal.
- (c) Each overall goal must cover a three-year period. You must review your goals annually to make sure they continue to fit your circumstances appropriately. You must report to the FAA any significant adjustments that you make to your goal in the time before your next scheduled submission.
- (d) Your goals established under this part must provide for participation by all certified ACDBEs and may not be subdivided into group-specific goals.
- (e) If you fail to establish and implement goals as provided in this section, you are not in compliance with this part. If you establish and implement goals in a way different from that provided in this part, you are not in compliance with this part. If you fail to comply with this requirement, you are not eligible to receive FAA financial assistance.

§23.43 What are the consultation requirements in the development of recipients' overall goals?

- (a) As a recipient, you must consult with stakeholders before submitting your overall goals to FAA.
- (b) Stakeholders with whom you must consult include, but are not 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 recipient's efforts to increase participation of ACDBEs.

§23.45 What are the requirements for submitting overall goal information to the FAA?

- (a) You must submit your overall goals to the appropriate FAA Regional Civil Rights Office for approval. Your first set of overall goals meeting the requirements of this subpart are due on the following schedule:
 - (1) If you are a large or medium hub primary airport on April 21, 2005, by January 1, 2006. You must make your next submissions by October 1, 2008.
 - (2) If you are a small hub primary airport on April 21, 2005, by October 1, 2006.
 - (3) If you are a nonhub primary airport on April 21, 2005, by October 1, 2007.
- (b) You must then submit new goals every three years after the date that applies to you.
- (c) Timely submission and FAA approval of your overall goals is a condition of eligibility for FAA financial assistance.
- (d) In the time before you make your first submission under paragraph (a) of this section, you must continue to use the overall goals that have been approved by the FAA before the effective date of this part.
- (e) Your overall goal submission must include a description of the method used to calculate your goals and the data you relied on. You must "show your work" to enable the FAA to understand how you concluded your goals were appropriate. This means that you must provide to the FAA the data, calculations, assumptions, and reasoning used in establishing your goals.

- (f) Your submission must include your projection of the portions of your overall goals you propose to meet through use of race-neutral and race-conscious means, respectively, and the basis for making this projection (see §23.51(d)(5))
- (g) FAA may approve or disapprove the way you calculated your goal, including your race-neutral/race-conscious "split," as part of its review of your plan or goal submission. Except as provided in paragraph (h) of this section, the FAA does not approve or disapprove the goal itself (i.e., the number).
- (h) If the FAA determines that your goals have not been correctly calculated or the justification is inadequate, the FAA may, after consulting with you, adjust your overall goal or race-conscious/race-neutral "split." The adjusted goal represents the FAA's determination of an appropriate overall goal for ACDBE participation in the recipient's concession program, based on relevant data and analysis. The adjusted goal is binding on you.
- (i) If a new concession opportunity, the estimated average annual gross revenues of which are anticipated to be \$200,000 or greater, arises at a time that falls between normal submission dates for overall goals, you must submit an appropriate adjustment to your overall goal to the FAA for approval no later than 90 days before issuing the solicitation for the new concession opportunity.

[70 FR 14508, Mar. 22, 2005, as amended at 77 FR 36931, June 20, 2012]

§23.47 What is the base for a recipient's goal for concessions other than car rentals?

- (a) As a recipient, the base for your goal includes the total gross receipts of concessions, except as otherwise provided in this section.
- (b) This base does not include the gross receipts of car rental operations.
- (c) The dollar amount of a management contract or subcontract with a non-ACDBE and the gross receipts of business activities to which a management or subcontract with a non-ACDBE pertains are not added to this base.
- (d) This base does not include any portion of a firm's estimated gross receipts that will not be generated from a concession.

Example to paragraph (d): A firm operates a restaurant in the airport terminal which serves the traveling public and under the same lease agreement, provides in-flight catering service to air carriers. The projected gross receipts from the restaurant are included in the overall goal calculation, while the gross receipts to be earned by the in-flight catering services are not.

§23.49 What is the base for a recipient's goal for car rentals?

Except in the case where you use the alternative goal approach of §23.51(c)(5)(ii), the base for your goal is the total gross receipts of car rental operations at your airport. You do not include gross receipts of other concessions in this base.

§23.51 How are a recipient's overall goals expressed and calculated?

- (a) Your objective in setting a goal is to estimate the percentage of the base calculated under §§23.47-23.49 that would be performed by ACDBEs in the absence of discrimination and its effects.
 - (1) This percentage is the estimated ACDBE participation that would occur if there were a "level playing field" for firms to work as concessionaires for your airport.
 - (2) In conducting this goal setting process, you are determining the extent, if any, to which the firms in your market area have suffered discrimination or its effects in connection with concession opportunities or related business opportunities.
 - (3) You must complete the goal-setting process separately for each of the two overall goals identified in §23.41 of this part.

- (b) (1) Each overall concessions goal must be based on demonstrable evidence of the availability of ready, willing and able ACDBEs relative to all businesses ready, willing and able to participate in your ACDBE program (hereafter, the “relative availability of ACDBEs”).
 - (2) You cannot simply rely on the 10 percent national aspirational goal, your previous overall goal, or past ACDBE participation rates in your program without reference to the relative availability of ACDBEs in your market.
 - (3) Your 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. Your market area may be different for different types of concessions.
- (c) Step 1. You must begin your goal setting process by determining a base figure for the relative availability of ACDBEs. The following are examples of approaches that you may take toward determining a base figure. These examples are provided as a starting point for your goal setting process. Any percentage figure derived from one of these examples should be considered a basis from which you begin when examining the evidence available to you. These examples are not intended as an exhaustive list. Other methods or combinations of methods to determine a base figure may be used, subject to approval by the FAA.
- (1) Use DBE Directories and Census Bureau Data. Determine the number of ready, willing and able ACDBEs in your market area from your ACDBE directory. Using the Census Bureau's County Business Pattern (CBP) data base, determine the number of all ready, willing and able businesses available in your market area that perform work in the same NAICS codes. (Information about the CBP data base may be obtained from the Census Bureau at their Web site, <http://www.census.gov/epcd/cbp/view/cbpview.html>.) Divide the number of ACDBEs by the number of all businesses to derive a base figure for the relative availability of ACDBEs in your market area.
 - (2) Use an Active Participants List. Determine the number of ACDBEs that have participated or attempted to participate in your airport concessions program in previous years. Determine the number of all businesses that have participated or attempted to participate in your airport concession program in previous years. Divide the number of ACDBEs who have participated or attempted to participate by the number for all businesses to derive a base figure for the relative availability of ACDBEs in your market area.
 - (3) Use data from a disparity study. Use a percentage figure derived from data in a valid, applicable disparity study.
 - (4) Use the goal of another recipient. If another airport or other DOT recipient in the same, or substantially similar, market has set an overall goal in compliance with this rule, you may use that goal as a base figure for your goal.
 - (5) Alternative methods. (i) You may use other methods to determine a base figure for your overall goal. Any methodology you choose must be based on demonstrable evidence of local market conditions and be designed to ultimately attain a goal that is rationally related to the relative availability of ACDBEs in your market area.
 - (ii) 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. In this case, you would calculate your car rental overall goal by dividing the estimated dollar value of such purchases from ACDBEs by the total estimated dollar value of all purchases to be made by car rental companies.

- (d) Step 2. Once you have calculated a base figure, you must examine all relevant evidence reasonably available in your jurisdiction to determine what adjustment, if any, is needed to the base figure in order to arrive at your overall goal.
- (1) There are many types of evidence that must be considered when adjusting the base figure. These include, but are not limited to:
 - (i) 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
 - (ii) Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure.
 - (2) If your base figure is the goal of another recipient, you must adjust it for differences in your market area and your concessions program.
 - (3) If available, you must consider evidence from related fields that affect the opportunities for ACDBEs to form, grow and compete. These include, but are not limited to:
 - (i) Statistical disparities in the ability of ACDBEs to get the financing, bonding and insurance required to participate in your program;
 - (ii) Data on employment, self-employment, education, training and union apprenticeship programs, to the extent you can relate it to the opportunities for ACDBEs to perform in your program.
 - (4) If you attempt to make an adjustment to your base figure to account for the continuing effects of past discrimination, or the effects of an ongoing ACDBE program, the adjustment must be based on demonstrable evidence that is logically and directly related to the effect for which the adjustment is sought.
 - (5) Among the information you submit with your overall goal (see 23.45(e)), you must include description of the methodology you used to establish the goal, including your base figure and the evidence with which it was calculated, as well as the adjustments you made to the base figure and the evidence relied on for the adjustments. You should also include a summary listing of the relevant available evidence in your jurisdiction and an explanation of how you used that evidence to adjust your base figure. You must also include your projection of the portions of the overall goal you expect to meet through race-neutral and race-conscious measures, respectively (see §§26.51(c)).
- (e) You are not required to obtain prior FAA concurrence with your overall goal (i.e., with the number itself). However, if the FAA's review suggests that your overall goal has not been correctly calculated, or that your method for calculating goals is inadequate, the FAA may, after consulting with you, adjust your overall goal or require that you do so. The adjusted overall goal is binding on you.
- (f) If you need additional time to collect data or take other steps to develop an approach to setting overall goals, you may request the approval of the FAA Administrator for an interim goal and/or goal-setting mechanism. Such a mechanism must:
- (1) Reflect the relative availability of ACDBEs in your local market area to the maximum extent feasible given the data available to you; and
 - (2) Avoid imposing undue burdens on non-ACDBEs.

§23.53 How do car rental companies count ACDBE participation toward their goals?

- (a) As a car rental company, you may, in meeting the goal the airport has set for you, include purchases or leases of vehicles from any vendor that is a certified ACDBE.
- (b) As a car rental company, if you choose to meet the goal the airport has set for you by including purchases or leases of vehicles from an ACDBE vendor, you must also submit to the recipient documentation of the good faith efforts you have made to obtain ACDBE participation from other ACDBE providers of goods and services.

- (c) While this part does not require you to obtain ACDBE participation through direct ownership arrangements, you may count such participation toward the goal the airport has set for you.
- (d) The following special rules apply to counting participation related to car rental operations:
 - (1) Count the entire amount of the cost charged by an ACDBE for repairing vehicles, provided that it is reasonable and not excessive as compared with fees customarily allowed for similar services.
 - (2) Count the entire amount of the fee or commission charged by a ACDBE to manage a car rental concession under an agreement with the concessionaire toward ACDBE goals, provided that it is reasonable and not excessive as compared with fees customarily allowed for similar services.
 - (3) Do not count any portion of a fee paid by a manufacturer to a car dealership for reimbursement of work performed under the manufacturer's warranty.
- (e) For other goods and services, count participation toward ACDBE goals as provided in part 26, §26.55 and §23.55 of this part. In the event of any conflict between these two sections, §23.55 controls.
- (f) If you have a national or regional contract, count a pro-rated share of the amount of that contract toward the goals of each airport covered by the contract. Use the proportion of your applicable gross receipts as the basis for making this pro-rated assignment of ACDBE participation.

Example to paragraph (f): Car Rental Company X signs a regional contract with an ACDBE car dealer to supply cars to all five airports in a state. The five airports each account for 20 percent of X's gross receipts in the state. Twenty percent of the value of the cars purchased through the ACDBE car dealer would count toward the goal of each airport.

§23.55 How do recipients count ACDBE participation toward goals for items other than car rentals?

- (a) You count only ACDBE participation that results from a commercially useful function. For purposes of this part, the term commercially useful function has the same meaning as in part 26, §26.55(c), except that the requirements of §26.55(c)(3) do not apply to concessions.
- (b) Count the total dollar value of gross receipts an ACDBE earns under a concession agreement and the total dollar value of a management contract or subcontract with an ACDBE toward the goal. However, if the ACDBE enters into a subconcession agreement or subcontract with a non-ACDBE, do not count any of the gross receipts earned by the non-ACDBE.
- (c) When an ACDBE performs as a subconcessionaire or subcontractor for a non-ACDBE, count only the portion of the gross receipts earned by the ACDBE under its subagreement.
- (d) When an ACDBE performs as a participant in a joint venture, count a portion of the gross receipts equal to the distinct, clearly defined portion of the work of the concession that the ACDBE performs with its own forces toward ACDBE goals.
- (e) Count the entire amount of fees or commissions charged by an ACDBE firm for a bona fide service, provided that, as the recipient, you determine this amount to be reasonable and not excessive as compared with fees customarily allowed for similar services. Such services may include, but are not limited to, professional, technical, consultant, legal, security systems, advertising, building cleaning and maintenance, computer programming, or managerial.
- (f) Count 100 percent of the cost of goods obtained from an ACDBE manufacturer. For purposes of this part, the term manufacturer has the same meaning as in part 26, §26.55(e)(1)(ii).
- (g) Count 100 percent of the cost of goods purchased or leased from a ACDBE regular dealer. For purposes of this part, the term "regular dealer" has the same meaning as in part 26, §26.55(e)(2)(ii).

- (h) Count credit toward ACDBE goals for goods purchased from an ACDBE which is neither a manufacturer nor a regular dealer as follows:
 - (1) Count the entire amount of fees or commissions charged for assistance in the procurement of the goods, provided that this amount is reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of the goods themselves.
 - (2) Count the entire amount of fees or transportation charges for the delivery of goods required for a concession, provided that this amount is reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of goods themselves.
- (i) If a firm has not been certified as an ACDBE in accordance with the standards in this part, do not count the firm's participation toward ACDBE goals.
- (j) Do not count the work performed or gross receipts earned by a firm after its eligibility has been removed toward ACDBE goals. However, if an ACDBE firm certified on April 21, 2005 is decertified because one or more of its disadvantaged owners do not meet the personal net worth criterion or the firm exceeds business size standards of this part during the performance of a contract or other agreement, the firm's participation may continue to be counted toward ACDBE goals for the remainder of the term of the contract or other agreement (but not extensions or renewals of such contracts or agreements).
- (k) Do not count costs incurred in connection with the renovation, repair, or construction of a concession facility (sometimes referred to as the "build-out").
- (l) Do not count the ACDBE participation of car rental companies toward your ACDBE achievements toward this goal.

§23.57 What happens if a recipient falls short of meeting its overall goals?

- (a) You cannot be penalized, or treated by the Department as being in noncompliance with this part, simply because your ACDBE participation falls short of your overall goals. You can be penalized or treated as being in noncompliance only if you have failed to administer your ACDBE program in good faith.
- (b) If the awards and commitments shown on your 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, you must do the following in order to be regarded by the Department as implementing your ACDBE program in good faith:
 - (1) Analyze in detail the reasons for the difference between the overall goal and your awards and commitments in that fiscal year;
 - (2) Establish specific steps and milestones to correct the problems you have identified in your analysis and to enable you to meet fully your goal for the new fiscal year;
 - (3)
 - (i) If you are a CORE 30 airport or other airport designated by the FAA, you must submit, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraphs (b)(1) and (2) of this section to the FAA for approval. If the FAA approves the report, you will be regarded as complying with the requirements of this section for the remainder of the fiscal year.
 - (ii) As an airport not meeting the criteria of paragraph (b)(3)(i) of this section, you must retain analysis and corrective actions in your records for three years and make it available to the FAA, on request, for their review.
 - (4) The FAA may impose conditions on the recipient as part of its approval of the recipient's analysis and corrective actions including, but not limited to, modifications to your overall goal methodology, changes in your race-conscious/race-neutral split, or the introduction of additional race-neutral or race-conscious measures.

- (5) You may be regarded as being in noncompliance with this part, and therefore subject to the remedies in §23.11 of this part and other applicable regulations, for failing to implement your ACDBE program in good faith if any of the following things occur:
- (i) You do not submit your analysis and corrective actions to FAA in a timely manner as required under paragraph (b)(3) of this section;
 - (ii) FAA disapproves your analysis or corrective actions; or
 - (iii) You do not fully implement:
 - (A) The corrective actions to which you have committed, or
 - (B) Conditions that FAA has imposed following review of your analysis and corrective actions.
 - (c) If information coming to the attention of FAA demonstrates that current trends make it unlikely that you, as an airport, will achieve ACDBE awards and commitments that would be necessary to allow you to meet your overall goal at the end of the fiscal year, FAA may require you to make further good faith efforts, such as modifying your race-conscious/race-neutral split or introducing additional race-neutral or race-conscious measures for the remainder of the fiscal year.

[70 FR 14508, Mar. 22, 2005, as amended at 77 FR 36931, June 20, 2012]

§23.59 What is the role of the statutory 10 percent goal in the ACDBE program?

- (a) The statute authorizing the ACDBE program provides that, except to the extent the Secretary determines otherwise, not less than 10 percent of concession businesses are to be ACDBEs.
- (b) This 10 percent goal is an aspirational goal at the national level, which the Department uses as a tool in evaluating and monitoring DBEs' opportunities to participate in airport concessions.
- (c) The national 10 percent aspirational goal does not authorize or require recipients to set overall or concession-specific goals at the 10 percent level, or any other particular level, or to take any special administrative steps if their goals are above or below 10 percent.

§23.61 Can recipients use quotas or set-asides as part of their ACDBE programs?

You must not use quotas or set-asides for ACDBE participation in your program.

SUBPART E—OTHER PROVISIONS

§23.71 Does a recipient have to change existing concession agreements?

Nothing in this part requires you to modify or abrogate an existing concession agreement (one executed before April 21, 2005) during its term. When an extension or option to renew such an agreement is exercised, or when a material amendment is made, you must assess potential for ACDBE participation and may, if permitted by the agreement, use any means authorized by this part to obtain a modified amount of ACDBE participation in the renewed or amended agreement.

§23.73 What requirements apply to privately-owned or leased terminal buildings?

- (a) If you are a recipient who is required to implement an ACDBE program on whose airport there is a privately-owned or leased terminal building that has concessions, or any portion of such a building, this section applies to you.
- (b) You must pass through the applicable requirements of this part to the private terminal owner or lessee via your agreement with the owner or lessee or by other means. You must ensure that the terminal owner or lessee complies with the requirements of this part.

- (c) If your airport is a primary airport, you must obtain from the terminal owner or lessee the goals and other elements of the ACDBE program required under this part. You must incorporate this information into your concession plan and submit it to the FAA in accordance with this part.
- (d) If the terminal building is at a non-primary commercial service airport or general aviation airport or reliever airport, you must ensure that the owner complies with the requirements in §23.21(e).

§23.75 Can recipients enter into long-term, exclusive agreements with concessionaires?

- (a) Except as provided in paragraph (b) of this section, you must not enter into long-term, exclusive agreements for concessions. For purposes of this section, a long-term agreement is one having a term longer than five years.
- (b) You may enter into a long-term, exclusive concession agreement only under the following conditions:
 - (1) Special local circumstances exist that make it important to enter such agreement, and
 - (2) The responsible FAA regional office approves your plan for meeting the standards of paragraph (c) of this section.
- (c) In order to obtain FAA approval of a long-term-exclusive concession agreement, you must submit the following information to the FAA regional office:
 - (1) A description of the special local circumstances that warrant a long-term, exclusive agreement.
 - (2) A copy of the draft and final leasing and subleasing or other agreements. This long-term, exclusive agreement must provide that:
 - (i) A number of ACDBEs that reasonably reflects their availability in your market area, in the absence of discrimination, to do the types of work required will participate as concessionaires throughout the term of the agreement and account for at a percentage of the estimated annual gross receipts equivalent to a level set in accordance with §§23.47 through 23.49 of this part.
 - (ii) You will review the extent of ACDBE participation before the exercise of each renewal option to consider whether an increase or decrease in ACDBE participation is warranted.
 - (iii) An ACDBE concessionaire that is unable to perform successfully will be replaced by another ACDBE concessionaire, if the remaining term of the agreement makes this feasible. In the event that such action is not feasible, you will require the concessionaire to make good faith efforts during the remaining term of the agreement to encourage ACDBEs to compete for the purchases and/or leases of goods and services to be made by the concessionaire.
 - (3) Assurances that any ACDBE participant will be in an acceptable form, such as a sublease, joint venture, or partnership.
 - (4) Documentation that ACDBE participants are properly certified.
 - (5) A description of the type of business or businesses to be operated (e.g., location, storage and delivery space, "back-of-the-house facilities" such as kitchens, window display space, advertising space, and other amenities that will increase the ACDBE's chance to succeed).
 - (6) Information on the investment required on the part of the ACDBE and any unusual management or financial arrangements between the prime concessionaire and ACDBE.
 - (7) Information on the estimated gross receipts and net profit to be earned by the ACDBE.

§23.77 Does this part preempt local requirements?

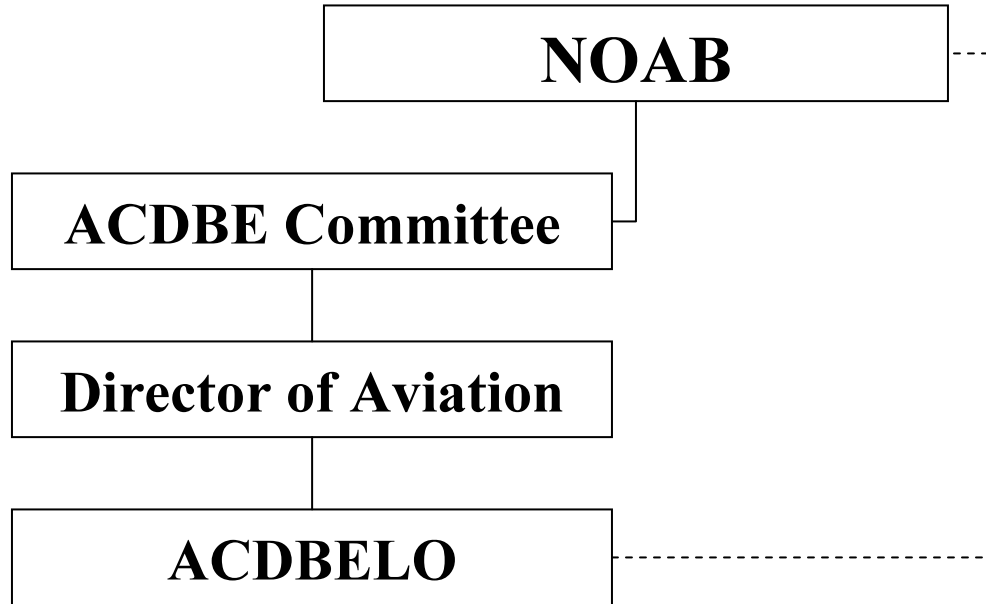
- (a) In the event that a State or local law, regulation, or policy differs from the requirements of this part, the recipient must, as a condition of remaining eligible to receive Federal financial assistance from the DOT, take such steps as may be necessary to comply with the requirements of this part.
- (b) You must clearly identify any State or local law, regulation, or policy pertaining to minority, women's, or disadvantaged business enterprise concerning airport concessions that adds to, goes beyond, or imposes more stringent requirements than the provisions of this part. FAA will determine whether such a law, regulation, or policy conflicts with this part, in which case the requirements of this part will govern.
- (c) If not deemed in conflict by the FAA, you must write and administer such a State or local law, policy, or regulation separately from the ACDBE program.
- (d) You must provide copies of any such provisions and the legal authority supporting them to the FAA with your ACDBE program submission. FAA will not approve an ACDBE program if there are such provisions that conflict with the provisions of this part.
- (e) However, nothing in this part preempts any State or local law, regulation, or policy enacted by the governing body of a recipient, or the authority of any State or local government or recipient to adopt or enforce any law, regulation, or policy relating to ACDBEs, as long as the law, regulation, or policy does not conflict with this part.

§23.79 Does this part permit recipients to use local geographic preferences?

No. As a recipient you must not use a local geographic preference. For purposes of this section, a local geographic preference is any requirement that gives an ACDBE located in one place (e.g., your local area) an advantage over ACDBEs from other places in obtaining business as, or with, a concession at your airport.

Attachment 2: Organizational Chart

New Orleans Aviation Board



Attachment 3: ACDBE Directory

(always refer to www.LAUCP.org for up-to-date listing)



UCP SEARCH RESULTS

Contractor	Business Type	Expire Date
Owner	Minority Type	License
Certifying Agency	Phone	FAX
Work Type	E-Mail Address	
	Service Type	

A AIRPORT LIMOUSINE SERVICES, LLC

100 E. AIRLINE DRIVE

KENNER, LA 70062

D'AMICO, JAMIE B.

Louis Armstrong New Orleans International Airport

485320-Limousine Service

White Women Owned Business

504-712-1700

5042999179

JAMIE@ACONFIDENTIAL.COM

A CONFIDENTIAL TRANSPORTATION, INC.

100 E. AIRLINE DRIVE

KENNER, LA 70062

D'AMICO, JAMIE

Louis Armstrong New Orleans International Airport

485320-Limousine Service

White Women Owned Business

504-712-1700

JAMIE@ACONFIDENTIAL.COM

ADEVCO INC D/B/A POSEIDON CONTRACTORS

3 FINANCIAL CENTRE, SUITE 300 900 S

LITTLE ROCK, AR 72211

DEVINE, MARCUS C.

Louis Armstrong New Orleans International Airport

722110-Full-Service Restaurants

453220-Gift, Novelty, and Souvenir Stores

C74-Construction Management

Minority Business Enterprise

501-978-1121

5012243100

MARCUSADEVCO1@AOL.COM

ANKIT, LLC	Minority Business Enterprise	
2263 NW BOCA RATON BLVD., SUITE 104		
BOCA RATON, FL 33431	561-962-2831	5614915177
JAIN, ANKIT	ANKIT@THEANKIT.COM	
Louis Armstrong New Orleans International Airport		
423990-Other Miscellaneous Durable Goods Merchant Wholesalers		

BISSAP BREEZE, LLC	White Women Owned Business	
1670 PAUL MORPHY STREET		
NEW ORLEANS, LA 70119	504-264-1918	5047547829
DIOUF-HENRY, ESAILAMA	INFO@BISSAPBREEZE.COM	
Louis Armstrong New Orleans International Airport		
722330-Mobile Food Services		
722213-Snack and Nonalcoholic Beverage Bars		
339999-All Other Miscellaneous Manufacturing		

BOSSIER SIGN COMPANY	White Women Owned Business	
1401 E. TEXAS STREET		
BOSSIER CITY, LA 71111	318-742-4833	3187424879
GATES, BETTY	CGWARE@BOSSIERSIGNCO.COM	
Louis Armstrong New Orleans International Airport		
339950-Sign Manufacturing		

BRANDED WORKS, INC.	Minority Business Enterprise	
110 TRAVIS STREET, SUITE 132		
LAFAYETTE, LA 70503	504-525-6887	5045811291
MENUTIS, RUTH ANN		
Louis Armstrong New Orleans International Airport	AIRPORT CONCESSION	
722211-Limited-Service Restaurants		
722210-Limited-Service Eating Places		
453998-All Other Miscellaneous Store Retailers (except Tobacco Stores)		
453220-Gift, Novelty, and Souvenir Stores		
451212-News Dealers and Newsstands		

CHASE CATERING & CONCESSIONS, LLC	Minority Business Enterprise	
4979 PAINTERS STREET		
NEW ORLEANS, LA 70122	504-458-2689	5042081697
CHASE, EDGAR L.	EDGARCHASEIV@YAHOO.COM	
Louis Armstrong New Orleans International Airport		
722320-Caterers		
722310-Food Service Contractors		
541618-Other Management Consulting Services		
B74-CATERERS		

COAXUM ENTERPRISES, INC.	Minority Business Enterprise
231 HARBOR CIRCLE CT. NEW ORLEANS, LA 70126 COAXUM, HENRY L. Louis Armstrong New Orleans International Airport 722110-Full-Service Restaurants	504-241-6942 HENRYLCOAXUMJR@GMAIL.COM AIRPORT CONCESSION 5042416946

COLETTE B CISCO, CPA D/B/A HOT POPS	White Women Owned Business
4912 HARRIS AVENUE METAIRIE, LA 70006 CISCO, COLETTE Louis Armstrong New Orleans International Airport 722330-Mobile Food Services 722310-Food Service Contractors 722213-Snack and Nonalcoholic Beverage Bars 541211-Offices of Certified Public Accountants	504-258-5423 COLETTECISCO@HOTMAIL.COM 5042185705

CONCOURSE VENTURES, INC.	Minority Women Owned Business
2373 NORTH HOBART BOULEVARD LOS ANGELES, CA 90027- COCHRAN, DALE MASON Louis Armstrong New Orleans International Airport 453220-Gift, Novelty, and Souvenir Stores	323-661-3867 DMASO@MAC.COM AIRPORT CONCESSION 3236606708

CORLISS STONE-LITTLES, LLC	Minority Women Owned Business
8180 PRECINCT LINE ROAD, SUITE 150 COLLEYVILLE, TX 76034 STONE-LITTLES, CORLISS Louis Armstrong New Orleans International Airport 453998-All Other Miscellaneous Store Retailers (except Tobacco Stores)	817-421-6399 CORLISS@CSLLC.BIZ AIRPORT CONCESSION 8174212007

CRESCENT CITY CYBERSECURITY, LLC	Minority Business Enterprise
3525 N. CAUSEWAY BLVD., SUITE 600 METAIRIE, LA 70002 NGUYEN, NAM Louis Armstrong New Orleans International Airport C41-Network Security Services C16-Computer Analysis 611420-Computer Training 561621-Security Systems Services (except Locksmiths) 541519-Other Computer Related Services 541513-Computer Facilities Management Services	225-435-9897 NAM.NGUYEN@C2CYBERSEC.COM

DELTA PERSONNEL, INC. 2709 L & A ROAD, STE 200 METAIRIE, LA 70001 LAWRENCE, TERESA Orleans Levee District 561320-Temporary Help Services 541612-Human Resources Consulting Services 023-Supply of Work Crews - Employment Agency C80-TEMPORARY HELP SERVICES	White Women Owned Business 504-833-5200 tlawrence@deltapersonnel.com	504-833-5296
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DURAND FOOD SERVICES 10555 LAKE FOREST BLVD, SUITE 9K NEW ORLEANS, LA 70127 DURAND, GIAN Louis Armstrong New Orleans International Airport 722310-Food Service Contractors 722213-Snack and Nonalcoholic Beverage Bars	White Women Owned Business 504-450-9919 DURANDGIAN@YAHOO.COM	5044821259
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DURIO'S CATERING AND FOOD SERVICES, LLC 131 WEST LEONARD AVENUE OPELOUSAS, LA 70570 DURIO, JOSEPH Louis Armstrong New Orleans International Airport 722310-Food Service Contractors	Minority Business Enterprise 504-261-9122 CHEFDURIO@CHARTER.NET	3376781125
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FIRST CHOICE SUPPLY, INC. 2909 WAYCROSS DRIVE MONROE, NC 28110 OWENS, STARLETTE Louis Armstrong New Orleans International Airport 425120-Wholesale Trade Agents and Brokers 423120-Motor Vehicle Supplies & New Parts Merchant Wholesaler	White Women Owned Business 704-275-1566 STARO@FCS-I.COM	7042751496
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------	------------

FIVE BROTHERS AND SISTERS FARMERS MARKE* 7 RODEO DRIVE MARLBORO, NJ 07746 ISANI, ALTAF Louis Armstrong New Orleans International Airport 722310-Food Service Contractors	Minority Business Enterprise 212-244-4467 ALIISANI@YAHOO.COM	2122684531
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FRANKONIA FINE WINES, LLC D/B/A UNCORKED 500 N. ST. PATRICK STREET NEW ORLEANS, LA 70119 DUBRET, PATRICIA Louis Armstrong New Orleans International Airport 722410-Drinking Places (Alcoholic Beverages)	White Women Owned Business 504-828-5708 PATSY@UNCORKEDWINES.US	5048285581
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FUEL FACILITY MANAGEMENT, INC.

White Women Owned Business

7586 WORRAL DRIVE

LAKE WORTH, FL 33463

HOOSE, JANET

Louis Armstrong New Orleans International Airport

561210-Facilities Support Services

C10-Management

561-662-0305

5619651857

JANETHOOSE@BELLSOUTH.NET

AIRPORT CONCESSION

GLOBAL PARKING SYSTEMS, L.L.C.

Minority Business Enterprise

6600 PLAZA DRIVE, SUITE 307

NEW ORLEANS, LA 70127-

BURNS, RONALD

Louis Armstrong New Orleans International Airport

A01-Airport Shuttle Bus

812930-Parking Lots and Garages

485999-All Other Transit and Ground Passenger Transportation

504-246-1668

5042466312

RVBURNS@BMGENTERPRISES.COM

GRANT L. ROBERTSON, INC.

White Women Owned Business

308 N. CAUSEWAY BLVD.

METAIRIE, LA 70001-

PARKER, LYNNE ROBERTSON

Louis Armstrong New Orleans International Airport

424990-Other Miscellaneous Nondurable Goods Merchant Wholesalers

424120-Stationery and Office Supplies Merchant Wholesalers

057-Office Supplies

504-835-0952

INNOVATIVE SALES AND CONSULTING OF AMER* White Women Owned Business

125 N. THEARD STREET

COVINGTON, LA 70433

ENGLAND, KAREN

Louis Armstrong New Orleans International Airport

446130-Optical Good Store

423990-Other Miscellaneous Durable Goods Merchant Wholesalers

423460-Ophthalmic Goods Merchant Wholesalers

C45-Business Process Analysis

722213-Snack and Nonalcoholic Beverage Bars

722211-Limited-Service Restaurants

561499-All Other Business Support Services

541618-Other Management Consulting Services

541611-Administrative Management and General Management Consulting Servi

453998-All Other Miscellaneous Store Retailers (except Tobacco Stores)

453220-Gift, Novelty, and Souvenir Stores

985-871-8981

8153617419

KENGLAND100@AOL.COM

AIRPORT CONCESSION

JAZFAM ASSOCIATES, INC.	White Women Owned Business	
104 CALDERWOOD ROAD		
AMSTERDAM, NY 12010	518-843-7243	5188431568
ZAWISA, AMY K.	JAZFAMIN@JAZFAM.COM	
Louis Armstrong New Orleans International Airport		
C64-Broker Fees - Miscellaneous		
C19-Accounting		
561110-Office Administrative Services		
541219-Other Accounting Services		
424690-Other Chemical and Allied Products Merchant Wholesalers		

JOSIE'S HOMESTYLE PRALINES ETC.	Minority Business Enterprise	
217 RIVERVIEW DRIVE		
ST. ROSE, LA 70087	504-443-9900	5044668764
HARRISON, JOSEPHINE	PRALINE217@GMAIL.COM	
Louis Armstrong New Orleans International Airport		
445292-Confectionery and Nut Stores		
445291-Baked Goods Stores		
424450-Confectionery Merchant Wholesalers		

K SQUARED RESTAURANTS, LLC D/B/A POPEYE*	Minority Business Enterprise	
P O BOX 20091		
NEW ORLEANS, LA 70141-	504-469-4962	5044694866
KIRKSEY, KARLTON	KARLTON1@AOL.COM	
Louis Armstrong New Orleans International Airport	AIRPORT CONCESSION	
722310-Food Service Contractors		
722110-Full-Service Restaurants		

K SQUARED RESTAURANTS, LLC D/B/A SUBWAY	Minority Business Enterprise	
P. O. BOX 20091		
NEW ORLEANS, LA 70141-	504-465-0576	5044694866
KIRKSEY, KARLTON	KARLTON1@AOL.COM	
Louis Armstrong New Orleans International Airport	AIRPORT CONCESSION	
722110-Full-Service Restaurants		
722310-Food Service Contractors		

L & R SECURITY SERVICES, INC.	Minority Business Enterprise	
3930 OLD GENTILLY ROAD		
NEW ORLEANS, LA 70126-	504-943-3191	5049441142
ROBINSON, EDWARD J.	EROBINSON@LRSECURITY.COM	
Louis Armstrong New Orleans International Airport		
561612-Security Guards and Patrol Services		

LESLIE SAUNDERS INSURANCE AGENCY, INC.

1535 NORTH DALE MABRY
LUTZ, FL 33549
SAUNDERS, LESLIE
Louis Armstrong New Orleans International Airport
524210-Insurance Agencies and Brokerages
C23-Insurance Management

White Women Owned Business

8139498964
MSEPA@LSIMI.COM

LONGHOUSE INVENTORY SOLUTIONS, LLC

P.O. BOX 1212
CLAREMORE, OK 74018
JONES, JAMI
Louis Armstrong New Orleans International Airport
B70-SIGN MANUFACTURING
423990-Other Miscellaneous Durable Goods Merchant Wholesalers
339950-Sign Manufacturing

White Women Owned Business

918-342-3127 9183422423
JAMI@LONGHOUSEINVENTORYSOLUTIONS.COM

MARGUERITE'S CAKES, LLC

125 COMMERCIAL SQUARE
SLIDELL, LA 70461
RIEHM, MARGUERITE
Louis Armstrong New Orleans International Airport
445291-Baked Goods Stores

White Women Owned Business

985-641-5802 9856415803
MARGRIEHM@YAHOO.COM

MK LITTLEPAGE, LLC

4802 WENDOVER BLVD.
ALEXANDRIA, LA 71303
LITTLEPAGE, MARY KATHERINE
Louis Armstrong New Orleans International Airport
B61-Parking Management
541611-Administrative Management and General Management Consulting Servi

Minority Women Owned
Business

318-481-2727 3184420926
KLITTLEPAGE@SUDDENLINK.NET
AIRPORT CONCESSION

MOYAN ENTERPRISES, LLC D/B/A D'S PRESSU*

128 FASHION BLVD.
HAHNVILLE, LA 70057
LAGRANGE, DWAYNE
Louis Armstrong New Orleans International Airport
B86-Pressure Washing

Minority Women Owned
Business

504-390-1054 9857831057
MOYANENTERPRISES@YAHOO.COM

NANNY'S CANDY COMPANY, INC.

White Women Owned Business

3823 N. UNIVERSITY
CARENCRO, LA 70520-
GARY, RENEE337-896-5682
RGARY166@HOTMAIL.COM

3378964112

Louis Armstrong New Orleans International Airport
424490-Other Grocery and Related Products Merchant Wholesalers
424450-Confectionery Merchant Wholesalers
311821-Cookie and Cracker Manufacturing

NEW ORLEANS CAR SERVICE, LLC

Minority Business Enterprise

719 ATLANTIC AVENUE
NEW ORLEANS, LA 70114
CUIELLETTE, VALIANT504-258-2422
VAL@NEWORLEANSCARSERVICE.COMLouis Armstrong New Orleans International Airport
532111-Passenger Car Rental
C14-Transportation Planning

**NEWBURNS MANGEMENT GROUP D/B/A
WESTWIN ***

Minority Business Enterprise

P.O. BOX 20203
NEW ORLEANS, LA 70141
BURNS, WINSTON J.5044431414
WBURNS44@AOL.COM
AIRPORT CONCESSION

5044431411

Louis Armstrong New Orleans International Airport
453220-Gift, Novelty, and Souvenir Stores

NOLA FOODS

Minority Business Enterprise

P.O. BOX 531583
NEW ORLEANS, LA 70113
SCOTT, DEMIETRIEK504-233-2070
CHEFSCOTT@NOLAFOODS.COM
AIRPORT CONCESSIONLouis Armstrong New Orleans International Airport
722330-Mobile Food Services
722310-Food Service Contractors
311942-Spice and Extract Manufacturing
311919-Other Snack Food Manufacturing

NORTHERN FLORIDA RECRUITING & CONSULTING

Minority Business Enterprise

4280 BLEINHEIM PLACE
JACKSONVILLE, FL 32225
PAYNE, WILLARD904-928-9254
WILLARDJR@AOL.COM

9049971664

Louis Armstrong New Orleans International Airport
541611-Administrative Management and General Management Consulting Servi
C46-Training Development
C17-Supportive Services
B62-Event Planning
561499-All Other Business Support Services
541618-Other Management Consulting Services

OHM CONCESSION GROUP, LLC

Minority Business Enterprise

10812 ST. CHARLES ROCK ROAD
ST. LOUIS, MO 63074
PATEL, MILAN314-209-9200
MILAN@OHMCONCESSIONGROUP.COM

3142805034

Louis Armstrong New Orleans International Airport
454210-Vending Machine Operators
722110-Full-Service Restaurants

AIRPORT CONCESSION

QUALITY SUPPORT SERVICES, INC.

Minority Business Enterprise

1515 POYDRAS STREET, SUITE 1140
NEW ORLEANS, LA 70112
MCCALL, TERRY504-301-1655
TMCCALL@QUALITYSUPPORTSERVICES.COM

5043011752

Louis Armstrong New Orleans International Airport
C78-BROKER FEES FOR TEMPORARY STAFFING
561210-Facilities Support Services
023-Supply of Work Crews - Employment Agency
561320-Temporary Help Services
561310-Employment Placement Agencies

R & G BUSINESS ENTERPRISES, LLC

White Women Owned Business

4 CREAMERY BROOK ROAD
EAST GRANBY, CT 06026
POGLITSCH, CURTISS860-653-7744
TISH@CT.NECOXMAIL.COM

8606530858

Louis Armstrong New Orleans International Airport
A01-Airport Shuttle Bus
812930-Parking Lots and Garages
488999-All Other Support Activities for Transportation
B61-Parking Management

SHREWSBERRY & ASSOCIATES, L.L.C.

Minority Business Enterprise

7321 SHADELAND STATION, STE. 160

INDIANAPOLIS, IN 46256

317-841-4799

3178414790

SHREWSBERRY, WILLIAM

CERTIFICATIONS@SHREWSUSA.COM

Louis Armstrong New Orleans International Airport

562910-Remediation Services

541990-All Other Professional, Scientific, and Technical Services

541690-Other Scientific and Technical Consulting Services

541620-Environmental Consulting Services

541618-Other Management Consulting Services

541614-Process, Physical Distribution, and Logistics Consulting Services

541350-Building Inspection Services

541330-Engineering Services

237990-Other Heavy and Civil Engineering Construction

237110-Water and Sewer Line and Related Structures Construction

C63-Environmental Remediation

C22-Environmental Engineering

C20-Environmental Impact Assessments

C14-Transportation Planning

SI PARTNERS, INC.

White Women Owned Business

79010 MISSION DRIVE WEST

LAQUINTA, CA 92253

714-961-8710

7149618704

SCHOOLEY, SUSAN C.

SIPARTNERS@SIPARTNERS.COM

Louis Armstrong New Orleans International Airport

C59-Financial Consulting

C30-Airport Planning and Design

C11-Planning

C10-Management

SOUTH POINT MANAGEMENT, LLC

Minority Business Enterprise

147 CARONDELET STREET, SUITE 1123

NEW ORLEANS, LA 70130

504-458-0447

LAWHORN, DON

LAWHORN.D@GMAIL.COM

Louis Armstrong New Orleans International Airport

561320-Temporary Help Services

541611-Administrative Management and General Management Consulting Servi

C80-TEMPORARY HELP SERVICES

SOUTHERN GIRL GOURMET, LLC

703 ERIN AVENUE
MONROE, LA 71201
LANG, VICKI
Louis Armstrong New Orleans International Airport
722410-Drinking Places (Alcoholic Beverages)
722310-Food Service Contractors

White Women Owned Business

318-348-9082 3183871004
VICKIALANG@AOL.COM
AIRPORT CONCESSION

SPORTS AND IMPORTS, INC.

2433 HICKORY AVENUE
METAIRIE, LA 70003
HARRIS, MARGARET PEGGY
Louis Armstrong New Orleans International Airport
811198-All Other Automotive Repair and Maintenance
811111-General Automotive Repair
423120-Motor Vehicle Supplies & New Parts Merchant Wholesaler
B79-Automotive Detailing Services

White Women Owned Business

504-738-7233 5047387305
SPORTSANDIMPORTS@MSN.COM

STROTHER ENTERPRISES, INC.

100 S. BROAD STREET, SUITE 2130
PHILADELPHIA, PA 19110
STROTHER, TASHAWN
Louis Armstrong New Orleans International Airport
722320-Caterers
722310-Food Service Contractors
722211-Limited-Service Restaurants
561720-Janitorial Services
561320-Temporary Help Services

Minority Business Enterprise

215-564-5538 2155645531
TLS@STROTHERENTERPRISES.COM

SWAVISION, L.L.C.

12076 DEYSAY STREET
LUTCHER, LA 70071
WALKER, STEPHANIE
Louis Armstrong New Orleans International Airport
453220-Gift, Novelty, and Souvenir Stores
452990-All Other General Merchandise Stores
C10-Management

Minority Women Owned
Business

504-468-2463 5044682462
SWAVISION@GMAIL.COM

THE GROVE, INC.

3 WESTBROOK CORPORATE CENTER, SUITE
WESTCHESTER, IL 60154-
DUKLER, MICHELLE
Louis Armstrong New Orleans International Airport
445292-Confectionery and Nut Stores

White Women Owned Business

708-531-1694 7085310619
MICHELLEDUKLER@GROVESNACKS.COM
AIRPORT CONCESSION

THE MARKETING EDGE

1333-A NORTH AVENUE, SUITE 323
NEW ROCHELLE, NY 10804-
JENKINS, GUY

Louis Armstrong New Orleans International Airport
453220-Gift, Novelty, and Souvenir Stores
424990-Other Miscellaneous Nondurable Goods Merchant Wholesalers

Minority Business Enterprise

914-637-0451
GJMAR.EDGE@PRODIGY.NET

THE PRALINE CONNECTION, INC.

542 FRENCHMAN STREET
NEW ORLEANS, LA 70116-
MOORE, CURTIS

Louis Armstrong New Orleans International Airport
722330-Mobile Food Services
722211-Limited-Service Restaurants
311942-Spice and Extract Manufacturing
311821-Cookie and Cracker Manufacturing
B74-CATERERS

Minority Business Enterprise

504-943-3934 5049437903
PRALINE1@BELLSOUTH.NET
AIRPORT CONCESSION

UNISON CONSULTING, INC.

409 W. HURON ST., STE. 400
CHICAGO, IL 60654
DRAKE, YOVETTE L.

Louis Armstrong New Orleans International Airport
541511-Custom Computer Programming Services
541519-Other Computer Related Services
541512-Computer Systems Design Services

Minority Women Owned
Business

312-988-3360 3129883370
YOVETTADRAKE@UNISON-UCG.COM

UNITED GIFT & NOVELTY CO., INC.

425 MILAN STREET
NEW ORLEANS, LA 70115
CURRY, KAREN

Louis Armstrong New Orleans International Airport
453220-Gift, Novelty, and Souvenir Stores

White Women Owned Business

504-894-0404 5048940405
UGNC@AOL.COM

V PRODUCTIONS, LLC

901 VALLETTE STREET
NEW ORLEANS, LA 70114
RAINEY, GWENDOLYN

Louis Armstrong New Orleans International Airport
722330-Mobile Food Services
722310-Food Service Contractors

White Women Owned Business

504-957-8394 5043682864
GRAINEY62@GMAIL.COM

WENDT PRODUCTIONS, INC

White Women Owned Business

17301 SOLIE ROAD
ODESSA, FL 33556
WENDT, SUSAN813-920-5000 8139208611
SWENDT@WENDTPRODUCTIONS.COMLouis Armstrong New Orleans International Airport
423430-Computer and Computer Peripheral Equipment and Software Merchant
541810-Advertising Agencies
541613-Marketing
443112-Radio, Television, and Other Electronics Stores
425120-Wholesale Trade Agents and Brokers
541890-Other Services Related to Advertising
541860-Direct Mail Advertising

WILBORN INVESTMENTS, LLC D/B/A ACE VEND* Minority Business Enterprise5910 MILNE BLVD.
NEW ORLEANS, LA 70124
WILBORN, ANTHONY504-496-1181 5043736655
ANTHONYWILBORN@YAHOO.COMLouis Armstrong New Orleans International Airport
722213-Snack and Nonalcoholic Beverage Bars
454210-Vending Machine Operators
018-Supply of Miscellaneous Materials

WRENS, INC.

Minority Business Enterprise

4321 TCHOUPITOULAS STREET
NEW ORLEANS, LA 70115
RANSHI, RAJINDER S.5048952614 5048953025
WRENSAUTO1@AOL.COMLouis Armstrong New Orleans International Airport
811111-General Automotive Repair
811198-All Other Automotive Repair and Maintenance
811118-Small Engine Repair

ZYDECO FOODS, LLCMinority Women Owned
BusinessP O BOX 53767
BREAUX BRIDGE, LA 70505
VALLOT, MICHELLE A.
Orleans Levee District337-232-2310 337-228-7331
zydecobars@aol.com
AIRPORT CONCESSION311919-Other Snack Food Manufacturing
311821-Cookie and Cracker Manufacturing

**Attachment 4:
Overall Goal Methodology
for Rental Car
Concessions**



**NEW ORLEANS AVIATION BOARD (NOAB)
CAR RENTAL
AIRPORT CONCESSIONS DISADVANTAGED BUSINESS ENTERPRISE (ACDBE)
PROGRAM**

Goal Setting Methodology and Calculations

**Federal Fiscal Years 2010, 2011 and 2012
(Beginning October 1, 2009 through September 30, 2012)**

Goal Overview

The New Orleans Aviation Board (NOAB) proposes an overall Airport Concessions Disadvantaged Business Enterprise (ACDBE) Goal applicable to Car Rental concession opportunities anticipated for federal fiscal years beginning October 1, 2009, 2010 and 2011 and ending on September 30, 2010, 2011 and 2012, respectively. The goal was developed in compliance with Federal Regulations set forth by 49 CFR Part 23, Subpart D. **The proposed overall Car Rental - ACDBE goal for FYs 2010, 2011 and 2012 is 13.62%**

Historical data indicates that NOAB's past ACDBE participation for Rental Car concessions was obtained through the purchase of goods and services. NOAB's car rental goal is based on the purchase of goods and services by car rental companies as outlined in Part 23.51 (c)(5)(ii). The average purchases by car rental concessionaires of goods and services for FY 2008 were \$3.1 million annually, excluding fleet vehicles. The typical car rental concession opportunities include the following categories:

- Auto Repairs/Detailing
- Security Guard Services
- Petroleum Products
- Janitorial Services
- Other Goods/Services

Retail Category	Estimated Annual Value
Auto Repairs/Detailing	\$250,000
Security Guard Services	\$800,000
Petroleum Products	\$500,000
Janitorial Services	\$50,000
Other Goods/Services	\$1,500,000

Local Market Area

Upon becoming a Certifying Agency in Louisiana’s Unified Certification Program, all federal ACDBE goals are set based on the state’s UCP registry as the overall source of ACDBE participation for airport concessions opportunities. While the airport may from time-to-time contract with concessionaires headquartered outside of the primary target market of metropolitan New Orleans, most of the participating ACDBEs are in fact headquartered in the local area, including the parishes of Orleans, Jefferson, St. Tammany, Plaquemines, St. John, Tangipahoa and St. Bernard.

Ready, Willing and Able Airport Concessions Pool

The LAUCP is the basis of the airport’s concessions DBE pool. The Louisiana Department of Transportation and Development (LADOTD) and the New Orleans Metropolitan Certifying Agency (NOMCA) – including the Louis Armstrong New Orleans International Airport have been identified as agencies authorized to provide certification services in the State of Louisiana. For the purposes of this analysis, only ACDBEs’ certified in Region 2 by the New Orleans Metropolitan Certifying Agency, which includes the Louis Armstrong New Orleans International Airport, the New Orleans Regional Transit Authority and the Orleans Levee District will be considered as the vendor target market.

The list of certified-DBE contractors is compared to a more global list of businesses, segregated by NAICS Code. The U.S. Census Bureau’s County Business Pattern (USCBP) database is used to determine the general market population of ready, willing businesses.

NAICS	Retail Category	%age	Region 2 LAUCP	US Census CBP	Base ACDBE Goal %
811111	Auto Repairs/Detailing	8%	2	38	0.43%
561612	Security Guard Services	26%	7	29	6.34%
324191	Petroleum Products	16%	1	9	1.79%
561720	Janitorial Services	2%	3	22	0.22%
	Other Goods/Services*	48%	10	97	4.84%
	Total	100%	23	195	13.62%

* Includes Towing, Office Supplies, Building Maintenance, Signage, Landscaping, etc.

The Base Figure calculation weighs the relative availability of providers of goods and services to car rental concessionaires to the relative amount of total businesses available for the total pool of businesses located in the metro New Orleans area. Based on raw data, goods and service providers represent 13.62% of the total available businesses in the metro New Orleans area.

Base Figure Adjustments

After calculating the Base Figure of 13.62%, it was determined that this rate of would not be further adjusted as historical data supports this level of ACDBE participation in the car rental program.

Fiscal Years	FY 2006	FY 2007	FY 2008
Vanguard/Alamo	31.42%	14.94%	No Report
Vanguard/National	7.28%	2.61%	No Report
Hertz	0.96%	1.98%	2.46%
Avis Rent-A-Car	No Report	No Report	14.22%

Over the past three (3) fiscal years, a couple of car rent companies have posted ACDBE participation, relative to goods and services, exceeding the 13.62% stated goal. The ACDBE goal had historically been posted as a percentage of revenue. The revenue goal methodology was not deemed to be indicative of the relative availability of ACDBE supplier of goods and services in the market place; thus, the change in methodology with this goal report. Like other concessions programs operating in the airport, rental car also suffered from the devastating impact of Hurricane Katrina during years 2005, 2006 and part of 2007. All car companies are currently operating at or above pre-Katrina status.

Other Adjustment Factors Considered

Disparity Studies

The airport has inquired about the availability of disparity study data in the New Orleans area as well as the state of Louisiana from other like-funded agencies, such as the Louisiana Department of Transportation as well as other local and regional airports. There are no studies currently available and none conducted within the last seven (7) years. The airport had previously conducted an informal DBE utilization assessment during the 1990's in preparation for implementing its DBE program. However, that study is deemed to be dated and not useful for this analysis. The airport is currently in the process of studying its options relative to a disparity study which may lead to the drafting of a Request for Proposal to seek qualified disparity researchers. As of this writing, a final determination has not been made.

Use of Race Neutral Means

Historically, the NOAB achieved ACDBE – car rental participation through the use of race conscious means – contract goals. Establishing contract goals will continue to be used to meet

any portion of the overall goal the NOAB does not project being able to meet using race neutral means. Given the spotty history of ACDBE participation in the car rental program, contract goals will likely continue as a means of encouraging concessionaire opportunities. However, contract goals need not be established on every such contract, the size of contract goals will be adapted to the circumstances of each such contract (e.g., type of product or service and the availability of ACDBEs to provide the particular type of product or service). The NOAB will endeavor to create a contracting environment that facilitates the ACDBE goal through race neutral means. The following race neutral measures will be taken to increase ACDBE participation:

1. Encourage master concessionaires to structure concession opportunities to foster and facilitate the participation of ACDBEs when practical; and
2. Continue to provide technical assistance to ACDBE firms; including assisting with back-office, financial and marketing services.
3. Continue to provide education and training programs to encourage an expansion of services, which are offered to ACDBEs and small businesses.
4. Ensure that the ACDBE website is updated with available opportunities for ACDBE-owned and other small business firms in the community.
5. Utilize emerging technology to include the ACDBE directory in the DBE office's web site.
6. Provide business development assistance through financing and loan guarantee programs with local banks and lending organizations.

In order to ensure that the ACDBE program is narrowly tailored to overcome the effects of discrimination, the airport will track and report race neutral and race conscious ACDBE participation. For reporting purposes, race neutral ACDBE participation includes, but is not limited to, the following: ACDBE participation through a master concessions lease, where ACDBE participation is obtained through customary competitive procurement procedures; ACDBE participation on a sub-lease that exceeds the stated contract goal; and ACDBE participation through a sub-lease from a master concessionaire that did not consider a firm's ACDBE status in the lease.

Public Participation and Consultation

The involvement of interested community and business stakeholders is the ultimate measure to gauge the fairness and effectiveness of ACDBE participation goals. LANOIA is currently and will continue to consult with, but not limited to, the following stakeholders: Louisiana Minority Business Council, Hispanic Chambers of Commerce, the New Orleans Chamber, minority and women's business groups, community organizations, trade associations, as well as currently certified disadvantaged businesses, 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 LANOIA's efforts to increase participation of ACDBEs. At the time of this submittal, no information from minority stakeholders had been received based upon recent contact. If or when such information becomes available, we will provide an addendum to this report and re-submit to the FAA for further review.

A notice of the proposed overall goal will be available to the public for 30 days following the date of the notice and comments regarding these documents will be accepted for 45 days after the date the notice is published. The public notice will indicate the location(s) where the proposal can be reviewed and where comments can be transmitted. The notice will be published in the following publications:

1. The Louisiana Weekly
2. The Times Picayune
3. Data News Weekly
4. LANOIA Website: www.flymsy.com

Establishment of the FFYs 2010 - 2012 ACDBE Car Rental Goal

The proposed ACDBE goal for car rental (goods and services only) is proposed at 13.62% for federal fiscal years 2010 through 2012. Moreover, continued use of Race Conscious (contract goals) means is recommended through FY 2012.

**Attachment 5:
Overall Goal Methodology
for Non-Rental Car
Concessions**



**NEW ORLEANS AVIATION BOARD (NOAB)
AIRPORT CONCESSIONS
DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) PROGRAM
Goal Setting Methodology and Calculations**

**Federal Fiscal Years 2010, 2011 and 2012
(October 1, 2009 to September 30, 2012)**

Goal Overview

The New Orleans Aviation Board (NOAB) proposes an overall Airport Concessions Disadvantaged Business Enterprise (ACDBE) Goal applicable to non-rental car concession opportunities anticipated for federal fiscal years Beginning October 1, 2009, 2010 and 2011 and ending on September 30, 2010, 2011 and 2012, respectively. The goal was developed in compliance with Federal Regulations set forth by 49 CFR Part 23, Subpart D. **The proposed overall ACDBE goal for FYs 2010, 2011 and 2012 is 23.35%**

The airport's non-rental car concession opportunities include the following categories:

- Food and Beverage
- Gifts, Novelty & Souvenirs
- Parking Management
- Advertising
- Luggage Carts
- Shuttle Services

Retail Category	Master Tenant	Estimated Annual Value	Existing ACDBE Participation Goals %
Food/Beverage	CA1/Pampy's	\$15,600,000	35.00%
Gifts/Novelty/Souvenirs	New Orleans Air Ventures (Advent International Corp.)	\$13,200,000	25.00%
Parking	New South Parking (Central Parking)	\$28,000,000	30.00%
Advertising	Interspace Airport Advertising (Clear Channel Outdoor)	\$450,000	0%
Luggage Carts	Smarte Carte New Orleans, LLC	\$130,000	10.00%
Shuttle Service	Airport Shuttle, Inc.	\$1,000,000	0%
Goods/Services*	See List Below	\$10,000,000	35%

Local Market Area

Upon becoming a Certifying Agency in Louisiana's Unified Certification Program, all federal ACDBE goals are set based on the state's UCP registry as the overall source of ACDBE participation for airport concessions opportunities. While the airport may from time-to-time contract with concessionaires headquartered outside of the primary target market of metropolitan New Orleans, most of the participating ACDBEs are in fact headquartered in the local area, including the parishes of Orleans, Jefferson, St. Tammany, Plaquemines, St. John, Tangipahoa and St. Bernard. Of the master tenants listed above, CA1, New Orleans Air Ventures (Hudson) and Central Parking are headquartered outside of the New Orleans area. Over 80% of all ACDBE joint venture partners and sub-tenant vendors operating at the airport are based in the local area of metropolitan New Orleans. However, it is noted that 54% of all ACDBEs listed on the airport's registry are headquartered outside of the metropolitan New Orleans area.

Contracting Opportunities

During the fiscal year of 2009, the airport advertised and awarded a Taxicab Management Service concession, but subsequently terminated the initiative. As of this writing there are no known plans to reinstitute the program during fiscal years 2010 through 2012. Likewise, the airport does not have pending any new concession opportunities which would be scheduled to come online during fiscal years 2010 through 2012. Thus, this ACDBE goal calculation assumes essentially the same overall concessions program as 2006 through 2009.

North American Industry Classification System (NAICS) Code

In order to obtain an accurate count of ready, willing and able DBEs, each project was examined and its "scope of services" was detailed for the purpose of defining the type of work and skill-sets necessary to complete the scheduled work. Each work type was assigned a six digit North American Industry Classification System (NAICS) Code.

NAICS was developed jointly by the U.S., Canada, and Mexico to provide new comparability in statistics about business activity across North America. After establishing NAICS codes, contracting dollars were estimated for each work type on a project basis.

NAICS	Retail Category	Est. Annual Value	%age
722310	Food/Beverage	\$15,600,000	23%
453220	Gift/Novelty/Souvenirs	\$13,200,000	19%
812930	Parking	\$28,000,000	41%
541850	Advertising	\$450,000	1%
333924	Luggage Carts	\$130,000	0%
485310	Ground Transportation	\$1,000,000	1%
	Goods/Services*	\$10,000,000	15%
		\$68,380,000	100%

Ready, Willing and Able Airport Concessions Pool

The LAUCP is the basis of the airport's concessions DBE pool. The Louisiana Department of Transportation and Development (LADOTD) and the New Orleans Metropolitan Certifying Agency (NOMCA) – including the Louis Armstrong New Orleans International Airport have been identified as agencies authorized to provide certification services in the State of Louisiana. For the purposes of this analysis, only ACDBEs' certified in Region 2 by the New Orleans Metropolitan Certifying Agency, which includes the Louis Armstrong New Orleans International Airport, the New Orleans Regional Transit Authority and the Orleans Levee District will be considered as the vendor target market.

The list of certified-DBE contractors is compared to a more global list of businesses, segregated by NAICS Code. The U.S. Census Bureau's County Business Pattern (USCBP) database is used to determine the general market population of ready, willing businesses.

NAICS	Retail Category	%age	Region 2 LAUCP	US Census CBP	Base ACDBE Goal %
722310	Food/Beverage	23%	10	130	1.75%
453220	Gift/Novelty/Souvenirs	19%	11	139	1.53%
812930	Parking	41%	2	155	0.53%
541850	Advertising	1%	2	13	0.10%
333924	Luggage Carts	0%	0	Not Available	0.00%
485310	Ground Transportation	1%	2	37	0.08%
	Goods/Services*	15%	30	2277	7.72%
		100%	57	2751	11.71%

NAICS	Goods/Services (included above) *	%age	Region 2 LAUCP	US Census CBP	Base ACDBE Goal %
561720	Janitorial Services	30%	13	189	2.06%
561612	Security Services	50%	6	58	5.17%
561320	Staffing Services	5%	2	141	0.07%
424130	Office Supplies	3%	2	24	0.21%
561710	Pest Control	8%	2	78	0.19%
541211	Financial Services	2%	1	532	0.00%
541110	Legal Services	3%	4	1255	0.01%
		100%	30	2277	7.72%

The Base Figure calculation weighs the relative availability of ACDBE concessionaires to the relative amount of concessions businesses available for the total pool of businesses located in the metro New Orleans area. Based on raw data, ACDBE-certified businesses represent 11.71% (including purchases of goods and services) of the total available businesses in the metro New Orleans area.

Base Figure Adjustments

After calculating the Base Figure of 11.71%, it was determined that this rate of participation is inconsistent with historical data and that adjustments to the Base Figure are warranted. To ensure that the goals for the NOAB truly reflect the participation expected absent to effects of discrimination, this methodology goes beyond the raw formula derived by comparing databases; the methodology factors other subjective considerations into the formula to better estimate local market conditions.

The following data was considered in determining an adjustment to the Base Figure: 1) past DBE participation, 2) future concessions opportunities and 3) disparity studies.

For the purpose of this analysis, adjustments were made based primarily on the historical ACDBE participation accomplishment.

Fiscal Years	Goal %	Accompl.%	Race Neutral
Fiscal Year 2005 – 2006 (FY 06)	35.00%	27.33%	(7.67%)
Fiscal Year 2006 – 2007 (FY 07)	35.00%	23.41%	(11.59%)
Fiscal Year 2007 – 2008 (FY 08)	35.00%	19.30%	(15.70%)
	Average	23.35%	
	Median	23.41%	

Over the past three (3) completed fiscal years, the average ACDBE participation of 23.35% fell short of the ACDBE goal of 35% by 11.65%. The ACDBE goal variance is indicative of several factors over the past three (3) years. The most obvious cause of the negative variance is the impact that Hurricane Katrina had on the airport's overall concessions program. As enplanements struggled to recover to its pre-Katrina days, many of the small concessionaires (many of them ACDBEs) had trouble maintaining financially viable operations. The airport

approved rent-relief measures during FY 2007 for the purposes of allowing concessionaires time to generate sufficient sales (and profits) before returning to pre-Katrina lease terms.

Other Adjustment Factors Considered

Disparity Studies

The airport has inquired about the availability of disparity study data in the New Orleans area as well as the state of Louisiana from other like-funded agencies, such as the Louisiana Department of Transportation as well as other local and regional airports. There are no studies currently available and none conducted within the last seven (7) years. The airport had previously conducted an informal DBE utilization assessment during the 1990's in preparation for implementing its DBE program. However, that study is deemed to be dated and not useful for this analysis. The airport is currently in the process of studying its options relative to a disparity study which may lead to the drafting of a Request for Proposal to seek qualified disparity researchers. As of this writing, a final determination has not been made.

Use of Race Neutral Means

Historically, the NOAB achieved ACDBE participation through the use of race conscious means – contract goals. Establishing contract goals will continue to be used to meet any portion of the overall goal the NOAB does not project being able to meet using race neutral means. Given the past three (3) year history of ACDBE participation, contract goals will likely continue as a means of encouraging concessionaire opportunities. However, contract goals need not be established on every such contract, the size of contract goals will be adapted to the circumstances of each such contract (e.g., type of product or service and the availability of ACDBEs to provide the particular type of product or service). The NOAB will endeavor to create a contracting environment that facilitates the ACDBE goal through race neutral means. The following race neutral measures will be taken to increase ACDBE participation:

1. Encourage master concessionaires to structure concession opportunities to foster and facilitate the participation of ACDBEs when practical; and
2. Continue to provide technical assistance to ACDBE firms; including assisting with back-office, financial and marketing services.
3. Continue to provide education and training programs to encourage an expansion of services, which are offered to ACDBEs and small businesses.
4. Ensure that the ACDBE website is updated with available opportunities for ACDBE-owned and other small business firms in the community.
5. Utilize emerging technology to include the ACDBE directory in the DBE office's web site.

6. Provide business development assistance through financing and loan guarantee programs with local banks and lending organizations.

In order to ensure that the ACDBE program is narrowly tailored to overcome the effects of discrimination, the airport will track and report race neutral and race conscious ACDBE participation. For reporting purposes, race neutral ACDBE participation includes, but is not limited to, the following: ACDBE participation through a master concessions lease, where ACDBE participation is obtained through customary competitive procurement procedures; ACDBE participation on a sub-lease that exceeds the stated contract goal; and ACDBE participation through a sub-lease from a master concessionaire that did not consider a firm's ACDBE status in the lease.

Public Participation and Consultation

The involvement of interested community and business stakeholders is the ultimate measure to gauge the fairness and effectiveness of ACDBE participation goals. LANOIA is currently and will continue to consult with, but not limited to, the following stakeholders: Louisiana Minority Business Council, Hispanic Chambers of Commerce, the New Orleans Chamber, minority and women's business groups, community organizations, trade associations, as well as currently certified disadvantaged businesses, 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 LANOIA's efforts to increase participation of ACDBEs. At the time of this submittal, no information from minority stakeholders had been received based upon recent contact. If or when such information becomes available, we will provide an addendum to this report and re-submit to the FAA for further review.

A notice of the proposed overall goal will be available to the public for 30 days following the date of the notice and comments regarding these documents will be accepted for 45 days after the date the notice is published. The public notice will indicate the location(s) where the proposal can be reviewed and where comments can be transmitted. The notice will be published in the following publications:

1. The Louisiana Weekly
2. The Times Picayune
3. Data News Weekly
4. LANOIA Website: www.flymsy.com

Establishment of the FFYs 2010 - 2012 ACDBE Goal

Over the past three (3) years, the average ACDBE Goal has been 35%. The average ACDBE participation accomplishment has been 23.35%, resulting in an average short-fall of 11.65%. On the other hand, the median participation was 23.41%.

The base ACDBE goal calculated for FFYs 2010 - 2012 is 11.71%. When compared to the median ACDBE participation of 23.41%, the adjusted ACDBE goal for FFYs 2010 - 2012 is determined to be 17.56%*. When compared to the average ACDBE participation of 23.35%, the adjusted ACDBE goal would be 17.53%*. Given the airport's recent history of ACDBE participation and the negative impact of Hurricane Katrina, use of the average ACDBE participation appears to be the more accurate indication of the relative availability of ACDBEs in the local market to provide concession products and services at LANOIA. **Therefore the airport's adjusted DBE goal is proposed at 23.35% for federal fiscal years 2010 through 2012. Moreover, continued use of Race Conscious (contract goals) means is recommended through FY 2012.**

*Base Goal Adjustment Calculation ((Three (3) Year DBE Participation Average + FFYs 2010 – 2012 Base Goal)/2) = Adjusted DBE Goal

**Attachment 6:
Schedule of Contract
Participation**

**SCHEDULE OF CONTRACT PARTICIPATION AND SL/DBE COMMITMENT
PRIME(S) & SUB-CONTRACTOR/CONSULTANT/VENDOR(S)
INSTRUCTIONS**

Fill out fields **NOAB Project Title, NOAB Project No., Project Type and Project SL/DBE Goal.**

Complete a table row for each firm that will participate in the contract, including the prime. Additional pages are provided should the number of firms exceed the number of rows provided on Page 1.

Column A. Indicate the firm's role: Prime, Sub-Tier 2 (first-level sub), Sub-Tier 3 (sub of a sub), Manufacturer, Regular Dealer/Supplier, or Broker/Agent. Please note that only 60% of the value of Regular Dealer/Supplier commissions and fees can be counted toward SL/DBE participation

Column B. Provide the name and address of the firm.

Column C. Provide the principal contact person and phone number of the firm.

Column D. Describe the work, goods, and/or services to be provided by the firm.

Column E. Indicate the dollar amount of work assigned to the firm. On the row **Total Value of Participation**, enter the Total Bid Amount which equals the sum of the Base Bid and any Alternatives.

Column F. Indicate the value of work assigned to the firm as a percent of the total bid amount. This percent should equal the amount indicated in Column E divided by the total bid amount. On the row **Total Value of Participation**, enter the total percent value of work – should equal 100% to account for all work being performed on the contract.

Column G. Indicate whether firm is a DBE, ACDBE, SLDBE or non-DBE, with priority relevant to the type of goal. DBE-certified means federally certified by a member of the Louisiana Unified Certification Program (www.LAUCP.org) - an ACDBE designation recognizes the firm as an Airport Concessionaire. SLDBE-certified means locally certified with the State & Local Disadvantaged Enterprise Program through the New Orleans Aviation Board, City of New Orleans, Sewerage & Water Board, or Jazz Casino Company, LLC d/b/a Harrah's New Orleans Jazz Casino. On the row **Total Value of Participation**, enter the total SL/DBE participation counted towards SL/DBE goal as a percentage of Total Bid Amount. If any part of the contract is federally funded, (AC)DBE goal and requirements take precedence. Firms must be (AC)DBE- or SLDBE-certified at the time of bid submission in order to count their participation towards that specific goal. Firm(s) that are providing Regular Dealer/Supplier work or purchases can only have 60% of their value counted toward SL/DBE goal.

Good Faith Efforts to Secure SL/(AC)DBE Participation

If required, please attach documents to establish that Good Faith Efforts were undertaken to secure SL/(AC)DBE participation respective with CFR 49 Part 26, Appendix A, Part IV, quoted below:

IV. The following is a list of types of actions which you should consider as part of the bidder's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

A. Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.

C. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

D. (1) Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.

(2) A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

E. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.

F. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.

G. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

H. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

**SCHEDULE OF CONTRACT PARTICIPATION AND SL/DBE COMMITMENT
PRIME(S) & SUB-CONTRACTOR/CONSULTANT/VENDOR(S)**

**(APPARENT LOW BIDDER MUST SUBMIT BY 5:00 PM THE NEXT BUSINESS DAY AFTER BID OR PROPOSAL
DATE AND TIME, AND OTHER BIDDERS UPON REQUEST.)**

NOAB Project Title: _____

NOAB Project No.: _____

Project Type (Specify DBE or SLDBE.): _____

Project SL/DBE Goal: _____ %

A	B	C	D	E	F	G
FIRM ROLE	FIRM NAME AND ADDRESS	PRINCIPAL CONTACT NAME AND PHONE NUMBER	WORK TO BE SUBCONTRACTED / GOODS / SERVICES TO BE PURCHASED	\$ VALUE OF WORK / PURCHASES	% VALUE OF WORK / PURCHASES	(AC)DBE, SLDBE or non-DBE
<i>*Prime, Sub-Tier 2, Manufacturer, Supplier, etc.</i>				\$	%	
				\$	%	
				\$	%	
				\$	%	
				\$	%	
				\$	%	
				\$	%	

TOTAL VALUE OF PARTICIPATION FROM CONTINUATION PAGES:

\$	%	%
Enter Total Bid Amount	Total Must Equal 100%	Total SL/DBE Participation
\$	%	%

**Regular Dealer/Supplier work/purchases is counted at 60% participation toward SL/DBE goal.*

TOTAL VALUE OF PARTICIPATION:

➡ If Total SL/DBE Participation is less than the goal, refer to the Good Faith Efforts section of the Instructions and attach necessary documentation. If contract is (partially) federally funded, DBE goal and requirements take precedence. Firms must be DBE- or SLDBE-certified to count participation towards that goal.

The undersigned Prime firm will enter into a formal written agreement with the Subcontractors / Consultants / Vendors identified herein for work and/or goods and services as shown in this schedule, conditioned upon the execution of a contract with the NOAB. The undersigned agrees to be contractually bound to maintain the level of SL/DBE participation set forth above. Failure to comply with this agreement constitutes breach of contract.

Signature

Title

SWORN AND SUBSCRIBED, before me, this _____ day of _____, _____

NOTARY PUBLIC

(Seal)

My commission expires _____

