

# **City of Dayton, Dayton International Airport**



## **James M. Cox Dayton International Airport**

### **Airport Concession Disadvantaged Business Enterprise (ACDBE) Program Plan**

**FFY 2024-2026**  
**(Oct 1, 2023- Sept 30, 2026)**

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**Section 23.1, 23.23****Objectives/Policy Statement**

James M. Cox Dayton International Airport (Airport) has established an Airport Concession Disadvantaged Business Enterprise (ACDBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR part 23. The Airport is a primary airport and has received federal funds authorized for airport development after January 1988 (authorized under Title 49 of the United States Code). The Airport has signed airport grant assurances that it will comply with 49 CFR part 23.

It is the policy of The Airport 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.
5. To help remove barriers to the participation of ACDBEs in opportunities for concessions our airport(s).
6. To promote the use of ACDBEs in all types of concessions activities at our airport(s);
7. To assist the development of firms that can compete successfully in the marketplace outside the ACDBE program; and
8. To provide appropriate flexibility to airports receiving DOT financial assistance in establishing and providing opportunities for ACDBEs.

Beverly Mack has been designated as the ACDBE Liaison Officer (ACDBELO) for the Airport. In that capacity, Beverly S. Mack, MBA, Senior Airport Business Administrator, Finance & Administration, is responsible for implementing all aspects of the ACDBE program. Implementation of the ACDBE program is accorded the same priority as compliance with all other legal obligations incurred by the Airport in its financial assistance agreements with the Department of Transportation.

The Airport has disseminated this policy statement to the City Manager and Commission, as well as all of the components of our organization. We have distributed this statement to ACDBE and non-ACDBE concessionaire communities in our area. The distribution was accomplished by the City Manager and the Commission board meeting and posting via the City of Dayton website.



**Gil Turner, Aviation Director**



**Date**

## **ATTACHMENTS**

Attachment 1	Organizational Chart
Attachment 2	DBE/ACDBE Directory
Attachment 3	Active Participants List Collection Form
Attachment 3	Monitoring and Enforcement Mechanisms
Attachment 4	Overall Goal Methodology-Concessions Other Than Car Rental
Attachment 5	Overall Goal Methodology-Car Rental
Attachment 6	Form 1 &2 for Demonstration of Good Faith Efforts
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## **GENERAL REQUIREMENTS**

### **Section 23.1      Objectives**

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

### **Section 23.3      Definitions**

The Airport will use terms in this program that have the meaning defined in Section 23.3 and part 26 Section 26.5 where applicable.

### **Section 23.5      Applicability**

The Airport 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**

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

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

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

“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.

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

## **Section 23.11 Compliance and Enforcement**

The Airport acknowledges that the compliance and enforcement provisions of 49 CFR part 26 (§§ 26.101 and 26.105 through 26.109) apply to the concessions program under part 23 in the same way that they apply to FAA The Airports and programs under part 26.

### **ACDBE PROGRAM**

## **Section 23.21 ACDBE Program Updates**

The Airport is the operator of at least one primary airport and is required to have an ACDBE program. This ACDBE program is applicable to the following airport(s):

- James M. Cox Dayton International Airport

Prior to implementing significant changes to this ACDBE program, The Airport will provide the amended program to FAA for review and approval.

## **Section 23.23 Administrative Provisions**

**Policy Statement:** The Airport is committed to operating its ACDBE program in a nondiscriminatory manner. The Policy Statement is elaborated on the first page of this program.

The Airport will thoroughly investigate, on an annual basis, the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community and make reasonable efforts to use these institutions. The Airport will also encourage prime concessionaires to use such institutions.

### **ACDBE Liaison Officer (ACDBELO):**

We have designated the following individuals as our ACDBELOs:

**Beverly S. Mack, MBA**  
**James M. Cox Dayton International Airport**  
**3600 Terminal Drive, Suite 300**  
**Vandalia OH 45377-1095**  
**(937)454-8215**  
[bmack@flydayton.com](mailto:bmack@flydayton.com)

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

The ACDBELO is responsible for developing, implementing, and monitoring the ACDBE program, in coordination with other appropriate officials. The ACDBELO does not have staff but does have a consultant to assist in the administration of the program. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by FAA or DOT.
2. Reviews third-party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensure that bid notices and requests for proposals are available to ACDBEs in a timely manner.
5. Identifies contracts and procurements so that ACDBE goals are included in solicitations (both race-neutral methods and contract-specific goals)
6. Analyzes The Airport's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises Director of Aviation on ACDBE matters and achievement.
9. Plans and participates in ACDBE training seminars.
10. Acts as liaison to the Unified Certification Program (UCP) in Ohio.
11. Provides outreach to ACDBEs and community organizations to advise them of opportunities.

**Directory:** The Airport's Ohio Unified Certification Program (UCP) maintains a directory identifying all firms eligible to participate as DBEs and ACDBEs. The Directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as an ACDBE. The Directory clearly specifies whether a firm is certified as a DBE for purposes of part 26, an ACDBE for purposes of part 23, or both.

### **Section 23.25      Ensuring Nondiscriminatory Participation of ACDBEs**

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

The Airport will seek ACDBE participation in all types of concession activities.

The Airport will maximize the use of race-neutral measures, obtaining as much as possible of the ACDBE participation needed to meet overall goals through such measures. The Airport will take the following measures to ensure nondiscriminatory participation of ACDBEs in concessions, and other covered activities (23.25(a)):

- 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 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 Airport'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 2 § 26.35); technical assistance programs; or taking other steps to foster ACDBE participation in concessions.

The Airport will 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 we will implement, as needed:

1. Establishing concession-specific goals for particular concession opportunities.
  - a. In setting concession-specific goals for concession opportunities other than car rental, The Airport will explore, to the maximum extent practicable, all available options to set goals that concessionaires can meet through direct ownership arrangements. A concession-specific goal for any concession other than car rental may be based on purchases or leases of goods and services only when the analysis of the relative availability of ACDBEs and all relevant evidence reasonably supports that there is de minimis availability for direct ownership arrangement participation for that concession opportunity.
  - b. In setting car rental concession-specific goals, The Airport will not require a car rental company to change its corporate structure to provide for participation via direct ownership arrangement. When the overall goal for car rental concessions is based on purchases or leases of goods and services, The Airport is not required to explore options for direct ownership arrangements prior to setting a car rental concession-specific goal based on purchases or leases of goods and services.
  - c. If the objective of the concession-specific goal is to obtain ACDBE participation through a direct ownership arrangement with an ACDBE, The Airport will calculate the goal as a percentage of the total estimated annual gross receipts from the concession.
  - d. If the goal applies to purchases or leases of goods and services from ACDBEs, The Airport will calculate the goal as a percentage of the total estimated dollar value of all purchases to be made by the concessionaire.
  - e. When a concession-specific goal is set, The Airport will require competitors to 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.
  - f. The administrative procedures applicable to contract goals in part 26, § § 26.51 through 26.53. apply with respect to concession-specific goals.
  - g. In setting car rental concession-specific goals, The Airport will not require a car rental company to change its corporate structure to provide for participation via direct ownership arrangement. When the overall goal for car rental concessions is based on purchases or leases of goods and services, The Airport is not required to explore options for direct ownership arrangements prior to setting a car rental concession-specific goal based on purchases or leases of goods and services.
  - h. If the objective of the concession-specific goal is to obtain ACDBE participation through a direct ownership arrangement with an ACDBE, The Airport will calculate the goal as a percentage of the total estimated annual gross receipts from the concession.



- i. If the goal applies to purchases or leases of goods and services from ACDBEs, The Airport will calculate the goal as a percentage of the total estimated dollar value of all purchases to be made by the concessionaire.
  - j. When a concession-specific goal is set, The Airport will require competitors to 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.
  - k. The administrative procedures applicable to contract goals in part 26, § § 26.51 through 26.53. apply with respect to concession-specific goals.
2. Negotiate with a potential concessionaire to include ACDBE participation, through direct ownership arrangements or measures, in the operation of the non-car rental concessions.
  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.

The Airport requires businesses subject to car rental and non-car rental ACDBE goals at the airport to make good faith efforts to meet goals set pursuant to this section.

## **Section 23.26      Fostering Small Business Participation**

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

The small business element is incorporated as Attachment 11 to this ACDBE Program. The program's elements will be actively implemented to foster small business participation. The Airport acknowledges that active use of the small business element is a requirement of the good faith implementation of this ACDBE program.

The Airport will submit an annual report on small business participation obtained through the use of this small business element. The report must be submitted in the format acceptable to the FAA based on a schedule established and posted to the agency's website, available at [https://www.faa.gov/about/office\\_offices/acr/bus\\_ent\\_program](https://www.faa.gov/about/office_offices/acr/bus_ent_program) or <https://www.faa.gov/>

## **Section 23.27      Reporting**

The Airport 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.

The Airport will submit an annual report on ACDBE participation to the FAA by March 1 following the end of each fiscal year. This report will be submitted in the format acceptable to the FAA and contain all of the information described in the Uniform Report of ACDBE Participation.

The Airport will create and maintain active participants list information and enter it into a system designated by the FAA. The Airport will collect the following information about ACDBE and non-ACDBEs who seek to work on each of our concession opportunities.

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

The Airport will collect the data from all active participants for concession opportunities by requiring the information to be submitted with their proposals or initial responses to negotiated procurements. The Airport will enter this data in FAA's designated system no later than March 1 following the fiscal year in which the relevant concession opportunity was awarded.

The state department of transportation in each Unified Certification Program (UCP) established pursuant to 49 CFR § 26.81 must report certain information from the UCP directory to DOT's Departmental Office of Civil Rights each year. The Airport, if a certifying member of the state UCP, ensures the collection and reporting of the following information in the UCP directory:

- 1) The number and percentage of in-state and out-of-state ACDBE certifications for socially and economically disadvantaged by sex and ethnicity (Black American, Asian-Pacific American, Native American, Hispanic American, Subcontinent-Asian Americans, and non-minority);
- 2) The number of ACDBE certification applications received from in-state and out-of-state firms and the number found eligible and ineligible;
- 3) The number of decertified firms;
  - i) Total in-state and out-of-state firms decertified;
  - ii) Names of in-state and out-of-state firms decertified because SEDO exceeded the personal net worth cap;
  - iii) Names of in-state and out-of-state firms decertified for excess gross receipts beyond the relevant size standard.
- 4) Number of in-state and out-of-state ACDBEs summarily suspended;
- 5) Number of in-state and out-of-state ACDBE applications received for an individualized determination of social and economic disadvantage status; and
- 6) Number of in-state and out-of-state ACDBEs whose owner(s) made an individualized showing of social and economic disadvantaged status.

## **Section 23.29 Compliance and Enforcement Procedures**

The Airport will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR part 23.

1. The Airport 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 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 49 CFR § 26.107.

2. The Airport will consider similar action under our own legal authorities, including responsibility determinations in future contracts. We have listed the regulations, provisions, and contract remedies available to us in the events of non-compliance with the ACDBE regulation by a participant in our procurement activities as described in this plan.
3. The Airport has also implemented a monitoring and enforcement mechanism to ensure that work committed to ACDBEs at contract award is actually performed by the ACDBEs. This mechanism provides for a running tally of actual ACDBE attainments (e.g., gross receipts actually earned by ACDBE firms), including a means of comparing these attainments to commitments. This will be accomplished by documented ongoing, scheduled and unscheduled on-site visits to the operations and meetings with concessionaires. The contract monitoring files will contain written certification that staff has reviewed records of all contracts, leases, joint venture agreements, or other concession- related agreements and monitored the work on-site at the Airport for the purpose of compliance with the ACDBE contract requirements and the Airport's ACDBE Program.

The Airport will use software to monitor and enforce compliance  
<https://flydayton.gob2g.com>

4. The Airport will show ACDBE commitments and attainments in the annual Uniform Report of ACDBE Participation as required by the FAA.

## **CERTIFICATION AND ELIGIBILITY**

### **Section 23.31      Certification Standards and Procedures**

The Airport is a non-certifying member of the Ohio Unified Certification Program (UCP) and relies upon the UCP's determinations of certification eligibility. Ohio UCP will use the certification standards of Subpart C of Part 23 to determine the eligibility of firms to participate as ACDBEs in airport concession contracts. To be certified as an ACDBE, a firm must meet all certification eligibility standards. Certifying Ohio UCP members make all certification decisions based on the facts as a whole.

The Ohio UCP directory of eligible ACDBEs specifies whether a firm is certified as a DBE for purposes of part 26, an ACDBE for purposes of part 23, or both.

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

Ohio Unified Certification Program  
1980 West Broad Street, MS 3270  
Columbus, Ohio 43223  
Phone: (614) 466-2878  
[DOT.SDBE@dot.ohio.gov](mailto:DOT.SDBE@dot.ohio.gov)

The Uniform Certification Application form, Personal Net Worth statement, and documentation requirements can be reviewed at <https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/ready-apply>.

### **Section 23.33 Business Size Standards**

In general, a firm will be considered as a small business eligible to be certified as an ACDBE if its gross receipts, averaged over the firm's previous five (5) fiscal years, do not exceed \$56.42 million. The following special exceptions apply to the general small business size limit:

1. The limit for passenger car rental companies is \$75.23 million, averaged over the firm's previous five (5) fiscal years.
2. The size standard for banks and other financial institutions is \$1 billion in assets.
3. The size standard for pay telephone companies is 1500 employees.
4. The size standard for new car dealers is 350 employees.

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

### **Section 23.35 Personal Net Worth Limits**

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

### **Section 23.37 Firms Certified as DBEs**

Certifying members of Ohio UCP 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, certifying Ohio UCP members 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 the concessions program.

## Section 23.39 Other ACDBE Certification Requirements

The provisions of § 26.83(c)(1) of 49 CFR part 26 do not apply to ACDBE certifications. Instead, in determining whether a firm is an eligible ACDBE, Certifying Ohio UCP members will take the following steps:

- 1) Visit the firm's principal place of business, virtually or in person, and interview the SEDO, officers, and key personnel. Certifying Ohio UCP members will review those persons' résumés and/or work histories and maintain a complete audio recording of the interviews. Certifiers will also visit one or more active job sites (if there is one). These activities comprise the "on-site review" (OSR), a written report of which the certifying Ohio UCP member will keep in its files.
- 2) Analyze documentation related to the legal structure, ownership, and control of the applicant firm. This includes, but is not limited to, articles of incorporation/organization; corporate by-laws or operating agreements; organizational, annual and board/member meeting records; stock ledgers and certificates; and State-issued certificates of good standing;
- 3) Analyze the bonding and financial capacity of the firm; lease and loan agreements; and bank account signature cards;
- 4) Determine the work history of the firm, including any concession contracts or other contracts it may have received; and payroll records;
- 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;
- 7) Obtain complete Federal income tax returns (or requests for extensions) filed by the firm, its affiliates, and the socially and economically disadvantaged owners for the last 5 years. A complete return includes all forms, schedules, and statements filed with the Internal Revenue Service; and
- 8) Require applicants for ACDBE certification to complete and submit an appropriate application form, except as otherwise provided in § 26.85 of part 26.

In reviewing the Declaration of Eligibility required by § 26.83(j), Certifying Ohio UCP members will ensure that the ACDBE applicant provides documentation that it meets the applicable size standard in § 23.33.

For purposes of this part, the term *prime contractor* in § 26.87(j) includes a firm holding a contract with an airport concessionaire to provide goods or services to the concessionaire or a firm holding a prime concession agreement with a The Airport.

With respect to firms owned by Alaska Native Corporations (ANCs), the provisions of § 26.63(c)(2) do not apply. The eligibility of ANC-owned firms for purposes of this part is governed by § 26.63(c)(1).

Certifying Ohio UCP members will use the Uniform Certification Application found in part 26 of this chapter without change. If Ohio UCP seeks to supplement the form by requesting specified additional information consistent with part 23 and part 26, the Ohio UCP will first seek written approval of the concerned Operating Administration.

Certifying Ohio UCP members will require every applicant to clearly state that it is applying for certification as an ACDBE and complete all of section 5.

Car rental companies and private terminal owners or lessees are not authorized to certify firms as ACDBEs.

## **GOALS, GOOD FAITH EFFORTS, AND COUNTING**

### **Section 23.41 Overall Goals**

The Airport 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 Airport will submit any significant overall goal adjustments to the FAA.

If the average annual concession revenues for car rentals over the preceding three (3) years do not exceed \$200,000, The Airport is not required to develop and submit an overall goal for car rentals. Likewise, if the average annual concession revenues for concessions other than car rentals over the preceding three (3) years do not exceed \$200,000, The Airport is not required to develop and submit an overall goal for concessions other than car rentals. The Airport understands that "revenue" means total revenue generated by concessions, not the revenue received by the airport from concessions agreements.

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

### **Section 23.43 Consultation in Goal Setting**

The Airport 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.

The requirements of this section do not apply if no new concession opportunities will become available during the goal period. However, The Airport will take appropriate outreach steps to encourage available ACDBEs to participate as concessionaires whenever there is a concession opportunity.



## **Section 23.45 Overall Goals**

Overall goals will be submitted to the FAA for approval. The overall goals meeting the requirements of this subpart are due based on a schedule established by the FAA and posted on the FAA's website.

The goals must be submitted every three years based on the published schedule.

If a new concession opportunity arises at a time that falls between the normal submission dates above and the estimated average of annual gross revenues are anticipated to be \$200,000 or greater, the sponsor will submit an appropriate adjustment to our overall goal to FAA for approval no later than 90 days before issuing the solicitation for the new concession opportunity.

The Airport will establish overall goals in accordance with the 2-Step process as specified in § 23.51. After determining the total gross receipts for the concession activity, the first step is to determine the relative availability of ACDBEs in the market area, "base figure". The second step is to examine all relevant evidence reasonably available in the sponsor's jurisdiction to determine if an adjustment to the Step 1 "base figure" is necessary so that the goal reflects as accurately as possible the ACDBE participation the sponsor would expect in the absence of discrimination. Evidence may include, but is not limited to past participation by ACDBEs, a disparity study, evidence from related fields that affect ACDBE opportunities to form, grow, and compete (such as statistical disparities in ability to get required financing, bonding, insurance; or data on employment, self-employment, education, training, and union apprenticeship).

The Airport will also include a projection of the portions of the overall goal expected to be met through race-neutral and race-conscious measures, respectively.

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

## **Section 23.53 Counting ACDBE Participation for Car Rental Goals**

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

When an ACDBE is decertified because one or more of its disadvantaged owners exceed the PNW cap or the firm exceeds the business size standards of part 23 during the performance of a contract or other agreement, the firm's participation may continue to be counted toward ACDBE goals for the remainder of the term of the contract or other agreement. However, The Airport will verify that the firm in all other respects remains an eligible ACDBE. To accomplish this verification, The Airport will require the firm to provide, annually on December 1, a Declaration of Eligibility, affirming that there have been no changes in the firm's circumstances affecting its ability to meet ownership or control requirements of [subpart C](#) of part 23 or any other material changes, other than changes regarding the firm's business size or the owner's personal net worth. The Airport will not count the concessionaire's participation toward ACDBE goals beyond the termination date for the concession agreement in effect at the time of the decertification (e.g., in a case where the agreement is renewed or extended, or an option for continued participation beyond the current term of the agreement is exercised).

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

### **Section 23.55 Counting ACDBE participation for Concessions Other than Car Rentals**

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

When an ACDBE is decertified because one or more of its disadvantaged owners exceed the PNW cap or the firm exceeds the business size standards of part 23 during the performance of a contract or other agreement, the firm's participation may continue to be counted toward ACDBE goals for the remainder of the term of the contract or other agreement. However, The Airport will verify that the firm in all other respects remains an eligible ACDBE. To accomplish this verification, The Airport will require the firm to provide, annually on December 1, a Declaration of Eligibility, affirming that there have been no changes in the firm's circumstances affecting its ability to meet ownership or control requirements of [subpart C](#) of part 23 or any other material changes, other than changes regarding the firm's business size or the owner's personal net worth. The Airport will not count the former ACDBE's participation toward ACDBE goals beyond the termination date for the agreement in effect at the time of the decertification (e.g., in a case where the agreement is renewed or extended, or an option for continued participation beyond the current term of the agreement is exercised).

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

### **Section 23.57 Goal shortfall accountability**

If the awards and commitments on the Uniform Report of ACDBE participation at the end of any fiscal year are less than the overall goal applicable to that fiscal year, we will:

- Analyze in detail the reasons for the difference between the overall goal and our awards and commitments in that fiscal year;
- Establish specific steps and milestones to correct the problems we have identified in our analysis to enable us to fully meet our goal for the new fiscal year;
- As an airport not meeting the criteria of paragraph (b)(3)(i) of this section, we will retain analysis and corrective actions in our records for three years and make it available to the FAA, on request, for their review.

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

The Airport 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 our ACDBE program in good faith if any of the following things occur:



- The Airport does not submit the analysis and corrective actions to FAA in a timely manner as required under paragraph (b)(3) of § 23.57;
- FAA disapproves the analysis or corrective actions; or
- The Airport does not fully implement:
  - a. The corrective actions to which we have committed, or
  - b. Conditions that FAA has imposed following review of our analysis and corrective actions.
  - c. If information coming to the attention of FAA demonstrates that current trends make it unlikely that we, as an airport, will achieve ACDBE awards and commitments that would be necessary to allow us to meet our overall goal at the end of the fiscal year, FAA may require us to make further good faith efforts, such as modifying our race-conscious/race-neutral split or introducing additional race-neutral or race-conscious measures for the remainder of the fiscal year.

### **Section 23.61      Quotas or Set-asides**

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

## **OTHER PROVISIONS**

### **Section 23.71      Existing Agreements**

If permitted by the existing agreement, The Airport will use any means authorized by part 23 to obtain a modified amount of ACDBE participation in the renewed or amended agreement.

### **Section 23.73      Privately-Owned or Leased Terminal Buildings**

The Airport will pass through applicable provisions of part 23 to any private terminal owner or lessee via our agreement with the owner or lessee. We will ensure that the owner or lessee complies with part 23. We will obtain from the owner or lessee the goals and other elements of the ACDBE program required under part 23.

### **Section 23.75      Long-Term Exclusive Agreements**

The Airport will not enter into long-term and exclusive agreements for concessions without prior approval of the FAA Regional Civil Rights Office. We understand that a “long-term” agreement is one having a term of more than 10 years, including any combination of base term and options or holdovers to extend the term of the agreement, if the effect is a term of more than ten years. We understand that an exclusive agreement is one having a type of business activity that is conducted solely by a single business entity on the entire airport, irrespective of ACDBE participation.

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

- 1) Special local circumstances exist that make it important to enter such agreement; and

- 2) FAA approves The Airport's plan for meeting the standards of paragraph (c) of § 23.75.

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

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

## **Section 23.77      Preemption of Local Requirements**

In the event that a State or local law, regulation, or policy differs from the requirements of this part, The Airport will, 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 49 CFR part 23. However, nothing in part 23 preempts any State or local law, regulation, or policy enacted by the governing body of The Airport or the authority of any State or local government or The Airport to adopt or enforce any law, regulation, or policy relating to ACDBEs, as long as the law, regulation, or policy does not conflict with part 23.

## **Section 23.79      Geographic Preferences**

The Airport will not use local geographic preferences. For purposes of this section, a local geographic preference is any requirement that gives a concessionaire located in one place (e.g., our local area)

an advantage over concessionaires from other places in obtaining business as, or with, a concession at our airport(s).

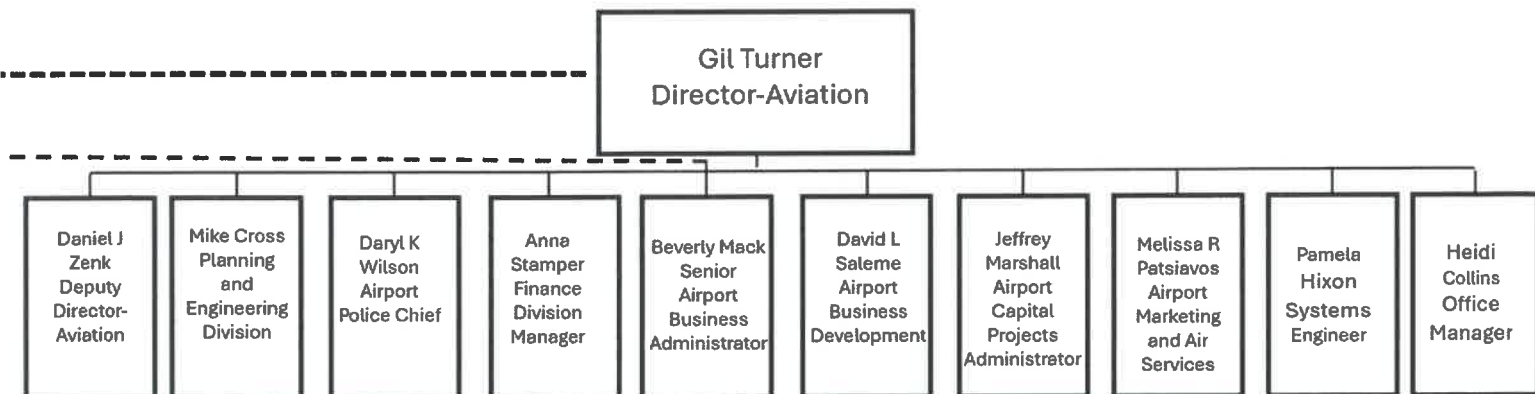
## **ATTACHMENTS**

Attachment 1	Organizational Chart
Attachment 2	DBE/ACDBE Directory
Attachment 3	Active Participants List Collection Form
Attachment 4	Monitoring and Enforcement Mechanisms
Attachment 5	Overall Goal Methodology – Concessions Other Than Car Rental
Attachment 6	Overall Goal Methodology – Car Rental
Attachment 7	Form 1 & 2 for Demonstration of Good Faith Efforts
Attachment 8	Certification Application Forms
Attachment 9	State's UCP Agreement
Attachment 10	Regulations: 49 CFR part 23
Attachment 11	Race-Neutral Small Business Element

## Attachment 1



### James M Cox Dayton International Airport



**Attachment 2**

**The Airport's Ohio Directory of Certified DBE/ACDBE Firms**

**[Ohio Unified DBE Directory](https://www.dot.state.oh.us)**  
**<https://www.dot.state.oh.us>**

## Active Participants List Collection Form

[illegible]

## **Attachment 4**

### **Monitoring and Enforcement Mechanisms**

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

1. Breach of contract action, pursuant to the terms of the contract.
2. Suspension or debarment proceedings pursuant to 49 CFR Part 23:  
In a suspension or debarment proceeding, the FAA may consider the fact that a purported ACDBE has been certified. However, such certification does not preclude USDOT 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.
3. Enforcement action pursuant to 49 CFR Part 31:  
USDOT 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; and
4. Prosecution pursuant to 18 USC 1001:  
USDOT 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 Airport's ACDBE program or otherwise violates applicable Federal statutes.
5. Reports. The Concessionaire shall be required to track and report all, ACDBE, DBE and/or Small Business participation that occurs as a result of any contract, procurements, purchase orders, subleases, JV, goods/services or other arrangements involving sub-tier participation. Such documentation is to be provided via the City's electronic portal on a monthly basis. The electronic portal is located at: <https://flydayton.gob2g.com/>
6. JVs. In instances where ACDBE or Small Business participation occurs as the result of a JV arrangement with a Proposer, the Successful Proposer is required to complete JV documentation, and cooperate and participate in a review of the utilization of the JV participants at least once a year. The review will determine the percentage of participation that will be counted for ACDBE and Small Businesses and the participation of ACDBE's to be reported to the Federal Aviation Administration each year of the contract.
7. Failure to meet all the requirements of 49 CFR Part 23 may result in the Successful Proposer being placed on a noncompliant list. The noncompliant Successful Proposer will not be able to bid on a City solicitation for two (2) years from the date of being noncompliant. The City will impose a fine of \$1,000 per day of noncompliance after issuing a formal letter of noncompliance.



## **Attachment 5**

### **Overall Goal Calculation for Concessions Other Than Car Rentals**

#### **Dayton International Airport**

**Goal Period: FY2022-2024 – October 1, 2021, through September 30, 2024**

#### **Overall Three-Year Goal:**

5.8%, to be accomplished through 5.8% RC and 0% RN

#### **Methodology used to Calculate Overall Goal:**

The Airport in conducting this goal-setting process is evaluating the extent, if any, to which the firms in the market area have suffered discrimination or its effects in connection with concession opportunities and related business opportunities.

#### **Market Area**

The Airport has defined its market area as the State of Ohio. The City's market area is the geographical area in which a substantial majority of firms which seek to operate concessions with the Airport are located. Based on historical data, the Airport annually has non-car rental concession revenues greater than \$200,000. Because revenues exceed this amount, according to Part 23, the City must establish a goal for non-car rental ACDBE participation. The goal is intended to cover the three (3) year period for Federal Fiscal Years (FFYs) 2024-2026. The following subsections outline the methodology used to determine the goal for non-car rental ACDBE participation.

#### **Base of Goal**

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

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

#### **Gross Receipts for Previous 3 Years - Non-Car Rental Concessions**

<b>Fiscal Year</b>	<b>Non-Car Concessions Revenue (Gross Receipts)</b>
2018	\$301,559
2019	\$295,034
2020	\$192,253
Total	\$788,846
Base	\$576,759

The City of Dayton does not anticipate any major changes that would increase or decrease car rental expenditures over the next three years.

(2020) \$192,253 x 3 years = \$576,759 is the City's base goal for non-car rental concessions.

The City of Dayton does not anticipate any major changes that would increase or decrease car rental expenditures over the next three years.

The following are not included in the total gross receipts for concessions: (a) the gross receipts of car rental operations, (b) the dollar amount of a management contract or subcontract with a non-ACDBE, (c) the gross receipts of business activities to which a management contract or subcontract with a non-ACDBE pertains, and (d) any portion of a firm's estimated gross receipts that will not be generated from a concession. If a new concession opportunity arises prior to the end of this goal period and the estimated average of annual gross revenues are anticipated to be \$200,000 or greater, the City will submit to the FAA an appropriate adjustment to the overall goal. This will be submitted to the FAA for approval no later than 90 days before issuing solicitation for the new concession opportunity.

Currently the Airport has contracts with 11 non-car rental concessionaires. These include retail, food & beverage, and advertising. The non-car rental concessionaires are listed below with their gross receipts for FFY 2021.

#### Step 1: Determination of the Base Figure

To establish the Base Figure of the relative availability of ACDBEs to all comparable firms (ACDBEs and non-ACDBEs) available to bid or propose on concessions, the City followed one of the five prescribed federal goal-setting methodologies in accordance with 49 CFR Part 23. This was accomplished by accessing the Ohio Unified Certification Program (OUCP) Directory of Certified ACDBE Firms and the 2021 U.S. Census Bureau County Business Patterns Database.

The City used the State DBE/ACDBE directory and Census Bureau 2019 County Business Patterns (CBP) data was used to determine the number of all ready, willing and able businesses available in our market area (denominator) for new concession opportunities.

Goal Calculations.

**Table 2- Relative Availability of ACDBEs for Opportunities**

Concession Type	NAICS Code	ACDBE	CBP	% of ACDBE Availability
Vending Machine Operators	454210	1	139	0.72%
Electronic and Appliances Retailers	443142	0	632	0%
Gift, Novelty and Souvenir Retailers	453220	1	539	0.19%
Taxi and Rideshare Services	485310	2	62	3.23%
Financial Transactions Processing, Reserve and Clearinghouse Activities	522320	1	117	0.85%

Advertising Agency	541810	13	435	2.99%
Full-service restaurant	722511	4	7699	0.06%
Parking lots & garages	812930	1	449	0.22%
Commercial	236220	65	1186	5.48%
Miscellaneous Personal services-baggage carts	812990	4	403	0.99%
Total		92	11,661	0.79%

As shown in Table 3, the City then calculated its overall ACDBE availability Step 1 base figure of 10.1% for non-car rental concessions by dividing the estimated non-car rental gross receipts from ACDBEs by the estimated gross receipts for all non-car rental concessions.

**Table 3-Base Figure Calculation**

<b>Concessionaire</b>	<b>FFY 2021 Gross Revenue</b>	<b>ACDBE \$</b>	<b>ACDBE%</b>
AVI FOODSYSTEMS	\$2,927.62	\$0	0%
Tricopian, Inc.	\$4,090.91	\$0	0%
Paradies Dayton LLC (JV)	<b>\$1,360,601.55</b>	\$340,150.39	25%
Dayton Express Cab Co	<b>\$8,157.00</b>	\$0	0%
Ready Credit Corporation	<b>\$5,020.00</b>	\$0	0%
Fifth Third Bancorp	<b>\$11,159.95</b>	\$0	0%
Departure Media, Inc	<b>\$454,160.76</b>	<b>\$454,160.76</b>	100%
HOST INTERNATIONAL INC	<b>\$1,243,739.53</b>	\$0	0%
SP Plus Corporation	<b>\$4,323,843.46</b>	\$0	0%
PARK-N-GO INC.	<b>\$460,420.98</b>	\$0	0%
Smarte Carte, Inc.	<b>\$6,428.61</b>	\$0	0%
<b>TOTAL</b>	<b>\$7,880,550.37</b>	<b>\$794,311.15</b>	<b>10.1%</b>

As shown above, the base goal proposed for the three–year period beginning on October 1, 2022, and ending on September 30, 2024, is 10.1%.

After calculating a base figure of the relative availability of ACDBEs, we examined evidence to determine what adjustment, if any, was needed to the Step 1 base figure in order to arrive at the overall goal. After review there was no adjustment made.

The data below for table 4 is past ACDBE participation.

**Table 4- Past Participation Achievements**

<i>Fiscal Year</i>	<i>Total Gross Receipts (excluding rental cars)</i>	<i>ACDBE Gross Receipts (excluding rental cars)</i>	<i>ACDBE Goal (excluding rental cars)</i>	<i>ACDBE Achievements</i>	<i>ACDBE Over/Under Achievements</i>
2018	\$8,978,272	\$1,301,112	5%	14.49%	+9.49%
2019	\$10,066,259	\$1,297,548	10%	12.89%	+2.89%
2020	\$4,475,596	\$960,378	10%	21.46%	+11.46%
<b>MEDIAN</b>				<b>14.49%</b>	

To determine the Base Figure for the relative availability of ACDBEs within the market area, the Airport calculated the ratio of ready, willing, and able ACDBE firms to all firms (ACDBEs and non-ACDBEs) located in the market area for each of the concessionaire types.

Number of Ready, Willing, and Able ACDBEs
 
$$\frac{\sum}{\text{Number of All Available Firms}} \times \text{Concession Type}\% = \text{ACDBE Relative Availability}$$

- For the numerator: Ohio Unified Certification Program Directory of Certified ACDBE Firms
- For the denominator: 2022 U.S. Census Bureau’s County Business Pattern (CBP)

Non-Car Rental ACDBE Base Figure + Non-Car Rental Median ACDBE Participation/	2 Non-Car Rental ACDBE
10.1%	Triennial Goal
14.49%	5.8%
Within the Last Three (3) Years	

**ACDBE Triennial Goal for Non-Car Rental Concessions FFY 2021-2024**

In accordance with the requirements of 49 CFR Part 23, the City has established a Non-Car Rental ACDBE Triennial Goal for FFY 2021-2024 of 5.8%.

**PUBLIC PARTICIPATION**

Prior to submitting this goal to the FAA, The Airport consulted with the following stakeholders:  
**Consultation:** Section 23.43. In establishing the proposed goal, we consulted with minority, women’s and general contractor groups, community organizations who can share information on the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for ACDBE’s and the City of Dayton, Dayton International Airport’s efforts to establish a level playing field for the participation of ACDBE’s.

## **Attachment 6**

### **Overall Goal Calculation for Car Rentals Dayton International Airport**

**Goal Period: FY2022-2024 – October 1, 2021, through September 30, 2024]**

#### **Overall Three-Year Goal:**

5%, to be accomplished through 5% RC and 0% RN

#### **Methodology used to Calculate Overall Goal:**

The Airport in conducting this goal-setting process is evaluating the extent, if any, to which the firms in the market area have suffered discrimination or its effects in connection with concession opportunities and related business opportunities.

#### **Goal Based on Goods and Services Purchases - Determination:**

Upon review of the market, it appears that all or most of the goal is likely to be met through the purchases by car rental companies of goods and services from ACDBEs. There are no ACDBE rental car companies in the market area. The Airport has therefore structured the goal entirely in terms of the purchase of goods and services.

#### **Market Area**

The City has defined its market area as the State of Ohio. The City's market area is a geographical area in which a substantial majority of firms which seek to operate concessions with the City are located. Based on historical data, the City annually has non-car rental concession revenues greater than \$200,000. Because revenues exceed this amount, according to Part 23, the City must establish a goal for non-car rental ACDBE participation. The goal is intended to cover the three (3) year period for Federal Fiscal Years (FFYs) 2024-2026. The following subsections outline the methodology used to determine the goal for non-car rental ACDBE participation.

#### **Gross Receipts (Expenditures) for Previous 3 years Rental Concessions**

<b>Federal Fiscal Year</b>	<b>Car Rental Goods &amp; Services</b>
<b>2018</b>	<b>\$2,308,933.30</b>
<b>2019</b>	<b>\$4,460,841.09</b>
<b>2020</b>	<b>\$328,792.44</b>
<b>Base Figure</b>	<b>\$7,098,566.83</b>

The City of Dayton does not anticipate any major changes that would increase or decrease concession revenue over the next three years.



2018 (\$2,308,933.30) + 2019 (\$4,460,841.09) + 2020 (\$328,792.44) = \$7,098,566.83 is the City's base goal for car rental concessions.

### **Determining the Base Figure for Goods & Services**

To calculate the base of the goal we considered three years of goods and services, and the projected potential goods and services spend for three years into the future including upcoming new opportunities.

#### **Step 1: Determination of Base Figure**

The methodology used to determine a base figure of car ACDBE rental participation is to obtain the number of ready, willing, and able ACDBE firms that provide car rental services or provide goods and services to car rental concessionaires and dividing that number by the total number of ready, willing, and able firms in the market area. To determine this goal, the market area is the state of Ohio as car rental firms generally operate on a regional basis, shifting cars and resources among a region as needs dictate.

**Table 1**

Concessionaire	Goods & Services for FFY 22-24	ACDBE \$ For Goods & Services FFY 22-24	ACDBE Goal %
Avis/Budget/Payless	\$10,930,437.96	\$738,798.19	6.76%
Hertz/Dollar Byers Car Rental	\$437,431.01	\$276,632.92	63.2%
Alamo/Enterprise/National EAN Holdings	\$4,188,011.54	\$904,624.76	21.6%
Base Figure	\$15,555,880.51	\$1,920,055.87	12.34%

#### **Step 2: Adjusting the Base Figure**

After determining the base figure of ACDBE participation, the figure may be adjusted based upon local supporting evidence such as historic participation, disparity study information, and local availability of ACDBE firms, however we did not adjust the base.

#### **Historical ACDBE Participation**

Table 2 below shows the historical car rental ACDBE participation obtained by the City for the last three (3) federal fiscal years (FFY).

**Table 2**

Federal Fiscal Year	Car Rental ACDBE Goal	Car Rental ACDBE Participation
FFY 2018	1.00%	13.02%
FFY 2019	3.71%	4.30%
FFY 2020	3.71%	4.76%
<b>MEDIAN</b>		<b>4.76%</b>

Current car rental concessionaires and their FFY 2021 revenues are listed in Table 5 below.  
Source: Dayton International Airport Car Rental Concessionaires' Contract Agreement

Car Rental ACDBE Base Figure	+ Car Rental Median ACDBE Participation /2 =	Car Rental ACDBE
12.34%	Within the Last Three (3) Years	Triennial Goal
	4.76%	6.46%

### ACDBE Triennial Goal For Car Rental Concessions FFY 2021-2024

In accordance with the requirements of 49 CFR Part 23, the City has established a Car Rental ACDBE Triennial Goal for FFY 2021-2024 of 6.46%.

Based upon input from the car rental agencies the goal was reduced to 5% to keep it in line with the growth of goods and services.

### Race-Conscious Implementation Measures

#### Fostering Small Business Participation<sup>1</sup>

The City has implemented several strategies to foster small business participation in its contracting process. These include the following:

- Adding Goals to Concession opportunities to level the playing field.
- Conducting "How to do Business with the Dayton International Airport" and ACDBE Certification workshops.
- Hosting opportunity awareness, educational, and business networking events that educate concessionaires on future opportunities and encourages small minority businesses and ACDBEs to engage with prime concessionaires on partnerships such as "Meet the Primes", "Concessionaire Panel", and "Rental Car Supplier Diversity Event".
- On larger prime contracts requiring the prime concessionaire to consider subcontracting opportunities of a size that small businesses, including ACDBEs, can reasonably perform, rather than self- performing all the work involved.
- Ensuring that a reasonable number of prime contracts are of a size that small businesses, including ACDBEs, can reasonably perform.
- Provide outreach and technical assistance to current Airport's concessionaires, past Airport's concessionaires, and potential businesses who may qualify for ACDBE-certification by encouraging them to seek and obtain ACDBE-certification.

### Public Participation and Facilitation

**Consultation:** Section 23.43. In establishing the proposed goal, we consulted with minority, women's and general contractor groups, community organizations who can share information on the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBE's and the City of Dayton, Dayton International Airport's efforts to establish a level playing field for the participation of DBE's.

The Minority Business Partnership (MBP), a division of the Dayton Area Chamber of Commerce meets with minority-owned businesses each month. The City of Dayton sends two representatives to this monthly meeting who serve on the Facilities Committee for the organization. The MBP collects MBE utilization reports from the public and private sector.

The Local Advisory Committee of the South-Central Ohio Minority Supplier Diversity Council (SCOMSDC) meets regularly and is composed of representatives from local government, the private

sector, and supporting agencies. The City of Dayton attends these meetings to exchange ideas on strategies to develop a diversified supplier group.

The Dayton Hispanic Chamber hosts monthly Lunch and Learns for its members. The City of Dayton has presented procurement assistance to the attendees on a quarterly basis.

*No comments were received.*

## **PUBLIC NOTICE**

The City of Dayton, Dayton International Airport, hereby affirms its fiscal year 2022-2024 non-rental car goal is 5.8% and car rental goal of 5% for Airport Concessions Disadvantaged Business Enterprise (ACDBE). The proposed goals and rationale was available for inspection from August 1, 2021 through August 31, 2021 Monday through Friday at City of Dayton, 371 West Second Street, Suite 100, Dayton, OH 45402 by appointment. The goal was amended and approved on December 15, 2024 as in now available at City of Dayton.

Comments on the ACDBE goal will be accepted throughout the three-year period of this program and can be sent to the following:

Beverly S. Mack, MBA  
Senior Airport Business Administrator  
Finance & Administration  
Department of Aviation, City of Dayton  
3600 Terminal Drive, Suite 300  
Vandalia OH 45377-1095  
(937)454-8215 [bmack@flydayton.com](mailto:bmack@flydayton.com)



**Demonstration of Good Faith Efforts - Forms 1 and 2**

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

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

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

Legal name of bidder/respondent's firm: \_\_\_\_\_

Bidder/Respondent Representative:

\_\_\_\_\_  
Name & Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## FORM 2: LETTER OF INTENT

*Note: The authorized representative (AR) named below must be an individual vested with authority to make contracting decisions on behalf of the firm.*

Name of bidder/respondent's firm: \_\_\_\_\_

Name & title of firm's AR: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Name of ACDBE firm: \_\_\_\_\_

Name & title of ACDBE firm's AR: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Role to be performed by ACDBE firm:

Description of Work	NAICS	Projected Dollar Amount / %	Joint Venture/Subtenant/ Supplier*

*\*For suppliers only, state how the ACDBE will perform (e.g., regular dealer, manufacturer, broker). Count only fees and commissions if the supplier performs as a broker.*

The undersigned bidder/respondent is committed to utilizing the above-named ACDBE firm for the work described above. The total expected dollar value of this work is \$ \_\_\_\_\_. The bidder/respondent understands that if it is awarded the contract/agreement resulting from this procurement, it must enter into an agreement ACDBE firm identified above that reflects the type and amount of participation listed. Bidder/respondent understands that upon submitting this form, it may not substitute or terminate the ACDBE listed above without following the procedures of 49 CFR Part 26, §26.53.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Bidder/Respondent's Authorized Representative

The undersigned ACDBE affirms that it is ready, willing, and able to perform the amount and type of work as described above, and is properly certified to be counted for ACDBE participation, therefore.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of ACDBE's Authorized Representative

**If the bidder/respondent does not receive award of the prime concession opportunity, all representations in this Letter of Intent shall be null and void.**

**Submit this page for each ACDBE participant.**

## **Attachment 8**

### **ACDBE Certification Application Form**

<https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/ready-apply>



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EXPIRATION DATE: (05/31/2027)

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#### **Paperwork Reduction Act Burden Statement**

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2105-0586. Public reporting for this collection of information is estimated to be approximately 35 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing and reviewing the collection of information.

All responses to this collection of information are mandatory under 49 CFR §§ 23.39 and 26.83; the nature and extent of confidentiality to be provided, if any under 49 CFR §§ 26.83(d) and 26.109(b). Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, (your agency name and address), Washington, D.C. 20590.

#### **Privacy Act Statement (5 U.S.C. § 552a, as amended):**

**AUTHORITY:** 42 U.S.C. 2000d et seq., § 12101 et seq., 42 U.S.C. 6101 et seq., 29 U.S.C. 794, 749d; 49 U.S.C. 47113; 42 U.S.C. 12101; 49 CFR Part 23; 49 CFR Part 26, and Executive Order 13160.

**PURPOSE(S):** DOT will use the information collected to respond to Disadvantaged Business Enterprise (DBE) and Airport Concession Disadvantaged Business Enterprise (ACDBE) inquiries and adjudicate appeals.

**ROUTINE USE(S):** In accordance with DOT's system of records notice, DOT/ALL-24 Departmental Office of Civil Rights System, 76 FR 71108 (Nov. 16, 2011), the information provided may be disclosed to the U. S. Department of Justice, including United States Attorney's Offices, or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation. A comprehensive list of routine uses can be found in DOT/ALL 24 and DOT's General Statement of Routine uses, 75 FR 82138 (Dec. 29, 2010). 77 FR 42796 (July 20, 2012), 84 FR 55222 (Oct. 15, 2019).

**DISCLOSURE:** Provision of the requested information is voluntary; however, failure to furnish the requested information may result in the denial of a DBE or ACDBE application and an inability of the Department to process an appeal or inquiry from any party.



**UNIFORM CERTIFICATION APPLICATION  
DISADVANTAGED BUSINESS ENTERPRISE (DBE)/AIRPORT CONCESSIONS  
DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) PROGRAMS 49 CFR Parts 23 and 26**

**1. Should I apply?**

You may be eligible to participate in the DBE/ACDBE programs if:

(1) The firm is a for-profit business that performs or seeks to perform transportation-related work (or an airport concession activity) for a recipient of Federal Aviation Administration, Federal Highway Administration, or Federal Transit Administration funds.

- The firm is at least 51% owned and controlled by a socially and economically disadvantaged individual(s) who is a U.S. citizen(s) or lawfully admitted permanent U.S. resident(s).
  - Refer to § 26.5 of 49 CFR Part 26 for the definition of "socially and economically disadvantaged individual."
  - Refer to <https://www.transportation.gov/DBEPNW> for "personal net worth cap."
  - Refer to § 26.69 and 26.70 of 49 CFR Part 26 to determine whether you meet the ownership and control requirements.

- The firm meets the Small Business Administration's (SBA) and the DBE/ACDBE program's size standards at <https://www.transportation.gov/DBESizeStandards>

It is the applicant firm's responsibility to provide sufficient evidence to demonstrate that, more likely than not, it meets all eligibility requirements.

**2. How do I apply?**

Firms applying for DBE/ACDBE certification in their home state, i.e., the state in which the firm maintains its principal place of business, must submit to a certifying agency in their home state a completed Uniform Certification Application and all required documents (see attached checklist) and participate in an on-site interview. Failure to timely submit documents may result in delayed processing or denial of your application.

*Firms already certified as a DBE/ACDBE in their home state do not have to complete this form. Section 26.85 of 49 CFR Part 26 explains the process for obtaining certification in additional states, i.e., interstate certification.*

**3. Where can I send my application?**

Transportation agencies in each state perform DBE and ACDBE certification functions. DOT's website has a table of certifying agency contacts at <https://www.transportation.gov/DBEPOC>. Click on the link to access contact information for your state/territory and obtain details on how to submit your application.

**4. What happens after I apply?**

A transportation agency in your state that performs certification functions will contact you.

**5. Where can I find more information?**

Visit the USDOT website at <https://www.transportation.gov/DBE> for links to the DBE/ACDBE program rules and regulations (including those for interstate certification), answers to frequently asked questions, points of contact, and more.

SBA Small Business Size Standards matched to the North American Industry Classification System (NAICS): <http://www.census.gov/eos/www/naics/> and <http://www.sba.gov/content/table-small-business-size-standards>.

Under 49 CFR § 26.107, if, at any time, the Department or a recipient has reason to believe that any person or firm has willfully and knowingly provided incorrect information or made false statements, the Department may initiate suspension or debarment proceedings against the person or firm under 2 CFR Parts 180 and 1200. No procurement Suspension and Debarment, take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, and/or refer the matter to the Department of Justice for criminal prosecution under 18 USC 1001, which prohibits false statements in federal programs

**INSTRUCTIONS**

**NOTE:** All participating firms must be for-profit enterprises with current business operations. If your firm is not for profit, or is not conducting business, then you do NOT qualify for the DBE/ACDBE program and should not complete this application. If you require additional space for any question in this application, please attach additional sheets or copies as needed, taking care to indicate on each attached sheet/copy the section and number of this application to which it refers.

**Section 1: CERTIFICATION INFORMATION****A. Basic Contact Information**

- (1) Enter the name and title of the person completing this application who will serve as your firm's contact for this application.
- (2) Enter the legal name of your firm, as indicated in your firm's Articles of Incorporation (if any) or similar document.
- (3) Enter the primary phone number of your firm.
- (4) Enter a secondary phone number, if any.
- (5) Enter your firm's fax number, if any.
- (6) Enter the contact person's email address.
- (7) Enter your firm's website address, if any.
- (8) Enter the street address of the firm where its offices are physically located (not a P.O. Box).
- (9) Enter the mailing address of your firm, if it is different from your firm's street address.

**B. Prior/Other Certifications and Applications**

Indicate whether your firm or any firms owned by the persons listed has ever been denied certification as a DBE/ACDBE, 8(a), or Small Disadvantaged Business (SDB) firm, or state and local MBE/WBE firm. Indicate if the firm has ever been decertified from one of these programs. Indicate if the application was withdrawn or whether the firm was debarred, suspended, or otherwise had its bidding privileges denied or restricted by any state or local agency, or Federal entity. If your answer is yes, identify the name of the agency, and explain fully the nature of the action in the space provided. Indicate if you have ever appealed this decision to the Department and if so, attach a copy of USDOT's final agency decision(s).

**Section 2: GENERAL INFORMATION****A. Business profile:**

- (1) Give a concise description of the firm's primary activities, the product(s) or services the company provides, or type of construction. If your company offers more than one product/service, list primary product or service first (attach additional sheets if necessary). This description may be used in states' online directories of certified firms.
- (2) If you know the appropriate North American Industry Classification System (NAICS) code for the type(s) of work you identified in your business profile, enter the codes in the space provided.

- (3) State the date on which your firm was established as stated in your firm's Articles of Incorporation (if any) or similar document.
- (4) State the date each person became a firm owner. Check the appropriate box describing the manner in which you and each other owner acquired ownership of your firm. If you checked "Other," explain in the space provided.
- (5) Check the appropriate box that indicates whether your firm is "for profit." If you checked "No," then you do NOT qualify for the DBE/ACDBE program and should not complete this application. All participating firms must be for-profit enterprises. Provide the Federal Tax ID number as stated on your firm's Federal tax return.
- (6) Check the appropriate box that describes the type of legal business structure of your firm, as indicated in your firm's Articles of Incorporation or similar document. If you checked "Other," briefly explain in the space provided.
- (7) Indicate in the spaces provided how many employees your firm has, specifying the number of employees who work on a full-time, part-time, and seasonal basis. Attach a list of employees, their job titles, and dates of employment to your application.
- (8) Specify the firm's gross receipts for each of the past five years, as stated in your firm's filed federal tax returns. You must submit all portions of federal tax returns related to gross receipts and signature pages, as filed. If there is no federal tax return yet filed for the most recent taxable year, you may provide an income statement signed by a CPA who attests to its accuracy and completeness. If there are any affiliates or subsidiaries of the applicant firm or owners, you must provide documentation these firms' gross receipts also as described above. Affiliation is defined in 49 C.F.R. §26.5 and 13 C.F.R. Part 121.

**B. Relationships and Dealings with Other Businesses**

- (1) Check the appropriate box that indicates whether your firm is co-located at any of its business locations, or whether your firm shares a telephone number(s), a post office box, any office space, a yard, warehouse, other facilities, any equipment, financing, or any office staff and/or employees with any other business, organization or entity of any kind. If you answered "Yes," then specify the name of the other firm(s) and fully explain the nature of your relationship with these



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other businesses by identifying the business or person with whom you have any formal, informal, written, or oral agreement. Provide an explanation of any items shared with other firms in the space provided.

- (2) Check the appropriate box indicating whether any other firm currently has or had an ownership interest in your firm at present or at any time in the past. If you checked yes, please explain.
- (3) Check the appropriate box that indicates whether at present or at any time in the past your firm:
  - (a) ever existed under different ownership, a different type of ownership, or a different name;
  - (b) existed as a subsidiary of any other firm;
  - (c) existed as a partnership in which one or more of the partners are/were other firms;
  - (d) owned any percentage of any other firm; and
  - (e) had any subsidiaries of its own.
  - (f) served as a subcontractor with another firm constituting more than 25% of your firm's receipts.

If you answered "Yes" to any of the questions in (3)(a-f), you may be asked to explain the arrangement in detail.

**Section 3: MAJORITY OWNER INFORMATION**

Identify all individuals or holding companies with any ownership interest in your firm, providing the information requested below (if your firm has more than one owner, provide completed copies of this section for each owner):

- A. Identify the majority owner of the firm holding 51% or more ownership interest:
  - (1) Enter the full name of the owner.
  - (2) Enter the owner's title or position.
  - (3) Give the owner's phone number.
  - (4) Enter the owner's home (street) address.
  - (5) Indicate the owner's sex.
  - (6) Identify the owner's ethnic group membership. If you checked "Other," specify this owner's ethnic group/identity not otherwise listed.
  - (7) Check the appropriate box to indicate whether this owner is a U.S. citizen or a lawfully admitted permanent resident. If this owner is neither a U.S. citizen nor a lawfully admitted permanent resident of the U.S., then the firm may not rely on this owner's social and economic disadvantaged status for DBE certification eligibility.
  - (8) Enter the number of years this owner has been an owner of your firm.
  - (9) Indicate the percentage of the total ownership this person holds and the date acquired, including (if appropriate), the class of stock owned.
  - (10) Indicate the dollar value of this owner's initial investment to acquire an ownership interest in your firm, broken down by cash, real estate, equipment, gift and/or other investment. Describe

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how the owner acquired the business and attach documentation substantiating this investment.

(11) List additional investments.

**B. Additional Owner Information**

- (1) Describe the familial relationship of this owner to each other owner of your firm and employees.
- (2) Indicate whether this owner performs a management or supervisory function for any other business. If you checked "Yes," state the name of the other business and this owner's function/title held in that business.
- (3) (a) Check the appropriate box that indicates whether this owner owns or works for any other firm(s) that has any relationship with your firm. If you checked "Yes," identify the name of the other business, the nature of the business relationship, and the owner's function at the firm.  
(b) If the owner works for any other firm, non-profit organization, or is engaged in any other activity more than 10 hours per week, please explain this activity.
- (4) (a) Provide the personal net worth of the owner claiming social and economic disadvantage in the space provided. Complete and attach the accompanying "Personal Net Worth Statement for DBE/ACDBE Program Eligibility" with your application. Complete this section and accompanying statement only for each owner claiming to be socially and economically disadvantaged.  
(b) Check the appropriate box that indicates whether any trust has been created for the benefit of the disadvantaged owner(s). If you answered "Yes," you may be asked to provide a copy of the trust instrument.
- (5) Check the appropriate box to indicate whether any of your immediate family members, managers, or employees, own, manage, or are associated with another company. Immediate family member is defined in 49 C.F.R. §20.5. If you answered "Yes," provide the name of each person, your relationship to that person, the name of the company, the type of business, and whether that person owns or manages the company.

**Section 4: CONTROL**

**A. Identify the firm's Officers and Board of Directors**

- (1) In the space provided, state the name, title, date of appointment, group membership, and sex of each officer.
- (2) In the space provided, state the name, title, date of appointment, group membership, and sex of each individual serving on your firm's Board of Directors.
- (3) Check the appropriate box to indicate whether any of your firm's officers and/or directors listed above performs a management or supervisory function for any other business. If you answered "Yes," identify each such individual by name and provide the name of the other business in which that individual is involved, and describe the





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nature of that individual's role in the other business.

- (4) Check the appropriate box that indicates whether any of your firm's officers and/or directors listed above own or work for any other firm(s) that has a relationship with your firm. (e.g., ownership interest, shared office space, financial investments, equipment leases, personnel sharing, etc.) If you answered "Yes," identify the name of the firm, the individual's name, and the nature of the individual's relationship with that other firm.

**B. Duties of Owners, Officers, Directors, Managers and Key Personnel**

Specify the roles of the majority and minority owners, directors, officers, and managers, and key personnel who are responsible for the functions listed for the firm. Submit resumes for each owner and non-owner identified below. State the name of the individual, title, race and sex and percentage ownership if any. Circle the frequency of each person's involvement as follows: "always, frequently, seldom, or never" in each area.

Indicate whether any of the persons listed in this section perform a management or supervisory function for any other business. Identify the person, business, and their title/function. Identify if any of the persons listed above own or work for any other firm(s) that has a relationship with this firm (e.g., ownership interest, shared office space, financial investment, equipment, leases, personnel sharing, etc.) If you answered "Yes," describe the nature of his/her business relationship with that other firm.

**C. Inventory: Indicate firm inventory in these categories:**

**(1) Equipment and Vehicles**

State the make and model, and current dollar value of each piece of equipment and motor vehicle held and/or used by your firm. Indicate whether each piece is either owned or leased by your firm or owner, whether it is used as collateral, and where this item is stored.

**(2) Office Space**

State the street address of each office space held and/or used by your firm. Indicate whether your firm or owner owns or leases the office space and the current dollar value of that property or its lease.

**(3) Storage Space**

State the street address of each storage space held and/or used by your firm. Indicate whether your firm or owner owns or leases the storage space and the current dollar value of that property or its lease. Provide a signed lease agreement for each property.

- D. Does your firm rely on any other firm for management functions or employee payroll?**

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Check the appropriate box that indicates whether your firm relies on any other firm for management functions or for employee payroll. If you answered "Yes," you may be asked to explain the nature of that reliance and the extent to which the other firm carries out such functions.

**E. Financial / Banking Information**

State the name, city and state of your firm's bank. Identify the individuals authorized to sign checks on this account. Provide bank documentation that shows all individuals who are authorized to sign checks on the firm's behalf.

**Bonding Information.** State your firm's bonding limits both aggregate and project limits.

**F. Sources, amounts, and purposes of money loaned to your firm, including the names of persons or firms guaranteeing the loan.**

State the name and address of each source, the name of person securing the loan, original dollar amount and the current balance of each loan, and the purpose for which each loan was made to your firm. Provide copies of signed loan agreements and security agreements.

**G. Contributions or transfers of assets to/from your firm and to/from any of its owners or another individual over the past two years:**

Indicate in the spaces provided, the type of contribution or asset that was transferred, its current dollar value, the person or firm from whom it was transferred, the person or firm to whom it was transferred, the relationship between the two persons and/or firms, and the date of the transfer.

**H. Current licenses/permits held by any owner or employee of your firm.**

List the name of each person in your firm who holds a professional license or permit, the type of permit or license, the expiration date of the permit or license, and identify the state that issued the license or permit. Attach copies of licenses, license renewal forms, permits, and haul authority forms.

**I. Largest contracts completed by your firm in the past three years, if any.**

List the name of each owner or contractor for each contract, the name and location of the projects under each contract, the type of work performed on each contract, and the dollar value of each contract.

**J. Largest active jobs on which your firm is currently working.**

For each active job listed, state the name of the prime contractor and the project number, the location, the type of work performed, the project start date, the



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anticipated completion date, and the dollar value of the contract.

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#### **Section 5: AIRPORT CONCESSION (ACDBE) APPLICANTS**

Complete the entries in this section if you are applying for ACDBE certification. Indicate in Section A if you operate a concession at the airport, and/or supply a good or service to an airport concessionaire. Indicate in Section B whether the applicant firm owns or operates any off-airport locations, providing the type of business, lease information, address/location, and annual gross receipts generated. Provide similar information in section C for any airport concession locations the firm currently owns or operates. If the applicant firm has any affiliates, provide the requested information in Section D. Indicate whether the ACDBE firm is participating in any joint ventures, and if so, include the original and any amended joint venture agreements.

#### **DECLARATION & SIGNATURE**

The Declaration of Eligibility must accompany your application. Carefully read the attached declaration in its entirety. Fill in the required information for each blank space, and sign and date the declaration.





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IF YOU ARE ALREADY CERTIFIED AS A DBE/ACDBE, YOU DO NOT HAVE TO COMPLETE THIS APPLICATION FOR OTHER STATES.  
REFER TO § 26.85 OF 49 CFR PART 26 FOR DETAILS ABOUT THE INTERSTATE CERTIFICATION PROCESS.

### Section 1: CERTIFICATION INFORMATION

#### A. Basic Contact Information:

My firm is applying for certification as \_\_\_\_\_ DBE \_\_\_\_ ACDBE

(1) Contact person's name and title:

\_\_\_\_\_

(2) Legal name of firm:

\_\_\_\_\_

(3) Phone #: \_\_\_\_\_ (4) Other Phone #: \_\_\_\_\_ (5) Fax#: \_\_\_\_\_

(6) E-mail: \_\_\_\_\_ (7) Firm Websites: \_\_\_\_\_

(8) Street address of firm (No P.O. Box): \_\_\_\_\_ City: \_\_\_\_\_ County/Parish: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

\_\_\_\_\_

(9) Mailing address of firm (No P.O. Box): \_\_\_\_\_ City: \_\_\_\_\_ County/Parish: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

\_\_\_\_\_

#### B. Prior/Other Certifications and Applications

(10) Indicate whether the firm or any persons listed in this application have ever been:

(a) Denied certification or decertified as a DBE, ACDBE, 8(a), SDB, MBE/WBE firm? \_\_\_\_ Yes \_\_\_\_ No

(b) Withdrawn an application for these programs, or debarred or suspended or otherwise had bidding privileges denied or restricted by any state or local agency, or federal entity? \_\_\_\_ Yes \_\_\_\_ No If yes, explain the nature of the action. (If you appealed the decision to DOT or another agency, attach a copy of the decision.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### Section 2: GENERAL INFORMATION

A. Business Profile: (1) Give a concise description of the firm's primary activities and the product(s) or service(s) it provides. If your company offers more than one product/service, list the primary product or service first. Please use additional sheets if necessary. This description may be used in states' online databases and directories of certified firms.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(2) NAICS Codes for this line of work include: \_\_\_\_\_

(3) This firm was established on: \_\_\_\_\_

(4) Is the firm "for profit"? \_\_\_\_ Yes Federal Tax ID# \_\_\_\_\_ NO STOP! If the firm is NOT for-profit, then the firm does NOT qualify for this program and should not fill out this application.



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(5) Type of Legal Business Structure: (check all that apply):

- ☐ Sole Proprietorship  
☐ Limited Liability Partnership  
☐ Partnership  
☐ Corporation  
☐ Limited Liability Company  
☐ Other (describe): \_\_\_\_\_

(6) Number of employees: Full-time \_\_\_\_\_ Part-time \_\_\_\_\_ Seasonal \_\_\_\_\_ Total \_\_\_\_\_  
 (Provide a list of employees, their job titles, and dates of employment, to your application).

(7) Specify the firm's gross receipts for the last 5 years. (Submit complete copies of the firm's federal tax returns for each year. You may provide gross receipt information for the past 5 years. If there are affiliates or subsidiaries of the applicant firm or owners, you must submit complete copies of these firms' Federal tax returns).

Year _____	Gross Receipts of Applicant Firm \$ _____	Gross Receipts of Affiliate Firms \$ _____
Year _____	Gross Receipts of Applicant Firm \$ _____	Gross Receipts of Affiliate Firms \$ _____
Year _____	Gross Receipts of Applicant Firm \$ _____	Gross Receipts of Affiliate Firms \$ _____
Year _____	Gross Receipts of Applicant Firm \$ _____	Gross Receipts of Affiliate Firms \$ _____
Year _____	Gross Receipts of Applicant Firm \$ _____	Gross Receipts of Affiliate Firms \$ _____

#### B. Relationships and Dealings with Other Businesses

(1) Is your firm co-located at any of its business locations, or does it share a telephone number, P.O. Box, office or storage space, yard, warehouse, facilities, equipment, inventory, financing, office staff, and/or employees with any other business, organization, or entity? ☐ Yes ☐ No

If yes, explain the nature of your relationship with these other businesses by identifying the business or person with whom you have any formal, informal, written, or oral agreement. Provide details about the shared items.

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(2) Has any other firm had an ownership interest in your firm at present or at any time in the past?

☐ Yes ☐ No If yes, explain: \_\_\_\_\_

(3) At present, or at any time in the past, has your firm:

(a) Ever existed under different ownership, a different type of ownership, or a different name? ☐ Yes ☐ No

(b) Existed as a subsidiary of any other firm? ☐ Yes ☐ No

(c) Existed as a partnership in which one or more of the partners are/were other firms? ☐ Yes ☐ No

(d) Owned any percentage of any other firm? ☐ Yes ☐ No

(e) Had any subsidiaries? ☐ Yes ☐ No

(f) Served as a subcontractor with another firm constituting more than 25% of your firm's receipts? ☐ Yes ☐ No

(If you answered "Yes" to any of the questions in (2) and/or (3)(a)-(f), you may be asked to provide further details and explain whether the arrangement continues).

### Section 3: MAJORITY OWNER INFORMATION

A. Identify the owner of the firm holding 51% or more ownership interest in the firm.

(1) Full Name: \_\_\_\_\_

(2) Title: \_\_\_\_\_



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- (3) Home Phone #: \_\_\_\_\_  
(4) Home Address (Street and Number) \_\_\_\_\_  
(5) Sex: ☐ Male ☐ Female \_\_\_\_\_  
(6) Group membership (Check all that apply):

☐ Black American  
☐ Hispanic American  
☐ Asian-Pacific American  
☐ Native American  
☐ Subcontinent Asian American  
☐ Other: \_\_\_\_\_

- (7) Residency Status:  
☐ U.S. Citizen  
☐ Lawfully Admitted Permanent Resident

- (8) Number of years as owner: \_\_\_\_\_  
(9) Percentage owned: \_\_\_\_\_  
(a) Class of stock owned (if applicable): \_\_\_\_\_  
(b) Date acquired: \_\_\_\_\_

City	State	Zip
(10) Initial investment to acquire ownership in firm:		
Type	Dollar Value	
Cash	\$	_____
Real Estate	\$	_____
Equipment	\$	_____
Other	\$	_____

Describe how the majority owner acquired ownership of the firm:

- ☐ Started business myself  
☐ Received it as a gift from \_\_\_\_\_  
☐ Bought it from: \_\_\_\_\_  
☐ Inherited it from: \_\_\_\_\_  
☐ Other: \_\_\_\_\_

(Attach documentation substantiating your investment and method of acquisition)

**B. Additional Owner Information**

- (1) Describe familial relationship to other owners and employees: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- (2) Does this owner perform a management or supervisory function for any other business? ☐ Yes ☐ No  
If yes, identify: Name of Business: \_\_\_\_\_ Function/Title: \_\_\_\_\_

- (3)(a) Does this owner own or work for any other firm(s) that has a relationship with this firm? (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.) ☐ Yes ☐ No  
If yes, identify the name of the business, and the nature of the relationship, and the owner's function at the firm: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- (b) Does this owner work for any other firm, non-profit organization, or engage in any other activity more than 10 hours per week? ☐ Yes ☐ No If yes, identify this activity: \_\_\_\_\_

- (4)(a) What is the Personal Net Worth (PNW) of this disadvantaged owner? \_\_\_\_\_

- (b) Has any trust been created for the benefit of this disadvantaged owner(s)? ☐ Yes ☐ No

(If Yes, you may be asked to provide a copy of the trust instrument).

- (5) Do any of your immediate family members, owners, directors, officers, managers, or employees own, manage, or have any association with another company? ☐ Yes ☐ No If yes, provide their name, relationship, company, type of business, and indicate whether they own or manage the company: (Please attach extra sheets, if needed): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



## Section 3: ADDITIONAL OWNER INFORMATION

A. Identify all individuals, firms, or companies that hold LESS THAN 51% ownership interest in the firm (Attach separate sheets for each additional owner)

(1) Full Name: \_\_\_\_\_

(2) Title: \_\_\_\_\_

(3) Home Phone #: \_\_\_\_\_

(4) Home Address (Street and Number) \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

(5) Sex: ☐ Male ☐ Female \_\_\_\_\_

(6) Group membership (Check all that apply):

☐ Black American

☐ Hispanic American

☐ Asian-Pacific American

☐ Native American

☐ Subcontinent Asian American

☐ Other: \_\_\_\_\_

(7) Residency Status:

☐ U.S. Citizen

☐ Lawfully Admitted Permanent Resident

(8) Number of years as owner: \_\_\_\_\_

(9) Percentage owned: \_\_\_\_\_

(a) Class of stock owned (if applicable): \_\_\_\_\_

(b) Date acquired \_\_\_\_\_

(10) Initial investment to acquire ownership in firm:

Type	Dollar Value
Cash	\$ _____
Real Estate	\$ _____
Equipment	\$ _____
Other	\$ _____

Describe how the owner acquired ownership:

☐ Started business myself

☐ Received it as a gift from \_\_\_\_\_

☐ Bought it from: \_\_\_\_\_

☐ Inherited it from: \_\_\_\_\_

☐ Other: \_\_\_\_\_

(Attach documentation substantiating your investment and method of acquisition)

B. Additional Owner Information

(1) Describe familial relationship to other owners and employees: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(2) Does this owner perform a management or supervisory function for any other business? ☐ Yes ☐ No

If yes, identify: Name of Business: \_\_\_\_\_ Function/Title: \_\_\_\_\_

(3)(a) Does this owner own or work for any other firm(s) that has a relationship with this firm? (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.) ☐ Yes ☐ No

If yes, identify the name of the business, and the nature of the relationship, and the owner's function at the firm: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(b) Does this owner work for any other firm, non-profit organization, or engage in any other activity more than 10 hours per week? ☐ Yes ☐ No If yes, identify this activity: \_\_\_\_\_

\_\_\_\_\_

(4)(a) What is the Personal Net Worth (PNW) of this disadvantaged owner? \_\_\_\_\_

(b) Has any trust been created for the benefit of this disadvantaged owner(s)? ☐ Yes ☐ No



(If Yes, you may be asked to provide a copy of the trust instrument).

[illegible]

**A. Identify your firm's Officers and Board of Directors (If additional space is required, attach a separate sheet):**

(3) Do any of the persons listed above perform a management or supervisory function for any other business?

☐ Yes ☐ No If yes, identify for each:

Person: \_\_\_\_\_ Title: \_\_\_\_\_

**Business:** \_\_\_\_\_ **Function:** \_\_\_\_\_

Person: \_\_\_\_\_ Title: \_\_\_\_\_

**Business:** \_\_\_\_\_ **Function:** \_\_\_\_\_

(4) Do any of the persons listed in Section A above own or work for any other firm(s) that has a relationship with this firm? (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)

**Yes No If Yes, identify for each:**

(4) Do any of the persons listed in section A above own or work for any other firm(s) that has a relationship with this firm? (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)

**\_\_\_ Yes \_\_\_ No If Yes, identify for each:**

Firm Name: \_\_\_\_\_ Person: \_\_\_\_\_

**Nature of Business Relationship:** \_\_\_\_\_

## B. Duties of Owners, Officers, Directors, Managers, and Key Personnel

1. Complete for all owners who are responsible for the following functions: (Attach separate sheets as needed)



<b>A = Always</b> <b>F = Frequently</b>		<b>S = Seldom</b> <b>N = Never</b>		<b>Majority Owner (51% or more)</b> <b>Name:</b> _____ <b>Title:</b> _____ <b>Percent Owned:</b> _____				<b>Minority Owner (49% or less)</b> <b>Name:</b> _____ <b>Title:</b> _____ <b>Percent Owned:</b> _____			
Sets policy for company direction/scope of operations		A	F	S	N	A	F	S	N		
Bidding and estimating		A	F	S	N	A	F	S	N		
Major purchasing decisions		A	F	S	N	A	F	S	N		
Marketing and sales		A	F	S	N	A	F	S	N		
Supervises field operations		A	F	S	N	A	F	S	N		
Attend bid opening and lettings		A	F	S	N	A	F	S	N		
Perform office management (billing, accounts receivable/payable, etc.)		A	F	S	N	A	F	S	N		
Hires and fires management staff		A	F	S	N	A	F	S	N		
Hire and fire field staff or crew		A	F	S	N	A	F	S	N		
Designates profits spending or investment		A	F	S	N	A	F	S	N		
Obligates business by contract/credit		A	F	S	N	A	F	S	N		
Purchase equipment		A	F	S	N	A	F	S	N		
Signs business checks		A	F	S	N	A	F	S	N		

Do any of the persons listed above own or work for any other firm(s) that has a relationship with this firm? (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.) If Yes, describe the nature of the business relationship:

## 1. Equipment and Vehicles

[illegible]

Address (Street and Number) \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Owned or Leased by Firm or Owner? ☐ Yes ☐ No (if yes, provide details): \_\_\_\_\_

**3. Storage Space (Provide signed lease agreements for the properties listed)**

Address (Street and Number) \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Owned or Leased by Firm or Owner? Yes No (if yes, provide details): \_\_\_\_\_

Current Value of Property or Lease:





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D. Does your firm rely on any other firm for management functions or employee payroll? Yes No

E. Financial/Banking Information (Provide bank authorization and signature cards)

Name of bank: \_\_\_\_\_ City and State: \_\_\_\_\_

The following individuals are authorized to sign checks on this account: \_\_\_\_\_

Name of bank: \_\_\_\_\_ City and State: \_\_\_\_\_

The following individuals are authorized to sign checks on this account: \_\_\_\_\_

Name of bank: \_\_\_\_\_ City and State: \_\_\_\_\_

The following individuals are authorized to sign checks on this account: \_\_\_\_\_

Bonding Information: If you have bonding capacity, identify the firm's bonding aggregate and project limits:

Aggregate limit \_\_\_\_\_ Project limit \_\_\_\_\_

F. Identify all sources, amounts, and purposes of money loaned to your firm including from financial institutions. Identify whether the owner or any other person or firm loaned money to the applicant DBE/ACDBE. Include the names of any persons or firms guaranteeing the loan, if other than the listed owner. (Provide copies of signed loan agreements and security agreements).

Name of Source	Address of Source	Name of Person Guaranteeing the Loan	Original Amount	Current Balance	Purpose of Loan

G. List all contributions or transfers of assets to/from your firm and to/from any of its owners or another individual over the past two years (Attach additional sheets if needed):

Contribution/Asset	Dollar Value	From Whom Transferred	To Whom Transferred	Relationship	Date of Transfer

H. List current licenses/permits held by any owner and/or employee of your firm (e.g., contractor, engineer, architect, etc.) (Attach additional sheets if needed):

Name of License/Permit Holder	Type of License/Permit	Expiration Date	State

I. List the three largest contracts completed by your firm in the past three years, if any:

Name of Owner/Contractor	Name/Location of Project	Type of Work Performed	Dollar Value of Contract



**J. List the three largest active jobs on which your firm is currently working:**

**Additional Information:**

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### SECTION 5 - AIRPORT CONCESSION (ACDBE APPLICANTS ONLY)

A. I am applying for ACDBE certification to: (check all that apply)

☐ Operate a concession at an airport ☐ Supply a good or service to an airport concessionaire

B. Does the applicant firm own/operate any off-airport locations? ☐ Yes ☐ No (if yes, identify the following):

Type of Business (e.g., F&B, News & Gift, Retail, Duty Free, Advertising, etc.)	Lease Term (years)	Lease Start Date	Address / Location	Annual Gross Receipts Generated

C. Does the applicant firm currently own/operate any airport concession locations? ☐ Yes ☐ No (if yes, supply the following information):

Airport Name	Concession Type (e.g., F&B, News & Gift, Retail, Duty Free, Advertising, etc.)	Number of Leases	Number of Locations	Annual Gross Receipts Generated	Lease Type (e.g., Direct Lease, Subcontract Management Agreement, etc. enter all that apply to the leases listed)

D. Does the applicant firm have any affiliates? ☐ Yes ☐ No If Yes, provide the following information concerning any locations owned/operated by affiliate firms

Airport Name	Concession Type (e.g., F&B, News & Gift, Retail, Duty Free, Advertising, etc.)	Number of Leases	Number of Locations	Annual Gross Receipts Generated	Lease Type (e.g., Direct Lease, Subcontract Management Agreement, etc. enter all that apply to the leases listed)

E. Is the ACDBE applicant firm a participant in any joint ventures? ☐ Yes ☐ No If Yes, attach all original and any amended Joint Venture Agreements and any amendments to the agreements.



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### DECLARATION OF ELIGIBILITY

This form must be signed by **EACH OWNER** upon whose disadvantaged status the firm relies for certification.

**A FALSE STATEMENT OR MATERIAL OMISSION MADE IN CONNECTION WITH THIS SUBMISSION IS SUFFICIENT CAUSE FOR DENIAL OF CERTIFICATION, DECERTIFICATION, OR SUSPENSION OR DEBARMENT PROCEEDINGS, AND MAY SUBJECT THE PERSON OR ENTITY MAKING THE FALSE STATEMENT TO ANY AND ALL CIVIL AND CRIMINAL PENALTIES AVAILABLE UNDER FEDERAL AND STATE LAW.**

I, \_\_\_\_\_ (full name printed), declare under penalty of perjury that I am \_\_\_\_\_ (title) of the firm \_\_\_\_\_. All of the foregoing information and statements submitted for eligibility are true, correct, and complete to the best of my knowledge. The responses include all material information necessary to fully and accurately identify and explain the operations, capabilities and pertinent history of the named firm as well as the ownership, control, and affiliations thereof.

I recognize that the information submitted in this material is for the purpose of inducing certification by a government agency. I understand that a government agency may, by means it deems appropriate, determine the accuracy and truth of the statements in the material, and I authorize such agency to contact any entity named in certification material, and the named firm's bonding companies, banking institutions, credit agencies, contractors, clients, and other certifying agencies for the purpose of verifying the information supplied and determining the named firm's eligibility.

I agree to submit to government audit, examination and review of books, records, documents and files, in whatever form they exist, of the named firm and its affiliates inspection of its place(s) of business and equipment, and to permit interviews of its principals, agents, and employees. I understand that refusal to permit such inquiries shall be grounds for denial or decertification.

If awarded a contract, subcontract, concession lease or sublease, as detailed in § 20.55, I agree to promptly and directly provide the prime contractor, if any, and the Department, recipient agency, or federal funding agency, on an ongoing basis, current, complete and accurate information regarding my firm's (1) commercially useful function (CUF) performed on the project or concession lease; (2) payments; and (3) proposed changes, if any, to the foregoing arrangements.

I agree to notify the certifying agency of a material change in circumstances that affects my firm's eligibility within 30 days of its occurrence, explain the change fully, and include a duly executed Declaration of Eligibility (this form) with the notice.

I acknowledge and agree that any misrepresentations in certification materials or in records pertaining to a contract

or subcontract will be grounds for terminating any contract or subcontract which may be awarded; denial or decertification; suspension and debarment; and for initiating action under federal and/or state law.

I declare that I am a socially and economically disadvantaged individual who is an owner of the above-referenced firm seeking certification as a Disadvantaged Business Enterprise or Airport Concession Disadvantaged Business Enterprise. In support of my application, I declare that I am a member of one or more of the following groups, and that I have held myself out as a member of the group(s): (Check all that apply):

- ☐ Women ☐ Black American ☐ Hispanic American
- ☐ Native American ☐ Asian-Pacific American
- ☐ Subcontinent Asian American
- ☐ Other pursuant to 49 CFR § 20.67(d)

I declare that I am socially disadvantaged because I have been subjected to racial or ethnic prejudice or cultural bias, or have suffered the effects of discrimination, because of my identity as a member of one or more of the groups identified above, without regard to my individual qualities.

I further declare that my personal net worth does not exceed the DBE program's limit posted on <https://www.transportation.gov/DBEPNW>, and that I am economically disadvantaged because My ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially and economically disadvantaged.

#### PURSUANT TO 28 USC § 1746:

**I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT. EXECUTED ON \_\_\_\_\_**

SIGNATURE \_\_\_\_\_  
(OWNER)



## SUPPORTING DOCUMENTS CHECKLIST

### Required Documents for All Applicants

\_\_\_ Résumés (that include places of employment with corresponding dates), for all owners, officers, and key personnel of the applicant firm.

\_\_\_ Personal Net Worth Statement for each socially and economically disadvantaged owners who the applicant firm relies upon to satisfy the Regulation's 51% ownership requirement.

\_\_\_ Personal Federal tax returns for the past 3 years, if applicable, for each disadvantaged owner.

\_\_\_ Federal tax returns (and requests for extensions) filed by the firm and its affiliates with related schedules, for the past 5 years, or the number of years in business, if fewer.

\_\_\_ Documented proof of contributions used to acquire ownership for each owner (e.g., both sides of cancelled checks).

\_\_\_ Signed loan and security agreements, and bonding forms.

\_\_\_ List of equipment and/or vehicles owned and leased including VIN numbers, copy of titles, proof of ownership, insurance cards for each vehicle.

\_\_\_ Title(s), registration certificate(s), and U.S. DOT numbers for each truck owned or operated by your firm.

\_\_\_ Licenses, license renewal forms, permits, and haul authority forms.

\_\_\_ Descriptions of all real estate (including office/storage space, etc.) owned/leased by your firm and documented proof of ownership/signed leases.

\_\_\_ Documented proof of any transfers of assets to/from your firm and/or to/from any of its owners over the past 2 years.

\_\_\_ DBE/ACDBE and SBA 8(a), SOB, MBE/WBE certifications, denials, and/or decertification's, if applicable; and any U.S. DOT decisions on these actions.

\_\_\_ Bank authorization and signatory cards.

\_\_\_ Schedule of salaries (or other remuneration) paid to all officers, managers, owners, and/or directors of the firm.

\_\_\_ List of all employees, job titles, and dates of employment.

\_\_\_ Proof of warehouse/storage facility ownership or lease arrangements.

### Partnership or Joint Venture

\_\_\_ Original and any amended Partnership or Joint Venture Agreements.

### Corporation or LLC

\_\_\_ Official Certificate of Formation and current Operating/Shareholder Agreement, if any.

\_\_\_ Official Articles of Incorporation (signed by the state official).

\_\_\_ Both sides of all corporate stock certificates and your firm's stock transfer ledger.

\_\_\_ Minutes of stockholder, member, partner, and board of director's meetings, if any.

\_\_\_ Company by-laws and any amendments.

\_\_\_ Evidence of signature authority on the firm's bank accounts.

*Failure to provide any of these required documents that are applicable to your firm's application may result in denial of your application.*

### Optional Documents to Be Provided on Request

The certifying agency to which you are applying may require the submission of the following documents. If requested to provide any of these documents, you must supply them with your application or at the on-site visit. Failure to do so may result in denial of your application.

\_\_\_ Proof of citizenship or lawful permanent residence.

\_\_\_ Insurance agreements for each truck owned or operated by your firm.

\_\_\_ Audited financial statements (if available).

\_\_\_ Trust agreements held by any owner claiming disadvantaged status.

### Suppliers

\_\_\_ List of product lines carried and list of distribution equipment owned and/or leased.

## **ATTACHMENT 9**

### **State's UCP Agreement**

Ohio UCP Agreement can be found here:

**[UCP Memorandum of Understanding | Ohio Department of Transportation](https://www.transportation.ohio.gov/programs/business-economic-opportunity/ucp/ucp-mou)**

<https://www.transportation.ohio.gov/programs/business-economic-opportunity/ucp/ucp-mou>

## **Attachment 10**

### **Regulations: 49 CFR part 23**

ACDBE program regulations are found in Title 49 of the Code of Federal Regulations, part 23. They can be retrieved using the following link to the Electronic Code of Federal Regulations:

<https://www.ecfr.gov/current/title-49/subtitle-A/part-23>

## **Attachment 11**

### **Small Business Element**

The Airport has established a small business element included in the ACDBE Program designed to structure concession contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of concession opportunities that may preclude small business participation in solicitations.

The program's elements will be actively implemented to foster small business participation. The Airport acknowledges that active use of the small business element is a requirement of the good faith implementation of this ACDBE Program.

#### **1. Objective/Strategies**

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

The program's elements will be actively implemented to foster small business participation. The Airport acknowledges that active use of the small business element is a requirement of the good faith implementation of this ACDBE program.

The Airport will submit an annual report on small business participation obtained through the use of this small business element. The report must be submitted in the format acceptable to the FAA based on a schedule established and posted to the agency's website, available at [https://www.faa.gov/about/office\\_offices/acr/bus\\_ent\\_program](https://www.faa.gov/about/office_offices/acr/bus_ent_program) or <https://www.faa.gov/>

This may include but is not limited to using a combination of the following methods and strategies:

- (1) Establish a race-neutral small business set-aside for certain concession opportunities. The Airport will document the rationale for selecting small business set-aside concession opportunities which may include consideration of size and availability of small businesses to operate the concession.
- (2) Consider the concession opportunities available through all types of concession models.
- (3) Concession opportunities that do not include ACDBE contract goals, require all concession models to provide subleasing opportunities of a size that small businesses, including ACDBEs, can reasonably operate. Respondents will be required to demonstrate subleasing opportunities identified and alert the Airport on support of conducting outreach activities to showcase subleasing opportunities.
- (4) Identify alternative concession contracting approaches to facilitate the ability of small businesses, including ACDBEs, to compete for and obtain direct leasing opportunities. For example, pop-up and kiosk locations that are right-sized and are supported by the Airport and concessionaires.

## **2. Small Business Definition**

A business which meets the definitions specified in Section 3 of the Small Business Act and the Small Business Administration regulations implementing it (13 CFR Part 121). A small business is a business that is independently owned and operated, is organized for profit, and is not dominant in its field and be physically located and operate in the U.S. or its territories.

All businesses meeting the criteria outlined in this element will be considered small businesses, without regard to race or sex.

ACDBE firms are eligible for participation in the small business element.

The Airport defines a small business as a profit-making corporation, sole proprietorship, or partnership that meets these criteria.

1. A business concern certified as an ACDBE or DBE; or
2. Possess valid certification issued by an agency, approved by the Airport, that verifies the firm is within Small Business Administration size standards 13 CFR part 121 and consistent with 49 CFR § 23.33; and
3. Owner's personal net worth does not exceed cap on average annual gross receipts specified in 49 CFR Part 23 and applies to both 1 and 2 above.

The Airport may recommend, encourage, and or set aside specific concession opportunities tiers:

1. Tier 1: under \$10 million
2. Tier 2: \$10.1 million to \$24.99 million
3. Tier 3: \$25 million to \$ 56.42 million

## **3. Verification**

The Airport requires that each SBE complete an SBE affidavit stating that they are eligible as SBE. The Airport will accept the following certifications for participation in the small business element in conjunction with the SBE affidavit:

- a. Airport Disadvantaged Business Enterprise Certification from any state Unified Certification Program
- b. Ohio's Encouraging Diversity Growth and Equity Program (EDGE)
- c. Ohio's Women-Owned Business Enterprise (WBE)
- d. Ohio's Minority Business Enterprise Program (MBE)

Minority and women-owned business enterprises which are awarded contracts under the small business element will be strongly encouraged to seek ACDBE certification.

## **4. Monitoring/Record Keeping**

- The Airport will track and monitor participation by ACDBEs and other small businesses that results from the implementation of this small business element through a web-based compliance and diversity management system.



- Small Business element participation will be reported annually as part of the Uniform Report of ACDBE Participation.
- Based on the strategies implemented and annual small business element participation, the Airport will revise the Small Business element as needed.

## **5. Assurances**

- This small business element is authorized under State law.
- Certified ACDBEs that meet the size criteria established under this element are presumptively eligible to participate therein element;
- There are no geographic preferences or limitations imposed on any concession opportunities included in this small business element;
- There are no limits on the number of concession opportunities awarded to firms participating in this element but every effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses;
- The Airport will take aggressive steps to encourage those minority and women owned firms that are eligible for ACDBE certification to become certified; and
- This element is open to small businesses regardless of their location. There is no local or other geographic preference as part of this small business element.