



**Wichita Airport Authority (WAA)**

**ACDBE PROGRAM**

**POLICY STATEMENT**

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

The Wichita Airport Authority (WAA) 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 WAA 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 WAA has signed airport grant assurances that it will comply with 49 CFR Part 23.

It is the policy of the WAA to ensure that ACDBEs as defined in Part 23, have an equal opportunity to receive and participate in concession opportunities. It is also our policy:

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

The Properties & Contracts Analyst has been designated as the ACDBE Liaison Officer (ACDBELO). In that capacity, the Properties & Contracts Analyst 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 WAA in its financial assistance agreements with the Department of Transportation.

The WAA has disseminated this policy statement to the Wichita Airport Advisory Board and all of the components of our organization. This policy statement shall be posted on the website, [www.flywichita.com](http://www.flywichita.com), distributed to members of the business community that perform or are interested in performing work on WAA concessions contracts, and shall be published in the Wichita Eagle daily newspaper. A copy of this policy will be made available to attendees of all informational meetings dealing with concession opportunities.

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*Victor D. White, Director of Airports*

\_\_10/01/2015\_\_\_\_\_  
Date

## **SUBPART A – GENERAL REQUIREMENTS**

### **Section 23.1 Objectives**

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

### **Section 23.3 Definitions**

The WAA 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 Wichita Dwight D. Eisenhower National 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 WAA 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 WAA 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 WAA acknowledges these representations are also in accordance with obligations contained in its Civil Rights, DBE and ACDBE Airport grant assurances.

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

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

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

### **Section 23.11 Compliance and Enforcement**

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

The WAA will comply with this part or be subject to formal enforcement action under §26.105 or appropriate program sanctions, such as the suspension or termination of Federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied. Program sanctions may include actions consistent with 49 U.S.C. §§ 47106(d), 47111(d), and 47122.

2 C.F.R. Part 180, Government-wide Debarment and Suspension (Non-procurement), effective November 15, 2006, adopted and supplemented by DOT at 2 C.F.R. Part 1200, effective June 2, 2008, provides Office of Management and Budget (OMB) guidance for Federal agencies on the government-wide debarment and suspension system for non-procurement transactions, programs and activities. 2 C.F.R. Part 1200 adopts the OMB guidance in subparts A through I of 2 CFR part 180, as supplemented by part 1200, as the Department of Transportation policies and procedures for non-procurement suspension and debarment.

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

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

- (a) For a firm that does not meet the eligibility criteria of subpart D of this part and that attempts to participate as an ACDBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the Department of Transportation (DOT) or the Federal Aviation Administration (FAA) may initiate suspension or debarment proceedings against the firm under 2 CFR parts 180 and 1200.
- (b) For a firm that, in order to meet ACDBE goals or other AC/DBE program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria of subpart D of this part, DOT or FAA may initiate suspension or debarment proceedings against the firm under 2 CFR parts 180 and 1200.
- (c) DOT may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the ACDBE program whose conduct is subject to such action under 49 CFR Part 31.
- (d) DOT may refer to the Department of Justice, for prosecution under 18 U.S.C. §§ 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of an ACDBE in the [*Sponsor's*] ACDBE program or otherwise violates applicable Federal statutes.

Compliance reviews: The FAA may review WAA's compliance with this part at any time, including but not limited to, reviews of paperwork, on-site reviews, and review of the airport sponsor's monitoring and enforcement mechanism, as appropriate. The FAA Office of Civil Rights may initiate a compliance review based on complaints received.

Any person who knows of a violation of this part by the WAA may file a complaint under 14 CFR Part 16 with the Federal Aviation Administration Office of Chief Counsel.

## **SUBPART B – ACDBE PROGRAMS**

### **Section 23.21 ACDBE Program Updates**

The WAA is a small hub primary airport required to have an ACDBE program.

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

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

This ACDBE program will be implemented at Wichita Dwight D. Eisenhower National Airport.

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

## **Section 23.23 Administrative Provisions**

**Policy Statement:** The WAA is committed to operating its ACDBE program in a nondiscriminatory manner.

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

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

Belinda Witt  
Properties & Contracts Analyst  
2173 Air Cargo Road  
Wichita, KS 67209  
(316) 946-4704  
[bwitt@wichita.gov](mailto:bwitt@wichita.gov)

In that capacity, the ACDBELO is responsible for implementing all aspects of the ACDBE program and ensuring that the WAA complies with all provision of 49 CFR Part 23. The ACDBELO has direct, independent access to the Director of Airports, Victor White, 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 has a staff of one 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. Ensures that bid notices and requests for proposals are available to ACDBEs in a timely manner.
5. Identifies contracts and procurements so that ACDBE goals are included in solicitations (both race-neutral methods and contract specific goals)
6. Analyzes WAA's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO/governing body on ACDBE matters and achievement.
9. Chairs the ACDBE Advisory Committee: Jay Hinkel, Melinda Walker, Traci Nichols, and John Oswald.
10. Provides ACDBEs with information and assistance in preparing bids, obtaining bonding, financing, and insurance; acts as a liaison to the OSDBU-Minority Resource Center (MRC).
11. Plans and participates in ACDBE training seminars.
12. Acts as liaison to the Unified Certification Program (UCP) in Kansas.
13. Provides outreach to ACDBEs and community organizations to advise them of opportunities.
14. Maintains the WAA's updated directory on certified ACDBEs and distinguishes them from DBEs.

Directory: The WAA through the Kansas Unified Certification Program (UCP), maintains a directory identifying all firms eligible to participate as DBEs and ACDBEs. The Directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as an ACDBE.

The UCP will ensure that the Directory lists each type of work for which a firm is eligible to be certified by using the most specific NAICS code available to describe each type of work. The UCP will make any changes to the current directory entries necessary to meet the requirements of this paragraph.

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

<http://kdotapp.ksdot.org/dbcontractorlist/>. The Directory may be found in Attachment 2 to this program document. (26.31)

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

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

1. The WAA will not exclude any person from participation in, deny any person the benefits or, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.
2. In administering its ACDBE program, the WAA will not directly through contractual or any 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.
3. The WAA will seek ACDBE participation in all types of concession activities, rather than concentrating participation in one category or a few categories to the exclusion of others. (23.25(c))
4. The WAA's overall goal methodology and a description of the race-neutral measures it will use to meet the goals are described in Section 23.25 and Attachment 4 of this plan. The goals are set consistent with the requirements of Subpart D. (23.25(b), (d))
5. If the WAA projects that race-neutral measures alone, are not sufficient to meet an overall goal, it will use race-conscious measures as described in Section 23.25 (e) (1-2) and Attachment 4 and 5 of this plan. (23.25(e))
6. The WAA will require businesses subject to ACDBE goals at the airport (except car rental companies) to make good faith efforts to explore all available options to meet goals, to the maximum extent practicable, through direct ownership arrangements with ACDBEs. (23.25(f))
7. The WAA will not use set-asides or quotas as a means of obtaining ACDBE participation. (23.25(g)).

### **Section 23.27 Reporting**

49 CFR Part 23

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

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

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

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

1. WAA will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.
2. WAA 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 represented on our web portal. (26.37)



## **SUBPART C – CERTIFICATION AND ELIGIBILITY**

**Section 23.31** WAA will use the procedures and standards of Part 23, except as provided in 23.31, for certification of ACDBEs to participate in our concessions program and such standards are incorporated herein.

WAA is a member of a Unified Certification Program (UCP) administered by Kansas Department of Transportation and Kansas Department of Commerce and will rely on certification decisions for ACDBEs made by that program.

The UCP's directory of eligible DBEs specifies whether a firm is certified as a DBE for purposes of Part 26, and ACDBE for purposes of part 23, or both. The UCP will review the eligibility of currently certified ACDBEs to make sure they meet the standards of part 23.

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

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

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

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

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

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

We acknowledge that a prime contractor includes a firm holding a prime contract with an airport concessionaire to provide goods or services to the concessionaire or a firm holding a prime concession agreement with a recipient. We recognize that the eligibility of Alaska Native Corporations (ANC) owned firms for purposes of part 23 is governed by part 26 section 26.73(h). (23.39(c)(d)).

In instances when the eligibility of a concessionaire is removed after the concessionaire has entered into a concession agreement because the firm exceeded the size standard or the owner has

exceeded the PNW standard, and the firm in all other respects remains an eligible DBE, we may continue to count the concessionaire’s participation toward ACDBE goals during the remainder of the current concession agreement. We will not count the concessionaire’s participation toward ACDBE goals beyond the termination date for the concession agreement in effect at the time of the decertification. (23.39(e))

We will use the Uniform Application Form found in appendix F to part 26 with additional instruction as stated in 23.39(g).

**SUBPART D – GOALS, GOOD FAITH EFFORTS, AND COUNTING**

**Section 23.41 Basic Overall Goal Requirement**

The WAA will establish two separate overall ACDBE goals; one for car rentals and another for concessions other than car rentals. The overall goals will cover a three year period and the sponsor will review the goals annually to make sure the goal continues to fit the sponsor’s circumstances. We will report any significant overall goal adjustments to the FAA.

If the average annual concession revenues for car rentals over the preceding 3 years do not exceed \$200,000, we need not submit an overall goal for car rentals. Likewise, if the average annual concession revenues for concessions other than car rentals over the preceding 3 years do not exceed \$200,000, we need not submit an overall goal for concessions other than car rentals. We understand that “revenue” means total revenue generated by concessions, not the fees received by the airport from concessionaires.

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

**Section 23.43 Consultation in Goal Setting**

The WAA consults with stakeholders before submitting the overall goals to the FAA. Stakeholders will include, but not be limited to, minority and women’s business groups, community organizations, trade associations representing concessionaires currently located at the airport, as well as existing concessionaires themselves, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged businesses, the effects of discrimination on opportunities for ACDBEs, and the sponsors efforts to increase participation of ACDBEs.

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

**Section 23.45 Overall Goals**

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

Primary Airport Size	Region	Date Due	Period Covered	Next Goal Due
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<b>Large/Medium Hubs</b>	<b>All regions</b>	<b>October 1, 2014</b>	<b>2015/2016/2017</b>	<b>October 1, 2017 (2018/2019/2017)</b>
<b>Small Hubs</b>	<b>All regions</b>	<b>October 1, 2012</b>	<b>2013/2014/2015</b>	<b>October 1, 2015 (2016/2017/2018)</b>
<b>Non-Hubs</b>	<b>All regions</b>	<b>October 1, 2013</b>	<b>2014/2015/2016</b>	<b>October 1, 2016 (2017/2018/2019)</b>

If a new concession opportunity arises at a time that falls between the normal submission dates above and the estimated average of annual gross revenues are anticipated to be \$200,000 or greater, the sponsor will submit an appropriate adjustment to our overall goal to FAA for approval no later than 90 days before issuing the solicitation for the new concession opportunity. (23.45i)

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

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

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

A description of the methodology to calculate the overall goal for concessions other than car rentals, the goal calculations, and the data we relied on can be found in *Attachment 4* to this program.

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

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

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

The WAA will use concession specific goals to meet any portion of the overall goals it does not project being able to meet using race-neutral means. Concession specific goals are established so

that, over the period to which the overall goals apply, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

WAA will establish concession specific goals only on those concessions that have direct ownership arrangements (except car rentals), sublease, or subcontracting possibilities. We will require businesses subject to ACDBE goals at the airport (except car rental companies) to make good faith efforts to explore all available options to meet goals, to the maximum extent practicable, through direct ownership arrangements with DBEs (23.25 (f)). Car rental firms are not required to change their corporate structure to provide for direct ownership arrangements. In the case of a car rental goal, where it appears that all or most of the goal is likely to be met through the purchases by car rental companies of vehicles or other goods or services from ACDBEs, one permissible alternative is to structure the goal entirely in terms of purchases of goods and services.

WAA need not establish a concession specific goal on every such concession, and the size of concession specific goals will be adapted to the circumstances of each such concession (e.g., type and location of concession, availability of ACDBEs.)

If the objective of a concession specific goal is to obtain ACDBE participation through direct ownership with an ACDBE, the WAA will calculate the goal as a percentage of the total estimated annual gross receipts from the concession. (23.25(e)(1)(i))

If the concession specific goal applies to purchases and/or leases of goods and services, the WAA will calculate the goal by dividing the estimated dollar value of such purchases and/or leases from ACDBEs by the total estimated dollar value of all purchases to be made by the concessionaire. (23.25(e)(1)(ii))

### **Good Faith Efforts on Concession Specific Goals (23.25(e)(1)(iii), (iv))**

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

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

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

Information to be submitted (26.53(b))

The WAA treats bidder/proposer's compliance with good faith effort requirements as a matter of bid responsiveness and bidder responsibility.

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

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

#### Administrative reconsideration (26.53(d))

Within 3 days of being informed by the WAA that it is not responsive or responsible because it has not documented sufficient good faith efforts, a concessionaire may request administrative reconsideration. Concessionaire should make this request in writing to the following reconsideration official: Victor White, Wichita Airport Authority, 2173 Air Cargo Road Wichita, KS 67209; (316) 946-4700; [vwhite@wichita.gov](mailto:vwhite@wichita.gov) . The reconsideration official will not have played any role in the original determination that the concessionaire did not document sufficient good faith efforts.

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

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

The WAA will require a concessionaire to make good faith efforts to replace an ACDBE that is terminated or has otherwise failed to complete its concession agreement, lease, or subcontract with another certified ACDBE, to the extent needed to meet the concession specific goal. We will require the concessionaire to notify the ACDBELO immediately of the ACDBEs inability or unwillingness to perform and provide reasonable documentation.

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

If the concessionaire fails or refuses to comply in the time specified, WAA's contracting office will employ its progressive contract enforcement procedure until satisfactory action has been taken. If the concessionaire still fails to comply, the contracting officer may issue a termination for default proceeding.

#### Sample Proposal/Bid Specification:

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

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

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

WAA will count ACDBE participation toward overall goals of car rentals as provided in 49 CFR 23.53.

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

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

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

- (1) Analyze in detail the reasons for the difference between the overall goal and our awards and commitments in that fiscal year;
- (2) Establish specific steps and milestones to correct the problems we have identified in our analysis to enable us to fully meet our goal for the new fiscal year;
- (3) Submit, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraph (b) (1) and (2) of this section to the FAA for approval.

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

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

## **SUBPART E – OTHER PROVISIONS**

### **Section 23.71 Existing Agreements**

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

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

We will pass through applicable provisions of part 23 to private terminal owner or lessee via our agreement with the owner or lessee WAA will ensure that the owner or lessee complies with part 23. This section is not currently applicable to the WAA as it is not Privately –Owned nor does it allow concession use in privately leased terminal buildings.

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

WAA will not enter into a long-term and exclusive agreements for concessions without prior approval of the FAA Regional Civil Rights Office. WAA understands that a “long-term” agreement is one having a term of longer than 5 years. WAA understands that an “exclusive” agreement is one in which an entire category of a particular business opportunity is limited to a single business entity. If special, local circumstances exist that make it important to enter into a long-term and exclusive agreement, WAA will submit detailed information to the FAA Regional Civil Rights Office for review and approval.

### **Section 23.79 Geographic Preferences**

WAA will not use a “local geographic preference”, i.e., any requirement that gives an ACDBE located in one place (e.g., *Sedgwick County*) an advantage over ACDBEs from other places in obtaining business as, or with, a concession at Wichita Dwight D. Eisenhower National Airport.

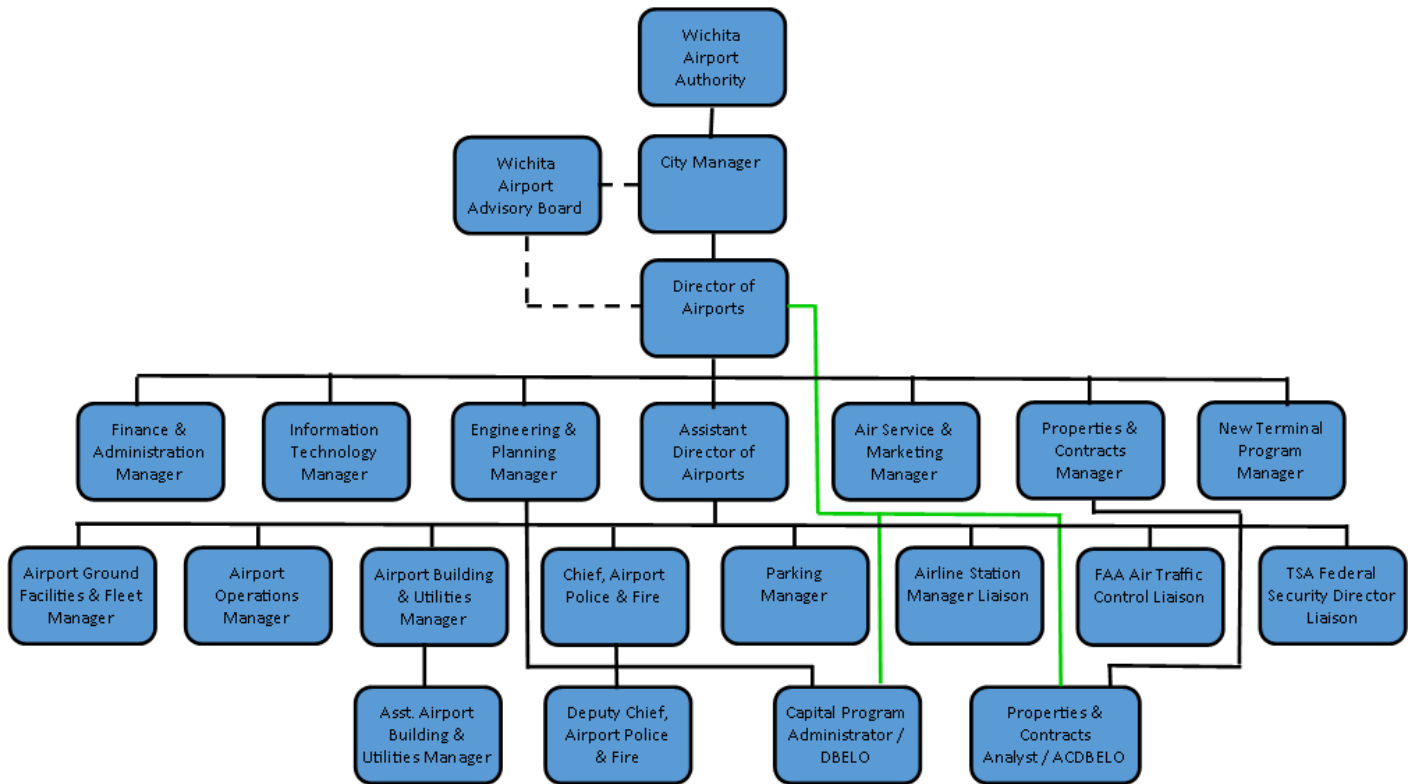
## **ATTACHMENTS**

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

Attachment 1

Organizational Chart

**WICHITA AIRPORT AUTHORITY**  
**City of Wichita Department of Airports**  
**Management Structure**





**Attachment 2**

**Kansas ACDBE Directory**

For current and complete listing, see both websites:

ACDBE Directory: <http://kdotapp.ksdot.org/dbecontractorlist/>

KDOC Directory: <http://mwbds.kansascommerce.com/>

### **Attachment 3**

#### **Sample Monitoring and Enforcement Mechanisms**

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

1. Breach of contract action, pursuant to the terms of the contract;
2. The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11243, 11375 and 11141; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Kansas Act Against Discrimination, K.S.A. 44 1000.

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

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

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

1. WAA will insert the following provisions into concessions agreements and management contracts

A. Nondiscrimination: Concessionaire agrees that it will not discriminate or permit discrimination against any person on the basis of race, color, sex, religion, national origin or ancestry, disability, or age, except where age is a bona fide occupational qualification, in its operations or services being provided at the Premises, and its use or occupancy of the Premises under this Agreement. The Concessionaire agrees to comply with all applicable provisions of the Civil Rights Act of 1964, as amended; the Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375 and 11141; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Kansas Act Against Discrimination, K.S.A. 44 1000, et seq.; and any laws, regulations or amendments as may be promulgated thereunder, including any Ordinance of the City of Wichita, Kansas, presently, existing or hereafter enacted, which pertains to civil rights and equal employment opportunity.

B. Concession Disadvantaged Business Enterprise: If applicable, this agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR 23, Subpart F. The Airport has established an overall goal for Airport Concessions Disadvantaged Business Enterprise (ACDBE) participation in Concessions at the Airport, and is required to use good faith efforts to ensure that goal is achieved. The Airport encourages all concessionaires to maximize ACDBE participation in concession opportunities. The Airport shall have the right to count any ACDBE participation under this Agreement toward the Authority overall ACDBE concession goal.

C. Concessionaire's ACDBE Status: Concessionaire's ACDBE certification must be approved by the Unified Certification Program (UCP) on or before the execution date of this Agreement. A copy of the Concessionaire's current certification letter is to be submitted on or before the execution of this Agreement. Concessionaire must take all reasonable steps to maintain and keep current this ACDBE status throughout the term of this Agreement

2. WAA will implement the following additional monitoring and compliance procedures:
  - A. By conducting on-site reviews of concession workplaces where applicable.
  - B. By conducting frequent review of records.
  
3. We will implement our compliance and monitoring procedures as follows:
  - A. By conducting quarterly on-site reviews of concession workplaces where applicable.
  - B. By conducting monthly reviews of concessionaire records.

**Attachment 4**

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

**Amount of Goal:** 2.35%

**Name of Recipient:** Wichita Airport Authority (WAA)

**Goal Period:** FY-2016-2017-2018 – October 1, 2015 through September 30, 2018

**Overall Three-Year Goal:**  
2.35%, to be accomplished through RC.

The WAA has determined that its market area is businesses and concessions doing business in the State of Kansas. This is the geographical area in which the substantial majority of firms which seek to do concessions business with the airport are located and the geographical area in which the firms receive a substantial majority of concessions related revenues are located.

**Airport Concession three (3) year Contract Information and Calculation  
Airport Concession Contracts**

<b>Name</b>	<b>Business Type</b>	<b>Lease Start / End</b>	<b>3 yr. Avg</b>	<b>Est Rev for 2016-2018</b>
MSE Branded Foods	Food/Beverage	06/03/2015 to 06/03/2025	\$3,569,416.00	\$3,569,416.00
Paradies, LLC	Retail	06/03/2015 to 06/03/2025	\$2,109,200.00	\$2,109,200.00

**Base of Goal**

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

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

<b>Fiscal Year</b>	<b>Concessions Revenue (excluding car rental)</b>	<b>ACDBE (\$)</b>
2012	\$3,933,685.00	121,859.00
2013	\$4,335,574.00	103,472.00
2014	\$4,478,401.00	104,378.00
<b>Total</b>	<b>\$12,747,660.00</b>	<b>329,709.00</b>
<b>Average</b>	<b>\$4,249,220.00</b>	<b>109,903.00</b>

The WAA estimates that revenues to existing concessions will grow by 2.6 % over the next three years due to increased passenger traffic.

The concession opportunities anticipated during this goal period are:

Food and Beverage, News and Gifts with estimated gross receipts of \$5,678,253.

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

**Methodology used to Calculate Overall Goal****Goods and Services**

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

**Management Contract or Subcontract**

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

**Step 1: 23.51(c)**

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

**Numerator:** (21) Ready, willing, and able non-car rental ACDBEs in the market area

\_\_\_\_\_ divided by \_\_\_\_\_

**Denominator:** (4371) All ready, willing and able non-car rental concession firms in the market area

NAICS	Type of Concession	Total ACDBE's	Total All Firms
445299, 448110, 448120, 448190	All Other Specialty Food Stores, Other Clothing Stores, Women's Clothing Stores, Men's Clothing Stores	1, 2, 2, 1 (6)	54, 49, 357, 102 (512)
451212, 453110, 453220, 454210, 454390	Newsstands & Magazine stands, Flower Shops, Gift Shops, Vending Machine Merchandisers, Other Direct Selling Establishments	1,0,1,0,6 (8)	2, 168, 211, 47, 228 (656)
722310, 722511, 722514, 722515, 722410	Food Service Contractors, Cafeterias, Grill Buffets & Buffets, Snack & Nonalcoholic Beverages bars, Full Service Restaurants, Alcoholic beverage drinking places, alcoholic beverage	1,1,0,3,2 (7)	254, 71, 371, 2107, 400 (3,203)
<b>Total</b>		<b>21</b>	<b>4371</b>
<b>Step 1 =</b>			

The data source or demonstrable evidence used to derive the **numerator** was from the DBE/ACDBE Directory from the Kansas Department of Transportation, Directory of Disadvantaged Business Enterprises at <http://kdotapp.ksdot.org/dbecontractorlist/> . The Kansas Department of Commerce, Minority & Women Business Directory Search at <http://mwbds.kansascommerce.com/>. 23.51(c)(2).

The data source or demonstrable evidence used to derive the **denominator** was information obtained from the Census Bureau Data at <http://www.census.gov/econ/cbp/index.html>.

When WAA divided the numerator by the denominator it arrived at the Step 1 base figure for our overall goal for non-car rental concessions of: .0048 %

**Step 2: 23.51(d)**

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

In order to reflect as accurately as possible the ACDBE participation WAA would expect in the absence of discrimination we have adjusted our base figure by 2.6%. Our overall goal for non-car rental concessions is 2.6%.

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

**Past History Participation**

*WAA evaluated the current capacity of ACDBEs to perform work in our concessions program by measuring the volume of work ACDBEs have performed in the past chosen to adjust our figure using this data. The past performance has been adjusted to include gross revenues of all concessions with the exception of car rental concessions. Data used to determine the adjustment to the base figure was the median of historical ACDBE accomplishments*

FY	ACDBE Goals			Accomplishments		
	RC	RN	Total	RC	RN	Total
2012	5%	0	5%	3.1%	0	3.1%
2013	4.5%	0	4.5%	2.4%	0	2.4%
2014	4.5%	0	4.5%	2.33%	0	2.33%

## PUBLIC PARTICIPATION

**Consultation:** Section 23.43.

Our ACDBE Concessions Program and the goal are posted on the airport's website, [www.flywichita.com](http://www.flywichita.com), and published in the Wichita Eagle daily newspaper. The interested parties are invited to direct comments and questions regarding ACDBE availability and the WAA efforts to solicit ACDBE participation, to [airportdbe@wichita.gov](mailto:airportdbe@wichita.gov). Our plan will be adjusted for comments if warranted. In addition, a copy of the ACDB Concessions Program will be distributed to the City of Wichita Purchasing Division, and to the Wichita Airport Authority Advisory Board.

Opportunities are posted and advertised with:

AMAC  
ARN  
AAAE  
ACI  
Wichita Eagle  
COW Purchasing

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

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

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

1. Locating and identifying ACDBEs and other small businesses who may be interested in participating as concessionaires under 49 CFR Part 23;
2. Notifying ACDBEs of concession opportunities and encouraging them to compete, when appropriate;
3. Ensuring that competitors for concession opportunities are informed during pre-solicitation meetings about how the sponsor's ACDBE program will affect the procurement process;
4. Providing information concerning the availability of ACDBE firms to competitors to assist them in obtaining ACDBE participation.

WAA estimates that, in meeting its overall goal of 5%, it will obtain 5% from race-neutral participation and 0% through race-conscious measures.

The following is a summary of the basis of WAA's estimated breakout of race-neutral and race-conscious ACDBE participation:

The extent to which that WAA has exceeded or achieved its ACDBE goals in the past five (5) fiscal years.

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

1. WAA will establish concession-specific goals for particular concession opportunities.
  2. Negotiate with potential concessionaires to include ACDBE participation through direct ownership arrangements or measures, in the operation of the concession.
- ACDBE prime concessionaires are expected to accomplish at least 5% of the participation therefore we are applying 5% to race-neutral participation.

In order to ensure that its ACDBE program will be narrowly tailored to overcome the effects of discrimination, if WAA use concession specific goals it will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual ACDBE participation (see 26.51(f)) and WAA will track and report race-neutral and race conscious participation separately. For reporting purposes, race-neutral ACDBE participation includes, but is not necessarily limited to, the following: ACDBE participation through a prime contract that an ACDBE obtains through customary



competitive procurement procedures; ACDBE participation through a subcontract on a prime contract that does not carry ACDBE goal; ACDBE participation on a prime contract exceeding a concession specific goal; and ACDBE participation through a subcontract from a prime contractor that did not consider a firm’s ACDBE status in making the award.

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

**Attachment 5**

**Section 23.45: Overall Goal Calculation for Car Rentals**

**Amount of Goal:** 0%

**Name of Recipient:** Wichita Airport Authority (WAA)

**Goal Period:** FY-2016-2017-2018 – October 1, 2015 through September 30, 2018

**Overall Three-Year Goal:**

*0%, to be accomplished through 0 RC and RN.*

(Note: the overall goal may be disclosed as a cumulative amount or an average of the three years)

The WAA has determined that its market area is businesses and concessions doing business in the State of Kansas. This is the geographical area in which the substantial majority of firms which seek to do concessions business with the airport are located and the geographical area in which the firms receive a substantial majority of concessions related revenues are located.

**Market Area for Car Rental Concessionaires**

<b>Company</b>	<b>Type of Concession</b>	<b>City</b>	<b>State</b>
Avis	RAC	ICT	KS
Budget	RAC	ICT	KS
Enterprise	RAC	ICT	KS
Hertz	RAC	ICT	KS
National	RAC	ICT	KS

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

**Base of Car Rental Goal**

To calculate the base of the goal WAA 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.

**Gross Receipts (Revenue) for Previous 3 Years - Car Rental Concessions**

<b>Fiscal Year</b>	<b>Car Rental Revenues</b>
2012	\$
2013	\$
2014	\$17,116,514.00
<b>Total</b>	<b>\$17,116,514.00</b>
<b>Average</b>	<b>\$17,116,514.00</b>

The WAA estimates that revenues to existing concessions will grow by 2.5% over the next three years due to increased passenger traffic at new terminal.  $\$17,116,514.00 \times 2.5\% = \$427,912.00 = \$17,544,426.00$  base of goal.

The car rental concession opportunities anticipated during this goal period are:

Goods and Services related to car rentals with estimated gross receipts revenue of \$17,544,426.00. 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 WAA will submit to the FAA an appropriate adjustment to the overall goal. This will be submitted to FAA for approval no later than 90 days before issuing the solicitation for the new concession opportunity. (23.45(i)).

**Methodology used to Calculate Overall Goal****Goods and Services**

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

**Step 1: 23.51(c)**

WAA determined the Step 1 base figure for the relative availability of car rental ACDBEs. The base figure was calculated as follows:

Numerator: (0) Ready, willing, and able car rental ACDBEs in the market area  
 \_\_\_\_\_ divided by \_\_\_\_\_

Denominator: (61) All ready, willing and able car rental firms in the market area

NAICS	Type of Concession	Total ACDBE's	Total All Firms
532111	Passenger Car Rental	0	0
561599	All Other Travel Arrangement and Reservation Services	0	0
Total		0	0
Step 1 =			

The data source or demonstrable evidence used to derive the **numerator** was from the DBE/ACDBE Directory from the Kansas Department of Transportation, Directory of Disadvantaged Business Enterprises at <http://kdotapp.ksdot.org/dbecontractorlist/> . The Kansas Department of Commerce, Minority & Women Business Directory Search at <http://mwbds.kansascommerce.com/>. 23.51(c)(2).

The data source or demonstrable evidence used to derive the **denominator** was information obtained from the Census Bureau Data at <http://www.census.gov/econ/cbp/index.html>.

When WAA divided the numerator by the denominator we arrived at the Step 1 base figure for our overall goal for-car rental concessions of: 0 %

**Step 2: 23.51(d)**

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

In order to reflect as accurately as possible the ACDBE participation WAA would expect in the absence of discrimination we have adjusted our base figure based on the number of ACDBE's that are willing and able to do the work, which makes our new figure 0%.

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

**Past History Participation**

WAA evaluated the current capacity of ACDBEs to perform work in our car rental concessions program by measuring the volume of work ACDBEs have performed in the past. In determining that there are no certified ACDBEs in the market area that provided these services WAA determined an adjustment is not needed at this time.

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

Fiscal Year	ACDBE Goals			Accomplishments		
	RC	RN	Total	RC	RN	Total
2012	0%	0%	0%	0%	0%	0%
2013	0%	0%	0%	0%	0%	0%
2014	0%	0%	0%	0%	0%	0%

## PUBLIC PARTICIPATION

**Consultation:** Section 23.43.

Our ACDBE Concessions Program and the goal are posted on the airport’s website, [www.flywichita.com](http://www.flywichita.com), and published in the Wichita Eagle daily newspaper. The interested parties are invited to direct comments and questions regarding ACDBE availability and the WAA efforts to solicit ACDBE participation, to [airportdbe@wichita.gov](mailto:airportdbe@wichita.gov). Our plan will be adjusted for comments if warranted. In addition, a copy of the ACDB Concessions Program will be distributed to the City of Wichita Purchasing Division, and to the Wichita Airport Authority Advisory Board.

Opportunities are posted and advertised with:

- AMAC
- ARN
- AAAE
- ACI
- Wichita Eagle
- COW Purchasing

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

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

WAA understands that it will be expected to actually take these steps, and this is not merely a paper exercise.

1. Locating and identifying ACDBEs and other small businesses who may be interested in participating as concessionaires under 49 CFR Part 23;
2. Notifying ACDBEs of concession opportunities and encouraging them to compete, when appropriate;
3. Ensuring that competitors for concession opportunities are informed during pre-solicitation meetings about how the sponsor's ACDBE program will affect the procurement process;
4. Providing information concerning the availability of ACDBE firms to competitors to assist them in obtaining ACDBE participation; and

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

The following is a summary of the basis of WAA's estimated breakout of race-neutral and race-conscious ACDBE participation:

The extent that WAA has not exceeded or achieved its ACDBE goals in the past five (5) fiscal years and there for leading ad adjustment of its goal for the 2016-2018 fiscal years.

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

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

In order to ensure that our ACDBE program will be narrowly tailored to overcome the effects of discrimination, if WAA use concession specific goals we will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual ACDBE participation (see 26.51(f)) and WAA will track and report race-neutral and race conscious participation separately. For reporting purposes, race-neutral ACDBE participation includes, but is not necessarily limited to, the following: ACDBE participation through a prime contract that an ACDBE obtains through customary competitive procurement procedures; ACDBE participation through a subcontract on a prime contract that does not carry ACDBE goal; ACDBE participation on a prime contract exceeding a concession specific goal; and ACDBE participation through a subcontract from a prime contractor that did not consider a firm's ACDBE status in making the award.

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

**Forms 1 & 2 for Demonstration of Good Faith Efforts**

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

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

\_\_\_\_\_ The bidder/proposer is committed to a minimum of \_\_\_\_\_ % ACDBE utilization on this contract in its bid/proposal documents.

\_\_\_\_\_ The bidder/proposer was unable to meet the ACDBE goal of \_\_\_\_\_ %, but has submitted with its bid signed letters of intent totaling \_\_\_\_\_ % ACDBE utilization on this contract. The bidder/proposer also has submitted documentation with its bid/proposal demonstrating its good faith efforts to meet the utilization goal.

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

State Registration No. \_\_\_\_\_

By \_\_\_\_\_ Title \_\_\_\_\_  
(Signature)

**FORM 2: LETTER OF INTENT**

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

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

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

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

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

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

Telephone: \_\_\_\_\_

Description of work to be performed by ACDBE firm:

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Estimated dollar value of this work is \$ \_\_\_\_\_.

**Affirmation**

The above-named ACDBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By \_\_\_\_\_  
(Signature) (Title)

**If the bidder/proposer does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.**

(Submit this page for each ACDBE subcontractor.)



**Attachment 7**

**ACDBE Certification Application Form**

Applications for ACDBE Certification can be found at:

<http://www.ksdot.org/divadmin/civilrights/>.

**Attachment 8**

**Procedures for Removal of ACDBEs Eligibility**

*The WAA relies on the Kansas Department of Transportation and Kansas Department of Commerce to govern and manage the procedures for Removal of ACDBEs Eligibility.*

**ATTACHMENT 9**  
**State's UCP Agreement**

**Attachment 10**

**Regulations: 49 CFR Part 23**

[To be attached for public distribution.]

