

**Gallatin Airport Authority  
Bozeman Yellowstone International Airport**



**U.S. Department of Transportation  
Airport Concession Disadvantaged Business Enterprise  
Program**

**49 CFR Part 23  
2024**

		Page
Section 23.1	Objectives	3
Section 23.3	Definitions	3
Section 23.5	Applicability	3
Section 23.9	Non-discrimination Requirements.	3
Section 23.11	Compliance and Enforcement	3
Section 23.21	ACDBE Program Updates	4
Section 23.23	Administrative Provisions.	4
Section 23.25	Ensuring Nondiscriminatory Participation of ACDBEs	5
Section 23.26	Fostering Small Business Participation.	5
Section 23.27	Reporting	5
Section 23.29	Compliance and Enforcement Procedures	6
Section 23.31	Certification Standards and Procedures	7
Section 23.33	Business Size Standards	7
Section 23.35	Personal Net Worth Limits	8
Section 23.37	Firms Certified as DBEs	8
Section 23.39	Other ACDBE Certification Requirements	8
Section 23.41	Overall Goals	9
Section 23.43	Consultation in Goal Setting	9
Section 23.45	Overall Goals	10
Section 23.53	Counting ACDBE Participation for Car Rental Goals	10
Section 23.55	Counting ACDBE participation for Concessions Other than Car Rental	11
Section 23.57	Goal shortfall accountability	11
Section 23.61	Quotas or Set-asides	12
Section 23.71	Existing Agreements	12
Section 23.73	Privately-Owned or Leased Terminal Buildings	12
Section 23.75	Long-Term Exclusive Agreements	12
Section 23.77	Preemption of Local Requirements	13
Section 23.79	Geographic Preferences	13
Attachment 1	Organizational Chart	15
Attachment 2	DBE/ACDBE Directory	16
Attachment 3	Active Participants List Collection Form	17
Attachment 4	Sample Monitoring and Enforcement Mechanisms	18
Attachment 5	Overall Goal Calculation for Concessions Other Than Car Rentals	19
Attachment 6	Overall Goal Calculation for Car Rentals	23
Attachment 7	Demonstration of Good Faith Efforts – Forms 1 and 2	27
Attachment 8	ACDBE Certification Application Form	30
Attachment 9	State UPC Agreement	30
Attachment 10	Regulations:49 CFR part 23	31
Attachment 11	Race-Neutral Small Business Element	32

**AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE PROGRAM  
GALLATIN AIRPORT AUTHORITY  
BOZEMAN YELLOWSTONE INTERNATIONAL AIRPORT, BELGRADE, MT  
October, 2024**

**Objectives/Policy Statement**

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

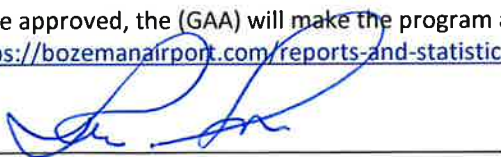
It is the policy of the GAA to ensure that ACDBEs as defined in Part 23, have an equal opportunity to receive and participate in concession opportunities. It is also our policy:

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;
5. To help remove barriers to the participation of ACDBEs in opportunities for concessions at our airport;
6. To promote the use of ACDBEs in all types of concession activities at our airport.
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.

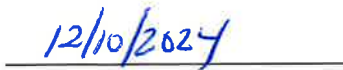
The Chief Operating Officer (COO) has been designated as the ACDBE Liaison Officer (ACDBELO). In that capacity, the COO is responsible for implementing all aspects of the ACDBE program. Implementation of the ACDBE program is accorded the same priority as compliance with all other legal obligations incurred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

The GAA has disseminated this policy statement to the Board Members and all of the components of our organization. We have distributed this statement to ACDBE and non-ACDBE concessionaire communities in our area by mailing the same to the Montana Department of Transportation, Civil Rights Bureau, DBE Program Manager, 2710 Prospect Ave, Helena, MT 59620.

Once approved, the (GAA) will make the program available on the Airport's website @ <https://bozemanairport.com/reports-and-statistics>



CEO



Date

**Section 23.1 23.23 Objectives/Policy Statement**

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

**Section 23.2 Definitions**

The GAA 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 GAA is the owner of 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 GAA will not exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any 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 GAA 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 GAA 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 GAA 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 recipients and programs under Part 26.

## ACDBE PROGRAM

### Section 23.21 ACDBE Program Updates

The GAA operates a small-hub primary airport and is required to have an ACDBE program.

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

### Section 23.23 Administrative Provisions

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

The GAA 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 GAA will also encourage prime concessionaires to use such institutions.

**ACDBE Liaison Officer (ACDBELO):** We have designated the following individual as our ACDBELO:  
CEO – Scott Humphrey 850 Gallatin Field Road, Suite 6, Belgrade, MT 59714 (406) 388-6632  
Scott.humphrey@bozemanairport.com

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

The ACDBELO is responsible for developing, implementing, and monitoring the ACDBE program. 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 GAA's progress toward attainment and identifies ways to improve progress.
7. participates in pre-bid meetings.
8. Advises the CEO/governing body on ACDBE matters and achievement.
9. Chairs the ACDBE Advisory Committee.
10. Provides ACDBEs with information and assistance in preparing bids, obtaining bonding, financing, and insurance; acts as a liaison to the OSDDBU-Minority Resource Center (MRC).
11. Plans and participates in ACDBE training seminars.
12. Acts as liaison to the Unified Certification Program (UCP) in **[name of State]**.
13. Provides outreach to ACDBEs and community organizations to advise them of opportunities.
14. Maintains the GAAs updated directory on certified ACDBEs and distinguishes them from DBEs.

Directory: The GAA is not a certifying agency; the Montana Department of Transportation (MDT) maintains the Unified Certification Program (UCP) identifying all firms eligible to participate as a DBE, ACDBE, SBE. 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 GAA will not use set asides or quotas as a means of obtaining ACDBE participation.

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

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

Race-neutral measure may include:

- 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 recipient's ACDBE program will affect the procurement process;
- 6) Providing information concerning the availability of ACDBE firms to competitors to assist them in obtaining ACDBE participation.

The GAA will not use race-conscious measure.

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

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

The GAA 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).

### **Section 23.27 Reporting**

The GAA 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 three years following the end of the concession agreement or other covered contract.

The GAA 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 GAA will create and maintain active participants list information and enter it into a system designated by the FAA. The GAA 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 gender 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 GAA 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 GAA 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.

- 1) The number and percentage of in-state and out-of-state ACDBE certifications for socially and economically disadvantaged by gender 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 GAA will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 23 including language below in all agreements:

(A) "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."

(B) "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."

The GAA 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 49 CFR § 26.107.

The GAA 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; see Attachment #4.

## **CERTIFICATION AND ELIGIBILITY**

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

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

The MDT's 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:

Name: Maggie Metzger

Title: DBE/SBE Program Specialist

Address: Montana Department of Transportation DBE Program,

PO Box 201001 2701 Prospect

Helena, MT 59620-1001

Telephone Number: (406) 444-6637

E-mail Address: mmetzger@mt.gov

Website of certification office: <https://www.Montana's.mt.gov/business/contracting/civil/contact.aspx>

Link to electronic application portal:

<https://www.Montana's.mt.gov/other/webdata/external/civilrights/forms/DOT-DBE-Certification-Application.pdf>

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 MDT's 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 MDT's 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, MDT's 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 MDT's 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 MDT's 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), MDT's 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 recipient.

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

Certifying MDT's 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 GAA 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 GAA 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 GAA 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 GAA is not required to develop and submit an overall goal for concessions other than car rentals. The GAA understands that "revenue" means total revenue generated by concessions, not the revenue received by the airport from concessions agreements.

The GAA'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 GAA 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 GAA 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 GAA 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 GAA 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 GAA'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 GAA.

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

The GAA 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 GAA will verify that the firm in all other respects remains an eligible ACDBE. To accomplish this verification, the GAA 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 GAA 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 GAA 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 GAA 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 GAA will verify that the firm in all other respects remains an eligible ACDBE. To accomplish this verification, the GAA 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 GAA 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 GAA 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 GAA 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 GAA will verify that the firm in all other respects remains an eligible ACDBE. To accomplish this verification, the GAA 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 GAA 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 GAA 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:

- (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;

The GAA 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 GAA'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 GAA 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:

- (1) The GAA does not submit the analysis and corrective actions to FAA in a timely manner as required under paragraph (b)(3) of § 23.57;
- (2) FAA disapproves the analysis or corrective actions; or
- (3) The GAA 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

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

The GAA 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 GAA 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**

This section is not applicable to the GAA

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

The GAA will not enter into a long-term and exclusive agreements for concessions without prior approval of the FAA Regional Civil Rights Office. The GAA 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 GAA 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 GAA's plan for meeting the standards of paragraph (c) of § 23.75.

To obtain FAA approval of a long-term exclusive concession agreement, the GAA 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 GAA 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 GAA 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 GAA 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 GAA, or the authority of any State or local government or recipient to adopt or enforce any law, regulation, or policy relating to ACDBEs, as long as the law, regulation, or policy does not conflict with Part 23.

**Section 23.79 Geographic Preferences**

The GAA will not use a local geographic preference. 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.

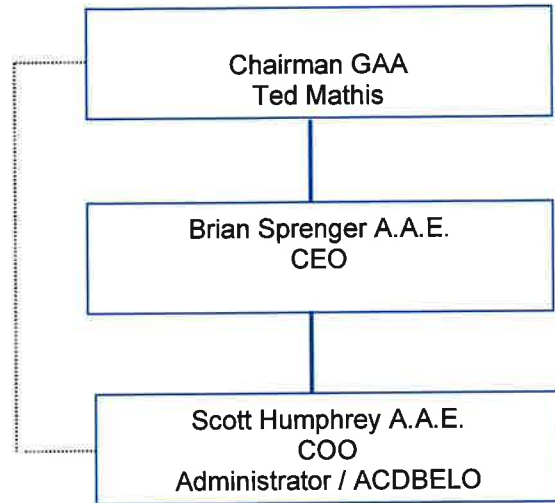
**ATTACHMENTS**

- |              |  |
|--------------|--|
| 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  
Attachment 10  
Attachment 11

State's UCP Agreement  
Regulations: 49 CFR Part 23  
Race-Neutral Small Business Element

**Attachment 1**





**Attachment 2**

**DBE /ACDBE DIRECTORY**

<https://app.mdt.mt.gov/dbe/dbe/search>

**Attachment 3**

Active Participants List Collection Form

- **Firm name**
- **Firm Address including ZIP code**
- **Firm's status as an ACDBE or non-ACDBE**

	<b>Firm Name</b>	<b>Street Address</b>	<b>City</b>	<b>State</b>	<b>ZIP Code</b>	<b>DBE or Non-DBE Status</b>	<b>NAICS Code(s) of Scope(s) Bid</b>	<b>Race of Majority Owner</b>	<b>Gender of Majority Owner</b>	<b>Age of Firm</b>	<b>Annual Gross Receipts</b>
1											
2											
3											
4											
5											
6											
7											
8											
9											
10											
11											
12											
13											
14											
15											
16											
17											

- **Race and gender information for the firm's majority owner**
  - **Use only the race/ethnicity classifications from 49 CFR part 26:**
    - **Black American**
    - **Hispanic American**
    - **Native American**
    - **Asian Pacific American**
    - **Subcontinent Asian American**
    - **Other**
- **NAICS code applicable to the concession contract in which the firm is seeking to perform**
- **Age of the firm**
- **Annual gross receipts of the firm. The gross receipts can be obtained by asking each firm to indicate into what gross receipts bracket they fit (e.g. less than \$1 million; \$1-3 million; \$3-6 million; \$6-10 million, etc.) rather than requesting an exact figure from the firm.]**

## Attachment 4

### Sample Monitoring and Enforcement Mechanisms

The GAA will implement several remedies to enforce the ACDBE requirements contained in its contracts by insertion of the following into new Concession Agreements:

- 1) "The GAA retains the right to audit a Concessionaires books and records to determine the accuracy of the information reported. The GAA may perform interim audits of contract payments to ACDBE management firms or joint venture partners, general partners or subcontractors. The audit will review payments to ACDBE and gross receipts earned by or payments for goods and services and management agreements to ACDBEs to ensure that the actual amount equals or exceeds the dollar amounts stated in the report of proposed ACDBE participation. In the event the GAA determines a Concessionaire has failed to comply with the ACDBE participation submitted by Concessionaire and accepted by the GAA, the GAA may require Concessionaire to comply, default Concessionaire pursuant to the GAA's contract provisions, or disqualify contractor from consideration for award of future GAA Agreements."
  
- 2) The GAA will review reports submitted annually by the concessionaires to ensure the ACDBE participation levels remain in compliance with the contract requirements. This information will be used to provide the statistical data for the achievement reports.

**Attachment 5**

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

**Goal Period: [i.e., FY2024-2026 – October 1, 2024 through September 30, 2026]**

**Overall Three-Year Goal:**

.03%, to be accomplished through 0.00 % RC and 0.03% 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 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 in which the firms which receive the substantial majority of concessions-related revenues are located.

The GAA has determined that its market area for concessions other than car rental is as follows:

Type of Concession	NAICS Code	State of Montana	Nationwide
Gift, Novelty and Souvenir	453220	XX	
Full-Service Restaurants	722511	XX	
Sight Seeing Transportation Land	487110	XX	
Charter Bus Service	485510	XX	
Parking Lots, Garages	812930	XX	
Financial Transactions Processing	522320	XX	
Property Management (Snow Removal Services)	561730	XX	
Employee Staffing	561311	XX	

**Base of Goal**

To calculate the base of the goal the GAA 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.

**Management Contract or Subcontract**

The GAA 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>FY</b>	<b>Non-Car Rental</b>	<b>Growth</b>
2022	\$12,025,860	\$2,090,127
2023	\$17,639,829	\$5,613,969
2024	\$18,254,049	\$614,220

*The GAA estimates that revenues to existing concessions will grow by 3% over the next three years due to increased passenger traffic.*

<b>FY</b>	<b>Non-Car Rental</b>	<b>Growth</b>
2025	\$18,912,448	\$658,399
2026	\$19,480,102	\$567,654
2027	\$20,064,505	\$584,403

The concession opportunities anticipated during this goal period are: Food and Beverage, News and Gifts, Ground Transportation with estimated gross receipts of \$58,457,055

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 GAA 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.

**Goal Calculations**

**Step 1:**

The Step 1 figure was calculated as follows.

The data source used was U.S. Census Data and MDT’s UPC directory of certified DBE/ACDBE firms.

Concession Activity	NAICS Code	ACDBE Firms Registered in Montana	All firms	% Availability
Gift, Novelty and Souvenir	453220	0	129	0.00
Full-Service Restaurants	722511	1	1,098	0.00
Sight Seeing Transportation Land	487110	0	8	0.00
Charter Bus Service	485510	1	5	20.0
Parking Lots, Garage	812930	0	9	0.00
Financial Transaction Processing	522320	1	25	0.4
Property Management (Snow Removal Services)	561730	0	669	0.00
Employee Staffing	561311	1	16	6.25
<b>Total</b>		<b>4</b>	<b>1,959</b>	<b>0.15</b>

When we divided the numerator by the denominator, we arrived at the Step 1 figure for our overall goal for non-car rental concessions of **0.15%**.

**Step 2:**

GAA records suggest levels of past participation slightly higher than the number calculated in Step 1; the GAA will make a slight adjustment to 0.3%

FY	RC	RN	Achievement
2021	0.00%	0.00%	0.00%
2022	0.00%	0.21%	0.21%
2023	0.00%	0.24%	0.24%
2024	0.00%	0.31%	0.31%

The GAA believes this goal figure of 0.30% will accurately reflect ACDBE non-car rental concession participation that can be achieved during this 3-year period.

**PUBLIC PARTICIPATION**

Prior to submitting this goal to the FAA, consulted with the following stakeholders:

Meetings were setup individually and GAA was invited to participate in Montana Department of Transportation’s Consultant and Network Meeting.

Montana Department of Transportation Consultant and Network Meeting (In-Person) January 29, 2024

Sharbert Enterprises - Doug Stock doug@giftcorral.com (In-Person) October 24, 2024

North Grounds Property – Justine VanDyke justine@northgroundsmt.com (In-Person) October 21, 2024

Bryan Burnett – Laz Parking Bburnett@lazparking.com (Teleconference) September 21, 2024  
Dan Martin - Karst Stage dmartin@karststage.com (e-mail) September 26, 2024  
Montana Department of Transportation Consultant and Network Meeting (In-Person) January 29, 2024

No comments received.

**Breakout of Estimated Race-Neutral & Race Conscious participation**

The GAA will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating ACDBE participation. The primary measure the GAA will use to encourage race-neutral participation is the active implementation of our race-neutral small business element that is required by § 23.26. The small business element is detailed in the GAA's FAA-approved ACDBE Program Plan.

We estimate that, in meeting our overall goal of 0.3%, we will obtain 0.3% from race-neutral participation and 0.0% through race-conscious measures.

The GAA has exceeded the past three years goals through race-neutral participation

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

- 1) The GAA will establish concession-specific goal for a particular concession opportunity.

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

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

**Attachment 6**

**Overall Goal Calculation for Car Rentals**

**Goal Period: [i.e., FY2025-2027 – October 1, 2025 through September 30, 2027]**

**Overall Three-Year Goal:**

The goal of 3.1% to be accomplished through (0% RC) and (3.1% 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 of the goal will 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. GAA has therefore structured the goal entirely in terms of the purchase of goods and services.

**Market Area**

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 in which the firms which receive the substantial majority of concessions-related revenues are located.

<b>Type of Concession</b>	<b>NAICS Code</b>	<b>State of Montana</b>	<b>Nationwide</b>
New Vehicles	441110		XX
Oil Change Services	811191	XX	
Office Supplies	424120		XX
Auto Body Repair	811111	XX	
Insurance	524126		XX
Tires Dealers	423130		XX
Automobile parts	81111		XX
Glass Repair Services	81122	XX	
Auto Carrier Trucking	484690		XX
Car Wash and Detailing	811192	XX	
Car Wash Supplies	423850		XX



Locksmith Services	561622	XX	
Employee Staffing	561311	XX	

**Base of Goal**

To calculate the base of the goal, GAA considered the previous 3 years of car rental expenditures/purchases and the projected potential car rental expenditures three years into the future, including upcoming new opportunities.

Expenditures have fluctuated coming out of the pandemic with fleet refresh 2023-24. The GAA expects expenditures to be consistent going forward based on passenger growth over the next three years (3% per year)

Fiscal Year	Car Rental Expenditures
2025	\$15,929,992
2026	\$16,407,892
2027	\$16,900,129

The following are not included in this base: concessions other than car rental.

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 GAA 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.

**Step 1:**

The Step 1 figure was calculated as follows

Concession Type	NAICS Code	ACDBE Firms	All Firms in Market Area	% of ACDBE Firms that may be available
New Vehicles	441110	2	21,622	0.01%
Oil Change Services	811191	0	55	0.00%
Office Supplies	424120	1	3,546	0.01%
Auto Body Repair	811111	0	459	0.0%
Insurance	524126	34	12,178	0.28%
Tires Dealers	423130	0	4,000	0.00%

Automobile parts	81111	0	41,369	0.00%
Glass Repair Services	811122	0	47	0.00%
Auto Carrier Trucking	484690	2	11,798	0.01%
Car Wash and Detailing	811192	0	84	0.00%
Car Wash Supplies	423850	0	4,487	0.00%
Locksmith Services	561622	0	17	0.00%
Employee Staffing	561311	1	16	6.25%
<b>Total</b>		40	99,678	<b>0.04%</b>

Source: U.S. Census Bureau 2021 Economic Surveys and Business Partners / Montana Department of Transportation ACDBE Directory.

When we divided the numerator by the denominator, we arrived at the Step 1 figure for our overall goal for car rental concessions of: **[0.04%]**

## Step 2

### Past Participation

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

Fiscal Year	Car Rental Expenditures	ACDBE Spend	% ACDBE Spend
2023	\$22,250,079	\$874,961	3.9
2022	\$12,893,774	\$801,729	6.2
2021	\$11,278,572	\$763,855	6.8
2020	\$5,494,752	\$532,289	9.6
2019	\$13,775,500	\$641,859	4.7

Arranging historical data from the past 5 years from low to high: 3.9%, 4.7%, 6.2%, 6.8%, 9.6% - (6.2%) is the median which is our Step 2 adjustment figure.

To arrive at an overall goal, we added our Step 1 base figure with our Step 2 adjustment figure and then averaged the total arriving at an overall goal of 3.1%  $(6.2\% + .04\%) / 2 = 3.1\%$

### PUBLIC PARTICIPATION

Prior to submitting this goal to the FAA, GAA consulted with the following stakeholders:

Montana Department of Transportation Consultant and Network Meeting (In-Person) January 29, 2024

Meeting was held September 25, 2024 (in-person/teams) with the following concessionaires:

Overland West (Hertz)

Mike Lucero: mlucero@overlandwest.com  
Barbara Lam-Hales: barbara@overlandwest.com

Avis Budget Group

Sydney Peruzzato: Sydney.Peruzzato@avisbudget.com  
Sailer, Anthony: Anthony.Sailer@avisbudget.com

Enterprise/ Alamo National

Julia McGrath: Julia.A.McGrath@em.com

Go Rentals

Mike Bodrogi: mikeb@gorentals.com

**Breakout of Estimated Race-Neutral & Race Conscious participation**

The GAA will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating ACDBE participation. The primary measure the GAA will use to encourage race-neutral participation is the active implementation of our race-neutral small business element that is required by § 23.26. The small business element is detailed in the GAA's FAA-approved ACDBE Program Plan.

We estimate that, in meeting our overall goal of 3.1%, we will obtain 3.1% from race-neutral participation and 0% through race-conscious measures.

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

1. We will establish concession-specific goals for particular concession opportunities.

In order to ensure that our ACDBE program will be narrowly tailored to overcome the effects of discrimination, if we use concession specific goals we will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual ACDBE participation and we will track and report race-neutral and race conscious participation separately. For reporting purposes, race-neutral ACDBE participation includes, but is not limited to, the following: ACDBE participation through a prime contract that an ACDBE obtains through customary competitive procurement procedures; ACDBE participation in a concession opportunity that does not have an ACDBE goal; ACDBE participation that exceeds 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.

GAA will maintain data separately on ACDBE achievements in those contracts with and without concession specific goals and report accordingly.

**Attachment 7**

**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 the 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.

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

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

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.

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

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

**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>

**Attachment 9**

**State's UCP Agreement**

Montana Department of Transportation UCP Agreement can be found here:

<https://www.mdt.mt.gov/other/webdata/external/civilrights/dbe/ucp-approval.pdf>

**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

#### 1. Objective/Strategies:

- The GAA will consider concession opportunities available through all types of concession models to facilitate SBE participation.
- The GAA will identify alternative concession contracting approaches to facilitate the ability of small businesses, including ACDBEs, to compete for and obtain direct leasing opportunities including short-term seasonal concession opportunities
- Where feasible, the GAA will unbundle agreements to facilitate participation by small businesses.

The GAA will adopt MDT's SBE program criteria:

- (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.
- (2) The firm is at least 51% owned and controlled by an individual(s) who is a U.S. citizen(s) or lawfully admitted permanent U.S. resident(s) and meets the DBE Program's personal net worth cap. o Refer to <https://www.transportation.gov/DBEPNW> for "personal net worth cap." o Refer to § 26.69 and 26.70 of 49 CFR Part 26 to determine whether you meet the ownership and control requirements.
- (3) The firm meets the Small Business Administration's (SBA) and the DBE/ACDBE program's size standards at <https://www.transportation.gov/DBEsizestandards>.

#### 2. Verification

The GAA, in partnership with MDT will diligently attempt to minimize fraud and abuse in the small business element of its ACDBE program by verifying program eligibility of firms. Verification does not necessarily involve creating a new certification category; verification procedure will allow for participation of all small businesses.

The GAA will not rely exclusively on local/state M/WBE certification, SBA 8(a) certification, or other programs that include race/gender/geographical considerations as a condition of the certification.

#### 3. Monitoring/Record Keeping

- The GAA will track and monitor participation by ACDBEs and other small businesses that results from the implementation of this small business element.
- Participation will be monitored annually and part of ACDBE participation reporting.

#### 4. Assurances

The GAA makes the following assurances:

- The ABDBE/SBE element is not prohibited 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 GAA 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.