

**RALEIGH-DURHAM AIRPORT AUTHORITY
AIRPORT CONCESSIONS DISADVANTAGED
BUSINESS ENTERPRISE PROGRAM**



IMPLEMENTED 2001, AMENDED 2006, AMENDED 2014

POLICY STATEMENT	1
A. Objectives/Policy Statement (49 CFR Part 23.1, 23.23)	1
SUBPART A - GENERAL REQUIREMENTS	2
A. Section 23.1 - Objectives	2
B. Section 23.3 - Definitions	2
C. Section 23.5- Applicability	2
D. Section 23.9 - Non-discrimination Requirements	2
E. Section 23.11- Compliance and Enforcement	2
SUBPART B - ACDBE PROGRAMS	3
A. Section 23.21- ACDBE Program Updates	3
B. Section 23.23 - Administrative Provisions	3
D. Section 23.27 - Reporting	5
E. Section 23.29 - Compliance and Enforcement Procedures	5
SUBPART C – CERTIFICATION AND ELIGIBILITY	6
A. Section 23.31	6
SUBPART D – GOALS, GOOD FAITH EFFORTS, AND COUNTING	6
A. Section 23.41 - Basic Overall Goal Requirement	6
B. Section 23.43 - Consultation in Goal Setting	6
C. Section 23.45 - Overall Goals	7
1. Projection of Estimated Race-Neutral & Race-Conscious Participation (23.45(f), 23.25(d-e))	7
2. Concession Specific Goals (23.25 (c)(e)(1)(iv))	7
3. Good Faith Efforts on Concession Specific Goals (23.25(e)(1)(iii), (iv))	8
D. Section 23.53 - Counting ACDBE Participation for Car Rental Goals	10
E. Section 23.55 - Counting ACDBE Participation for Concessions Other than Car Rentals	10
F. Section 23.57(b) - Failure to Meet Overall Goals	10
G. Section 23.61 - Quotas or Set-asides	10
SUBPART E – OTHER PROVISIONS	10
A. Section 23.71 - Existing Agreements	10
B. Section 23.73 - Privately-Owned or Leased Terminal Buildings	10
C. Section 23.75 - Long-Term Exclusive Agreements	10
D. Section 23.79 - Geographic Preferences	11

Policy Statement

A. Objectives/Policy Statement (49 CFR Part 23.1, 23.23)


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

It is the policy of the Authority to ensure that ACDBEs as defined in Part 23, have an equal opportunity to receive and participate in concession opportunities. It is also the Authority's 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 the ACDBE program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as ACDBEs;
5. To help remove barriers to the participation of ACDBEs in opportunities for concessions; and
6. To provide appropriate flexibility in establishing and providing opportunities for ACDBEs.

Thiané Carter Edwards, Small Business Officer has been designated as the ACDBE Liaison Officer. In that capacity, Ms. Edwards is responsible for implementing all aspects of the ACDBE Program. Ms. Edwards can be reached at P.O. Box 8001, RDU Airport, North Carolina 27623, by phone at (919) 840-7712 or via email at thiane.edwards@rdu.com. Implementation of the ACDBE Program is accorded the same priority as compliance with all other legal obligations incurred by the Authority in its financial assistance agreements with the U.S. Department of Transportation.

The Authority has disseminated this policy statement to all of the components of its organization. It has distributed this statement to ACDBE and non-ACDBE business communities and has implemented the ACDBE Program with the same priority with which it complies with other legal obligations imposed by Federal Aviation Authority. The Authority has distributed this statement to ACDBE and non-ACDBE businesses via its website. Additionally, this document is available to anyone who requests to see it at the Authority offices located at 1000 Trade Drive, RDU Airport, NC 27623 during the normal business hours of the Authority.



Michael J. Landguth, A.A.E
President & CEO
Raleigh Durham Airport Authority

8/20/14
Date

SUBPART A - GENERAL REQUIREMENTS

A. Section 23.1 - Objectives

The objectives are found in the Policy Statement on page one, hereinabove.

B. Section 23.3 - Definitions

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

C. Section 23.5- Applicability

The Authority is the recipient of federal airport funds authorized by 49 U.S.C. 47101, *et seq.*

D. Section 23.9 - Non-discrimination Requirements

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

The Authority 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."

E. Section 23.11- Compliance and Enforcement

The Authority 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 Authority 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 Authority'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.

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

The following enforcement actions apply to firms participating in the Authority'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 (USDOT) or the Federal Aviation Administration (FAA) may initiate suspension or debarment proceedings against the firm under 2 CFR parts 180 and 1200.

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, USDOT or FAA may initiate suspension or debarment proceedings against the firm under 2 CFR Parts 180 and 1200.

- (b) USDOT may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the ACDBE program whose conduct is subject to such action under 49 CFR Part 31.
- (c) USDOT may refer to the Department of Justice, for prosecution under 18 U.S.C. §§ 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of an ACDBE in the Authority's ACDBE program or otherwise violates applicable Federal statutes.

Compliance reviews: The FAA may review the Authority'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.

SUBPART B - ACDBE PROGRAMS

A. Section 23.21- ACDBE Program Updates

The Raleigh-Durham Airport Authority is a medium hub airport required to have an ACDBE program. This ACDBE program will be implemented at the Raleigh-Durham International Airport.

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

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

B. Section 23.23 - Administrative Provisions

Policy Statement: The Authority is committed to operating its ACDBE program in a nondiscriminatory manner. The Policy Statement is located hereinabove.

ACDBE Liaison Officer (ACDBELO): The Authority has designated the following individual as its DBE Liaison Officer (DBELO):

Thiané Carter Edwards, Small Business Program Officer
1000 Trade Drive
RDU Airport, NC 27623
Telephone: 919-840-7712
Fax: 919-840-0175
E-mail: Thiane.edwards@rdu.com

In that capacity, the ACDBELO is responsible for implementing all aspects of the ACDBE program and ensuring that the Raleigh-Durham Airport Authority complies with all provision of 49 CFR Part 23. The ACDBELO has direct, independent access to the Chief Executive Officer and President 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, among other duties:

1. Developing, managing, and implementing the ACDBE Program on a day-to-day basis;
2. Advising the Chief Executive Officer and Authority Board on ACDBE matters and achievement; and
3. Acting as a liaison to the Uniform Certification Process (UCP) in North Carolina.

These duties and responsibilities include the following:

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

Directory: The Authority, through its participation in the NCUCP, has access to a directory identifying all firms eligible to participate as ACDBEs. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as an ACDBE. The directory is updated at least annually. The directory is available via the website of the North Carolina Department of Transportation at <https://partner.ncFAA.gov/VendorDirectory/default.html>¹.

C. Section 23.25 - Ensuring Nondiscriminatory Participation of ACDBEs

The Authority will take the following measures to ensure nondiscriminatory participation of ACDBEs in concession, and other covered activities 49 CFR Part 23.25(a):

¹ North Carolina Department of Transportation. (2014, April 21). Directory of Firms . Retrieved April 1, 2014, from North Carolina Department of Transportation: <https://partner.ncdot.gov/VendorDirectory/default.html>

1. The Authority 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
2. The Authority will include the following assurances in all concession agreements and management contracts it executes with any firm after April 21, 2005:
 - (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.
3. The Authority will review the contract size, term and specifications and make such changes that will allow ACDBEs an equitable opportunity to compete for all.

The Authority will seek ACDBE participation in all types of concession activities, rather than concentrating participation in one category or a few categories to the exclusion of others. (23.25(c))

The Authority'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 Attachments 3 and 4 of this plan. The goals are set consistent with the requirements of Subpart D. (23.25(b), (d))

If the Authority 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 3 – Overall Goal Methodology for Concessions Other Than Car Rentals and Attachment 4 – Overall Goal Methodology for Car Rentals of this plan. (23.25(e))

The Authority will require businesses subject to ACDBE goals at the airport (except car rental companies) to make good faith efforts to explore all available options to meet goals, to the maximum extent practicable, through direct ownership arrangements with ACDBEs. (23.25(f))

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

D. Section 23.27 - Reporting

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

The Authority will transmit to FAA annually on or before March 1, the "Uniform Report of ACDBE Participation" form.

E. Section 23.29 - Compliance and Enforcement Procedures

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

1. The Authority will bring to the attention of the USDOT any false, fraudulent, or dishonest conduct in connection with the program, so that USDOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.

2. The Authority will consider similar action under its legal authority, including responsibility determinations in future contracts. The Authority has listed the regulations, provisions, and contract remedies available in the event of non-compliance with the ACDBE regulation by a participant in procurement activities as described in Attachment 2 of this plan. (26.37)

SUBPART C – CERTIFICATION AND ELIGIBILITY

A. Section 23.31

The Authority will use the procedures and standards of Part 26, except as provided in 23.31, for certification of ACDBEs to participate in its concessions program and such standards are incorporated herein.

The Raleigh-Durham Airport Authority is a member of a Unified Certification Program (UCP) administered by the State of North Carolina. The Authority is authorized to certify ACDBE firms as defined in the State of North Carolina UCP.

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 directory is available via the website of the North Carolina Department of Transportation at <https://partner.ncFAA.gov/VendorDirectory/default.html>.

Prior to entering into a new contract, extension, or option with a currently certified ACDBE, the Authority will review their eligibility at that time.

SUBPART D – GOALS, GOOD FAITH EFFORTS, AND COUNTING

A. Section 23.41 - Basic Overall Goal Requirement

The Authority 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 Authority will review the goals annually to make sure the goal continues to fit the Authority circumstances. The Authority 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, the Authority 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, the Authority need not submit an overall goal for concessions other than car rentals. The Authority understands that "revenue" means total revenue generated by concessions, not the fees received by the airport from concessionaires.

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

B. Section 23.43 - Consultation in Goal Setting

The Authority 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 its overall goals, the Authority will identify the stakeholders that the Authority consulted with and provide a summary of the information obtained from the stakeholders.

C. Section 23.45 - Overall Goals

The Authority is a medium hub airport. As a condition of eligibility for FAA financial assistance, the Authority will submit its overall goals every three years by October 1, as described below.

Primary Airport Size	Region	Date Due	Period Covered	Next Goal Due
Large/Medium Hubs	All regions	October 1, 2014	2015/2016/2017	October 1, 2017 (2018/2019/2017)

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

The Authority will establish overall goals in accordance with the two-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 Authority 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 the Authority relied on can be found in Attachment 4 to this program. A description of the methodology to calculate the overall goal for concessions other than car rentals, the goal calculations, and the data the Authority relied on can be found in Attachment 3 to this program.

1. 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 3 and 4 to this program. This section of the program will be reviewed annually when the goal calculation is reviewed under 23.41(c).

2. Concession Specific Goals (23.25 (c)(e)(1)(iv))

The Authority 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 its overall goal that is not projected to be met through the use of race-neutral means.

The Authority will establish concession specific goals only on those concessions that have direct ownership arrangements (except car rentals), sublease, or subcontracting possibilities. The Authority 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.)

The Authority 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 Authority 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 Authority 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)).

3. Good Faith Efforts on Concession Specific Goals (23.25(e)(1)(iii), (iv))

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

Demonstration of good faith efforts (26.53(a) & (c))

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

Thiané Carter Edwards, Small Business Program Officer
1000 Trade Drive
RDU Airport, NC 27623
Telephone: 919-840-7712
E-mail: Thiane.edwards@rdu.com

The Authority will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before the Authority commits to the concession agreement with the bidder/offeror.

Information to be submitted (26.53(b))

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

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 three (3) days of being informed by Authority that it is not responsive because it has not documented sufficient good faith efforts, a concessionaire may request administrative reconsideration. Concessionaire should make this request in writing to the following reconsideration official:

Cleon Umphrey, Director and Chief Human Resource Officer
PO Box 80001
RDU Airport, NC 27623
Telephone: 919-840-7733
E-mail: cleon.umphrey@rdu.com

The reconsideration official will not have played any role in the original determination that the concessionaire did not document sufficient good faith efforts.

As part of this reconsideration, the concessionaire will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The concessionaire will have the opportunity to meet in person with the Authority's reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The Authority 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 USDOT.

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

The Authority 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. The Authority will require the concessionaire to notify the ACDBELO immediately of the ACDBEs inability or unwillingness to perform and provide reasonable documentation.

In this situation, the Authority will require the concessionaire to obtain 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, the Authority will notify the concessionaire that it is in default. If the concessionaire still fails to comply, the Authority 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 Raleigh-Durham 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 ____ 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, 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.

D. Section 23.53 - Counting ACDBE Participation for Car Rental Goals

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

E. Section 23.55 - Counting ACDBE Participation for Concessions Other than Car Rentals

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

F. Section 23.57(b) - Failure to Meet Overall Goals

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

1. Analyze in detail the reasons for the difference between the overall goal and awards and commitments in that fiscal year;
2. Establish specific steps and milestones to correct the problems the Authority have identified in its analysis to enable us to fully meet the goal for the new fiscal year.

G. Section 23.61 - Quotas or Set-asides

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

SUBPART E – OTHER PROVISIONS

A. Section 23.71 - Existing Agreements

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

B. Section 23.73 - Privately-Owned or Leased Terminal Buildings

The Authority will include applicable provisions of Part 23 to private terminal owner or lessee via its agreement with the owner or lessee. The Authority will take reasonable steps ensure that the owner or lessee complies with Part 23. The Authority will obtain from the owner or lessee the goals and other elements of the ACDBE program required under Part 23.

C. Section 23.75 - Long-Term Exclusive Agreements

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

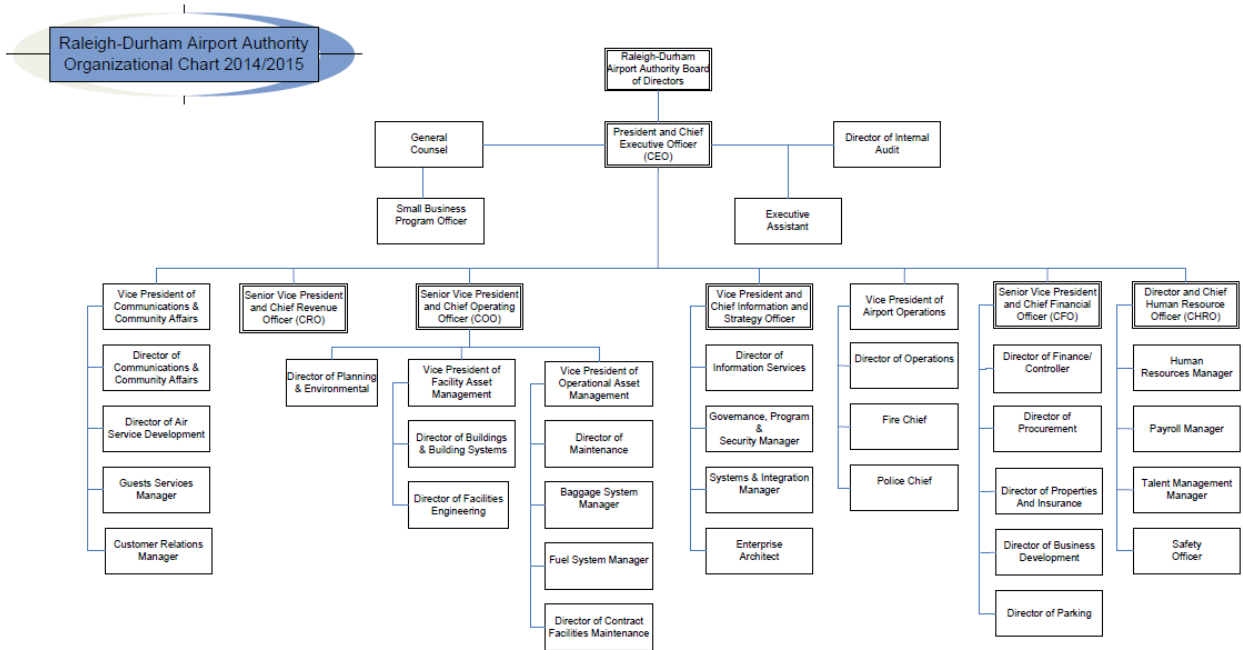
D. Section 23.79 - Geographic Preferences

The Authority will not use a “local geographic preference”, i.e., any requirement that gives an ACDBE located in one place an advantage over ACDBEs from other places in obtaining business as, or with, a concession.

ATTACHMENTS

- Attachment 1 Organizational Chart
- Attachment 2 Monitoring and Enforcement Mechanisms
- Attachment 3 Overall Goal for Concessions other than Car Rental Calculation, Consultation, Breakout of Estimated Race-Neutral & Race-Conscious Participation
- Attachment 4 Overall Goals for Car Rentals Calculation, Consultation, Breakout of Estimated Race Neutral & Race-Conscious Participation

Attachment 1 – Organizational Chart



Attachment 2 - Monitoring and Enforcement Mechanisms

The Raleigh-Durham Airport Authority 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. Other actions deemed appropriate including responsibility reviews on future concession award opportunities

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:
In a suspension or debarment proceeding, the FAA may consider the fact that a purported ACDBE has been certified. However, such certification does not preclude USDOT from determining that the purported ACDBE, or another firm that has used or attempted to use it to meet ACDBE goals, should be suspended or debarred.
2. Enforcement action pursuant to 49 CFR Part 31:
USDOT may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the ACDBE program whose conduct is subject to such action under 49 CFR Part 31; and
3. Prosecution pursuant to 18 USC 1001:
USDOT may refer to the Department of Justice, for prosecution under 18 U.S.C. 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of an ACDBE in the Authority's ACDBE program or otherwise violates applicable Federal statutes.

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

1. The Authority will insert the following provisions into concessions agreements and management contracts:
 - (a) This agreement is subject to the requirements of the U.S. Department of Transportation's regulation, 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.
2. We will implement the following additional monitoring and compliance procedures:
 - (a) Concessionaires or contractors will be required to submit gross revenue earned by ACDBEs and expenditures to ACDBEs upon request.
 - (b) Concessionaires will be required to list the specific duties, functions and responsibilities that ACDBEs will perform.
 - (c) Concessionaires or contractors will be required to submit, for review, a written notification of any material change in the duties, functions and responsibilities of ACDBEs prior to implementing the change.
 - (d) The Authority will review, annually, the specific duties, functions and responsibilities of each ACDBE to confirm that no material change has occurred.
 - (e) The Authority will perform periodic reviews, including site visits, each year on selected concessionaires and contractors to confirm ACDBEs are performing listed duties, functions and responsibilities.

- (f) The Authority will request from concessionaires any expenditures made with ACDBEs in performing services and supplying goods. Those expenditures will be reported annually.
- (g) Joint ventures will be reviewed in accordance with 49 CFR Part 2003. For each concession joint venture in operation at the airport that includes an ACDBE participant and for which ACDBE participation is being counted, the Authority will undertake the following monitoring tasks:
 - i. Certification Verification - ACDBE certification for firms being counted in joint ventures will be verified annually.
 - ii. Reports - The Authority will monitor gross revenues for the joint venture and the ACDBE dollar and percentage share of gross revenues.
 - iii. Annual On-Site Observation/Review - The Authority will conduct site visits to the joint venture operation not less than annually.
 - iv. JV documentation - The Authority will require the submission of annual activity reports detailing the activity of the ACDBE partner in relation to its assigned role in the operation.

Attachment 3

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

Amount of Goal

The Raleigh-Durham Authority's (Authority) overall goal for concessions other than car rental (i.e. non-car rental) during the period beginning October 1, 2014 and ending September 30, 2017 is the following: **27.0%** of the total gross receipts for concessions at the Authority. The Authority estimates that, in meeting the overall goal of **27.0%**, the Authority will obtain **0.0%** from race-neutral participation and **27.0%** through race-conscious measures.

Market Area for Non-Car Rental Concessions

The Authority has determined that its market area is **nationwide**. 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. The market area is based on an active participant list as outlined in 23.51(c)(2). The active participants list is based on attendance sheets from the most recent concessions meetings held here at the Authority, including pre-proposal conferences and outreach meetings.

Base of Goal

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

Fiscal Year	Projected Gross Receipts for "All Other" (Non-Car Concessions)
2011	\$51,779,842
2012	\$50,350,892
2013	\$59,751,721
Total	\$161,882,455
Average	\$53,960,818

The Authority expects that revenues to existing concessions will grow by 3% over the next three years due to nearly flat enplanement estimates. Based on these projections, concession gross receipts anticipated during this goal period for all non-car rental concessions are \$55,579,642.

The concession opportunities anticipated during this goal period are projected to be: retail (including news and gifts, specialty retail, etc.) and spa (personal services) with estimated gross receipts revenue of \$31,709,148.

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 Authority will submit an appropriate adjustment to the overall goal. This will be submitted to FAA for approval at least 6 months before executing the new concession agreement (23.45(i)).

Methodology used to calculate overall goal

Goods and Services

The Authority can meet the percentage goal by including the purchase from ACDBEs of goods and services used in businesses conducted at the airport. The Authority, 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

The Authority can meet the percentage goal by including any business operated through a management contract or subcontract with an ACDBE. The Authority, 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 Authority’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 the Authority realizes that this appears to go against the normal rules and rationale for goal-setting, this method is nevertheless required by statute.]

Step 1: 23.51(c)

The Authority determined the base figure for the relative availability of ACDBEs other than car rentals. The Step 1 Base Figure was determined by dividing the number of ACDBE firms available by the total number of firms available to determine the relative availability of ACDBEs for the relevant concession type.

$$\text{Base Figure} = \frac{\text{Ready, willing, and able non-car rental ACDBEs in the market area}}{\text{All ready, willing and able non-car rental concession firms in the market area}}$$

$$\text{Base Figure} = \frac{20}{71} = 28.2\%$$

The data source or demonstrable evidence used to derive the numerator and the denominator was based on an active participant list as outlined in 23.51(c)(2). The active participants list is based on attendance sheets from the most recent concessions meetings held here at the Authority, including pre-proposal conferences and outreach meetings.

The relative availability of ACDBE firms derived by dividing the numerator by the denominator the Step 1 base figure for was 28.2%.

Step 2: 23.51(d)

After calculating a base figure of the relative availability of ACDBEs, the Authority examined evidence to determine whether or not the base figure needs to be adjusted in order to arrive at the overall goal.

In order to reflect as accurately as possible the ACDBE participation the Authority would expect in the absence of discrimination, the Authority has adjusted the base figure by 1.1%. The overall goal for non-car rental concessions is 27.0%.

The historical ACDBE accomplishments at the Authority in recent years were examined relative to the above consideration. Specifically, the annual “Concessions Activity Report” for the reporting periods listed below was assessed. The Authority evaluated the current capacity of ACDBEs to perform work in the concessions program by measuring the volume of work ACDBEs have performed in the past.

Federal Fiscal Year	ACDBE Goal	ACDBE Participation
2011	26%	25.9%
2012	26%	23.7%
2013	26%	26.8%
Median Participation		25.9%

The median ACDBE accomplishment for each of the reporting periods as shown above is 25.9%, compared to the Step 1 ACDBE goal for the Authority of 28.2%. The Authority will average the Step 1

ACDBE base figure of 28.2% with the median ACDBE participation of 25.9%, for a final adjusted overall goal of **27.0%**.

There are no applicable disparity studies for the local market area or recent legal case information available to show any evidence of barriers to entry or competitiveness of ACDBEs.

Consultation with Stakeholders (23.43)

Prior to submitting this goal to the FAA, the Authority consulted with various minority trade organizations and small and/or minority business development agencies, including the North Carolina Institute for Minority Economic Development and the North Carolina Indian Economic Development Initiative to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for ACDBEs, and the Authority's efforts to establish a level playing field for the participation of ACDBEs. Consultations included the dissemination of a written notice to area advocacy organizations, current and former concessionaires as well as a formal meeting held on May 13, 2014. A public notice was issued in the local newspaper to ensure any individual or organization, potentially having information concerning the availability of disadvantaged businesses, the effects of discrimination on opportunities for ACDBEs, and the Airport Board's efforts to increase participation of ACDBEs, received the opportunity to provide comments. No comments were received.

Breakout of Estimated Race-Neutral & Race-Conscious Participation (23.51)

The Authority will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating ACDBE participation. The Authority uses the race-neutral measures below to increase ACDBE participation. The Authority 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. When practical, structuring concession activities so as to encourage and facilitate the participation of ACDBEs;
4. Providing technical assistance to ACDBEs in overcoming limitations, such as inability to obtain bonding or financing;
5. Ensuring that competitors for concession opportunities are informed during pre-solicitation meetings about how the sponsor's ACDBE program will affect the procurement process;
6. Providing information concerning the availability of ACDBE firms to competitors to assist them in obtaining ACDBE participation; and
7. Establishing a business development program (see 49 CFR Part 26:35); technical assistance program or taking other steps to foster ACDBE participation in concessions.

The Authority estimates that, in meeting the overall goal of **27.0%**, the Authority will obtain **0.0%** from race-neutral participation and **27.0%** through race-conscious measures.

The following is a summary of the basis of the estimated breakout of race-neutral and race conscious ACDBE participation: The Authority proposes a race-conscious goal of 27.0% and a race-neutral goal of 0.0%, for a total of 27.0%. The reason for this projected split is that the historical information on ACDBE participation showed that the median amount by which the goals were exceeded over the previous three years was 0.1%. Therefore, the Authority expects to meet 0% of its overall goal using race-neutral means. The entire goal (27.0%) is projected to be met using race-conscious means.

If the Authority 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. 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; and
3. With prior FAA approval, other methods that takes a competitor's ability to provide ACDBE participation into account in awarding a concession.

In order to ensure that the ACDBE program will be narrowly tailored to overcome the effects of discrimination, if the Authority uses 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 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 in making the award.

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

Attachment 4

Section 23.45: Overall Goal Calculation for Car Rentals

Amount of Goal

The Raleigh-Durham Authority's (Authority) overall goal for car rental concessions during the period beginning October 1, 2014 and ending September 30, 2017 is the following: **0.6%** of the total gross receipts for concessions at the Authority. The Authority estimates that, in meeting the overall goal of **0.6%**, the Authority will obtain **0.0%** from race-neutral participation and **0.6%** through race-conscious measures.

Market Area for Car Rental Concessions

The Authority has determined that its market area is **nationwide**. 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. The market area is based on an active participant list as outlined in 23.51(c)(2). The active participants list is based on attendance sheets from the most recent concessions meetings held here at the Authority, including pre-proposal conferences and outreach meetings.

Base of Goal

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

Fiscal Year	Projected Gross Receipts for Car Rental Concessions
2011	\$136,726,374
2012	\$119,531,234
2013	\$125,495,405
Total	\$381,753,013
Average	\$127,251,004

The Authority does not anticipate any major changes that would increase or decrease concession revenues over next three years. Therefore, the recipient's base of goal is the average car rental revenue of \$127,251,004. There are no new concession opportunities anticipated during this goal period. 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 Authority will submit an appropriate adjustment to the overall goal. This will be submitted to FAA for approval at least 6 months before executing the new concession agreement (23.45(i)).

Methodology used to calculate overall goal

Goods and Services

The Authority can meet the percentage goal by including the purchase from ACDBEs of goods and services used in businesses conducted at the airport. The Authority, 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.

Step 1: 23.51(c)

The Authority determined the base figure for the relative availability of ACDBEs other than car rentals. The Step 1 DBE Base Figure was determined by dividing the number of ACDBE firms available by the total number of firms available to determine the relative availability of ACDBEs for each concession type.

NAICS Title	NAICS Code	ACDBE	All Firms	Availability of ACDBE Firms
Motor Vehicle Supplies and New Parts Merchant Wholesalers	423120	10	13,625	0.1%
New Car Dealers	441110	9	21,327	0.0%
Motor Vehicle Towing	488410	21	8,544	0.2%
Insurance Agencies	524210	29	129,816	0.0%
Janitorial Services	561720	487	52,961	0.9%
Automotive Body, Paint and Interior Repair and Maintenance	811121	10	33,386	0.0%
Relative Availability of ACDBE Firms		565	259,659	0.2%

The data sources or demonstrable evidence used to derive the numerator are:

1. The FAA DBE/ACDBE Directory (FAA-dbE-Connect), <https://faa.dbesystem.com>, Accessed 3/14/14 and
2. North Carolina Department of Transportation Directory of Firms, <https://partner.ncdot.gov/VendorDirectory/default.html>,

The data source or demonstrable evidence used to derive the denominator is: 2011 Survey of Business Owners from the US Census Bureau, accessed on March 14, 2014.

The relative availability of ACDBE firms derived by dividing the numerator by the denominator the Step 1 base figure for was 0.2%.

Step 2: 23.51(d)

After calculating a base figure of the relative availability of ACDBEs, the Authority examined evidence to determine whether or not the base figure needs to be adjusted in order to arrive at the overall goal.

In order to reflect as accurately as possible the ACDBE participation the Authority would expect in the absence of discrimination, the Authority has adjusted the base figure by 0.8%. The overall goal for non-car rental concessions is 1.0%.

The historical ACDBE accomplishments at the Authority in recent years were examined relative to the above consideration. Specifically, the annual "Concessions Activity Report" for the reporting periods listed below was assessed. The Authority evaluated the current capacity of ACDBEs to perform work in the concessions program by measuring the volume of work ACDBEs have performed in the past.

Federal Fiscal Year	ACDBE Goal	ACDBE Participation
2011	15.4%	13.7%
2012	15.4%	1.0%
2013	15.4%	0.2%
Median Participation		1.0%

The median ACDBE accomplishment for each of the reporting periods as shown above is 1.0%, compared to the Step 1 ACDBE goal for the Authority of 0.2%. The Authority will average the Step 1 ACDBE base figure of 0.2% with the median ACDBE participation of 1.0%, for a final adjusted overall goal of 0.6%.

There are no applicable disparity studies for the local market area or recent legal case information available to show any evidence of barriers to entry or competitiveness of ACDBEs.

Consultation with Stakeholders (23.43)

Prior to submitting this goal to the FAA, the Authority consulted with various minority trade organizations and small and/or minority business development agencies, including the North Carolina Institute for Minority Economic Development and the North Carolina Indian Economic Development Initiative to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for ACDBEs, and the Authority's efforts to establish a level playing field for the participation of ACDBEs. Consultations included the dissemination of a written notice to area advocacy organizations, current and former concessionaires as well as a formal meeting held on May 13, 2014. A public notice was issued in the local newspaper to ensure any individual or organization, potentially having information concerning the availability of disadvantaged businesses, the effects of discrimination on opportunities for ACDBEs, and the Airport Board's efforts to increase participation of ACDBEs, received the opportunity to provide comments. No comments were received.

Breakout of Estimated Race-Neutral & Race-Conscious Participation (23.51)

The Authority will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating ACDBE participation. The Authority uses the race-neutral measures below to increase ACDBE participation. The Authority 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. When practical, structuring concession activities so as to encourage and facilitate the participation of ACDBEs;
4. Providing technical assistance to ACDBEs in overcoming limitations, such as inability to obtain bonding or financing;
5. Ensuring that competitors for concession opportunities are informed during pre-solicitation meetings about how the sponsor's ACDBE program will affect the procurement process;
6. Providing information concerning the availability of ACDBE firms to competitors to assist them in obtaining ACDBE participation; and
7. Establishing a business development program (see 49 CFR Part 26:35); technical assistance program or taking other steps to foster ACDBE participation in concessions.

The Authority estimates that, in meeting the overall goal of 0.6%, the Authority will obtain 0% from race-neutral participation and 0.0% through race-conscious measures.

The following is a summary of the basis of the estimated breakout of race-neutral and race conscious ACDBE participation: The Authority proposes a race-conscious goal of 0.6% and a race-neutral goal of 0.0%, for a total of 0.6%. Therefore, the Authority expects to meet 0% of its overall goal using race-neutral means. The entire goal (0.6%) is projected to be met using race-conscious means.

If the Authority 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. 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; and
3. With prior FAA approval, other methods that takes a competitor's ability to provide ACDBE participation into account in awarding a concession.

In order to ensure that the ACDBE program will be narrowly tailored to overcome the effects of discrimination, if the Authority uses 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 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 in making the award.

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

Attachment 3

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

Amount of Goal

The Raleigh-Durham Authority's (Authority) overall goal for concessions other than car rental (i.e. non-car rental) during the period beginning October 1, 2014 and ending September 30, 2017 is the following: **27.0%** of the total gross receipts for concessions at the Authority. The Authority estimates that, in meeting the overall goal of **27.0%**, the Authority will obtain **0.0%** from race-neutral participation and **27.0%** through race-conscious measures.

Market Area for Non-Car Rental Concessions

The Authority has determined that its market area is **nationwide**. 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. The market area is based on an active participant list as outlined in 23.51(c)(2). The active participants list is based on attendance sheets from the most recent concessions meetings held here at the Authority, including pre-proposal conferences and outreach meetings.

Base of Goal

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

Fiscal Year	Projected Gross Receipts for "All Other" (Non-Car Concessions)
2011	\$51,779,842
2012	\$50,350,892
2013	\$59,751,721
Total	\$161,882,455
Average	\$53,960,818

The Authority expects that revenues to existing concessions will grow by 3% over the next three years due to nearly flat enplanement estimates. Based on these projections, concession gross receipts anticipated during this goal period for all non-car rental concessions are \$55,579,642.

The concession opportunities anticipated during this goal period are projected to be: retail (including news and gifts, specialty retail, etc.) and spa (personal services) with estimated gross receipts revenue of \$31,709,148.

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 Authority will submit an appropriate adjustment to the overall goal. This will be submitted to FAA for approval at least 6 months before executing the new concession agreement (23.45(i)).

Methodology used to calculate overall goal

Goods and Services

The Authority can meet the percentage goal by including the purchase from ACDBEs of goods and services used in businesses conducted at the airport. The Authority, 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

The Authority can meet the percentage goal by including any business operated through a management contract or subcontract with an ACDBE. The Authority, 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 Authority’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 the Authority realizes that this appears to go against the normal rules and rationale for goal-setting, this method is nevertheless required by statute.]

Step 1: 23.51(c)

The Authority determined the base figure for the relative availability of ACDBEs other than car rentals. The Step 1 Base Figure was determined by dividing the number of ACDBE firms available by the total number of firms available to determine the relative availability of ACDBEs for the relevant concession type.

$$\text{Base Figure} = \frac{\text{Ready, willing, and able non-car rental ACDBEs in the market area}}{\text{All ready, willing and able non-car rental concession firms in the market area}}$$

$$\text{Base Figure} = \frac{20}{71} = 28.2\%$$

The data source or demonstrable evidence used to derive the numerator and the denominator was based on an active participant list as outlined in 23.51(c)(2). The active participants list is based on attendance sheets from the most recent concessions meetings held here at the Authority, including pre-proposal conferences and outreach meetings.

The relative availability of ACDBE firms derived by dividing the numerator by the denominator the Step 1 base figure for was 28.2%.

Step 2: 23.51(d)

After calculating a base figure of the relative availability of ACDBEs, the Authority examined evidence to determine whether or not the base figure needs to be adjusted in order to arrive at the overall goal.

In order to reflect as accurately as possible the ACDBE participation the Authority would expect in the absence of discrimination, the Authority has adjusted the base figure by 1.1%. The overall goal for non-car rental concessions is 27.0%.

The historical ACDBE accomplishments at the Authority in recent years were examined relative to the above consideration. Specifically, the annual “Concessions Activity Report” for the reporting periods listed below was assessed. The Authority evaluated the current capacity of ACDBEs to perform work in the concessions program by measuring the volume of work ACDBEs have performed in the past.

Federal Fiscal Year	ACDBE Goal	ACDBE Participation
2011	26%	25.9%
2012	26%	23.7%
2013	26%	26.8%
Median Participation		25.9%

The median ACDBE accomplishment for each of the reporting periods as shown above is 25.9%, compared to the Step 1 ACDBE goal for the Authority of 28.2%. The Authority will average the Step 1

ACDBE base figure of 28.2% with the median ACDBE participation of 25.9%, for a final adjusted overall goal of **27.0%**.

There are no applicable disparity studies for the local market area or recent legal case information available to show any evidence of barriers to entry or competitiveness of ACDBEs.

Consultation with Stakeholders (23.43)

Prior to submitting this goal to the FAA, the Authority consulted with various minority trade organizations and small and/or minority business development agencies, including the North Carolina Institute for Minority Economic Development and the North Carolina Indian Economic Development Initiative to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for ACDBEs, and the Authority's efforts to establish a level playing field for the participation of ACDBEs. Consultations included the dissemination of a written notice to area advocacy organizations, current and former concessionaires as well as a formal meeting held on May 13, 2014. A public notice was issued in the local newspaper to ensure any individual or organization, potentially having information concerning the availability of disadvantaged businesses, the effects of discrimination on opportunities for ACDBEs, and the Airport Board's efforts to increase participation of ACDBEs, received the opportunity to provide comments. No comments were received.

Breakout of Estimated Race-Neutral & Race-Conscious Participation (23.51)

The Authority will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating ACDBE participation. The Authority uses the race-neutral measures below to increase ACDBE participation. The Authority 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. When practical, structuring concession activities so as to encourage and facilitate the participation of ACDBEs;
4. Providing technical assistance to ACDBEs in overcoming limitations, such as inability to obtain bonding or financing;
5. Ensuring that competitors for concession opportunities are informed during pre-solicitation meetings about how the sponsor's ACDBE program will affect the procurement process;
6. Providing information concerning the availability of ACDBE firms to competitors to assist them in obtaining ACDBE participation; and
7. Establishing a business development program (see 49 CFR Part 26:35); technical assistance program or taking other steps to foster ACDBE participation in concessions.

The Authority estimates that, in meeting the overall goal of **27.0%**, the Authority will obtain **0.0%** from race-neutral participation and **27.0%** through race-conscious measures.

The following is a summary of the basis of the estimated breakout of race-neutral and race conscious ACDBE participation: The Authority proposes a race-conscious goal of 27.0% and a race-neutral goal of 0.0%, for a total of 27.0%. The reason for this projected split is that the historical information on ACDBE participation showed that the median amount by which the goals were exceeded over the previous three years was 0.1%. Therefore, the Authority expects to meet 0% of its overall goal using race-neutral means. The entire goal (27.0%) is projected to be met using race-conscious means.

If the Authority 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. 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; and
3. With prior FAA approval, other methods that takes a competitor's ability to provide ACDBE participation into account in awarding a concession.

In order to ensure that the ACDBE program will be narrowly tailored to overcome the effects of discrimination, if the Authority uses 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 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 in making the award.

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

Attachment 4

Section 23.45: Overall Goal Calculation for Car Rentals

Amount of Goal

The Raleigh-Durham Authority's (Authority) overall goal for car rental concessions during the period beginning October 1, 2014 and ending September 30, 2017 is the following: **0.6%** of the total gross receipts for concessions at the Authority. The Authority estimates that, in meeting the overall goal of **0.6%**, the Authority will obtain **0.0%** from race-neutral participation and **0.6%** through race-conscious measures.

Market Area for Car Rental Concessions

The Authority has determined that its market area is **nationwide**. 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. The market area is based on an active participant list as outlined in 23.51(c)(2). The active participants list is based on attendance sheets from the most recent concessions meetings held here at the Authority, including pre-proposal conferences and outreach meetings.

Base of Goal

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

Fiscal Year	Projected Gross Receipts for Car Rental Concessions
2011	\$136,726,374
2012	\$119,531,234
2013	\$125,495,405
Total	\$381,753,013
Average	\$127,251,004

The Authority does not anticipate any major changes that would increase or decrease concession revenues over next three years. Therefore, the recipient's base of goal is the average car rental revenue of \$127,251,004. There are no new concession opportunities anticipated during this goal period. 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 Authority will submit an appropriate adjustment to the overall goal. This will be submitted to FAA for approval at least 6 months before executing the new concession agreement (23.45(i)).

Methodology used to calculate overall goal

Goods and Services

The Authority can meet the percentage goal by including the purchase from ACDBEs of goods and services used in businesses conducted at the airport. The Authority, 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.

Step 1: 23.51(c)

The Authority determined the base figure for the relative availability of ACDBEs other than car rentals. The Step 1 DBE Base Figure was determined by dividing the number of ACDBE firms available by the total number of firms available to determine the relative availability of ACDBEs for each concession type.

NAICS Title	NAICS Code	ACDBE	All Firms	Availability of ACDBE Firms
Motor Vehicle Supplies and New Parts Merchant Wholesalers	423120	10	13,625	0.1%
New Car Dealers	441110	9	21,327	0.0%
Motor Vehicle Towing	488410	21	8,544	0.2%
Insurance Agencies	524210	29	129,816	0.0%
Janitorial Services	561720	487	52,961	0.9%
Automotive Body, Paint and Interior Repair and Maintenance	811121	10	33,386	0.0%
Relative Availability of ACDBE Firms		565	259,659	0.2%

The data sources or demonstrable evidence used to derive the numerator are:

1. The FAA DBE/ACDBE Directory (FAA-dbE-Connect), <https://faa.dbesystem.com>, Accessed 3/14/14 and
2. North Carolina Department of Transportation Directory of Firms, <https://partner.ncdot.gov/VendorDirectory/default.html>,

The data source or demonstrable evidence used to derive the denominator is: 2011 Survey of Business Owners from the US Census Bureau, accessed on March 14, 2014.

The relative availability of ACDBE firms derived by dividing the numerator by the denominator the Step 1 base figure for was 0.2%.

Step 2: 23.51(d)

After calculating a base figure of the relative availability of ACDBEs, the Authority examined evidence to determine whether or not the base figure needs to be adjusted in order to arrive at the overall goal.

In order to reflect as accurately as possible the ACDBE participation the Authority would expect in the absence of discrimination, the Authority has adjusted the base figure by 0.8%. The overall goal for non-car rental concessions is 1.0%.

The historical ACDBE accomplishments at the Authority in recent years were examined relative to the above consideration. Specifically, the annual "Concessions Activity Report" for the reporting periods listed below was assessed. The Authority evaluated the current capacity of ACDBEs to perform work in the concessions program by measuring the volume of work ACDBEs have performed in the past.

Federal Fiscal Year	ACDBE Goal	ACDBE Participation
2011	15.4%	13.7%
2012	15.4%	1.0%
2013	15.4%	0.2%
Median Participation		1.0%

The median ACDBE accomplishment for each of the reporting periods as shown above is 1.0%, compared to the Step 1 ACDBE goal for the Authority of 0.2%. The Authority will average the Step 1 ACDBE base figure of 0.2% with the median ACDBE participation of 1.0%, for a final adjusted overall goal of 0.6%.

There are no applicable disparity studies for the local market area or recent legal case information available to show any evidence of barriers to entry or competitiveness of ACDBEs.

Consultation with Stakeholders (23.43)

Prior to submitting this goal to the FAA, the Authority consulted with various minority trade organizations and small and/or minority business development agencies, including the North Carolina Institute for Minority Economic Development and the North Carolina Indian Economic Development Initiative to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for ACDBEs, and the Authority's efforts to establish a level playing field for the participation of ACDBEs. Consultations included the dissemination of a written notice to area advocacy organizations, current and former concessionaires as well as a formal meeting held on May 13, 2014. A public notice was issued in the local newspaper to ensure any individual or organization, potentially having information concerning the availability of disadvantaged businesses, the effects of discrimination on opportunities for ACDBEs, and the Airport Board's efforts to increase participation of ACDBEs, received the opportunity to provide comments. No comments were received.

Breakout of Estimated Race-Neutral & Race-Conscious Participation (23.51)

The Authority will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating ACDBE participation. The Authority uses the race-neutral measures below to increase ACDBE participation. The Authority 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. When practical, structuring concession activities so as to encourage and facilitate the participation of ACDBEs;
4. Providing technical assistance to ACDBEs in overcoming limitations, such as inability to obtain bonding or financing;
5. Ensuring that competitors for concession opportunities are informed during pre-solicitation meetings about how the sponsor's ACDBE program will affect the procurement process;
6. Providing information concerning the availability of ACDBE firms to competitors to assist them in obtaining ACDBE participation; and
7. Establishing a business development program (see 49 CFR Part 26:35); technical assistance program or taking other steps to foster ACDBE participation in concessions.

The Authority estimates that, in meeting the overall goal of 0.6%, the Authority will obtain 0% from race-neutral participation and 0.0% through race-conscious measures.

The following is a summary of the basis of the estimated breakout of race-neutral and race conscious ACDBE participation: The Authority proposes a race-conscious goal of 0.6% and a race-neutral goal of 0.0%, for a total of 0.6%. Therefore, the Authority expects to meet 0% of its overall goal using race-neutral means. The entire goal (0.6%) is projected to be met using race-conscious means.

If the Authority 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. 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; and
3. With prior FAA approval, other methods that takes a competitor's ability to provide ACDBE participation into account in awarding a concession.

In order to ensure that the ACDBE program will be narrowly tailored to overcome the effects of discrimination, if the Authority uses 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 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 in making the award.

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