

November, 2019

City of Bangor

# **Airport Concession Disadvantaged Business Enterprise Program**

2020, 2021 and 2022

for

**BGR**

Bangor International Airport

*Bangor, Maine*

Updated: November, 2019

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**Attachments:**

- 1- ACDBE Overall Goals for Car Rentals, Calculation, Consultation, Breakout of Race-Neutral & Race-Conscious Participation
- 2- ACDBE Overall Goals for Concessions Other Than Car Rentals, Calculation, Consultation, Breakout of Race-Neutral & Race-Conscious Participation
- 3- Regulations: 49 CFR Part 23
- 4- Organizational chart
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**US Department of Transportation Federal Aviation Administration**

Airport Concession Disadvantaged Business Enterprise Program - 49 CFR Part 23  
City of Bangor for Bangor International Airport

**I. Objectives and Policy Statement (29 CFR Part 23.1)**

The Bangor International Airport (hereafter “the Airport”) has established an Airport Concession Disadvantaged Business Enterprise (ACDBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 23. The Airport has received Federal financial assistance from the US Department of Transportation, and as a condition of receiving this assistance, the Airport has signed an assurance that it will comply with 49 CFR Part 23.

It is the policy of the Airport to ensure that ACDBEs, as defined in Part 23, have an equal opportunity to participate in Airport Concession contracts. It is also our policy:

1. *To ensure nondiscrimination in the award and administration of Airport Concession contracts;*
2. *To create a level playing field on which ACDBEs can compete fairly for Airport Concession contracts;*
3. *To ensure that the ACDBE Program is narrowly tailored in accordance with applicable law;*
4. *To ensure that only firms that fully meet 49 CFR Part 23 eligibility standards are permitted to participate as ACDBEs;*
5. *To help remove barriers to the participation of ACDBEs in Airport Concession contracts, and*
6. *To provide appropriate flexibility to our Airport in establishing and providing opportunities for ACDBEs.*

**Jody M. Varney, Accounting Manager, 287 Godfrey Blvd, Bangor ME 04401; (207) 992-4617**, has been designated as the ACDBE Liaison Officer (ACDBELO). Implementation of the ACDBE program is accorded the same priority as compliance with all other legal obligations incurred by the Airport in its financial assistance agreements with the Federal Aviation Administration.

The Airport has disseminated this policy statement to The City of Bangor and all the components of its organization. The Airport has distributed this statement to the ACDBE and non-ACDBE business communities that may perform work on Concessions contracts in the following manner:

1. *This Policy statement will be included in all requests for proposals and agreements for airport concessions.*
2. *Copies of this Policy statement are/ will be posted to the City’s and Airport’s websites.*
3. *This statement was transmitted to the organizations consulted during the development of the ACDBE goal.*

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

\_\_\_\_\_  
**Anthony P. Caruso, Jr., C.M**  
**Airport Director**

## II. Subpart A - General Requirements

### A. Objectives (23.1)

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

### B. Definition of Terms (23.3)

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

### C. Applicability (23.5)

The Airport is the recipient of Federal airport funds authorized by 49 U.S.C. 47107, et seq. and is therefore subject to part 23.

### D. Program Reviews (23.7)

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

### E. Nondiscrimination and assurance requirements (23.9)

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

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

The Airport will also include the following assurances, per 49 CFR Part 23.9, in all concession agreements and management contracts it executes with any firm after April 21, 2005:

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

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

### F. Compliance and Enforcement (23.11)

The Airport 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 Airport 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 Airport'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.

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

Any person who knows of a violation of this part by the Airport 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 Airport's ACDBE program:

1. For a firm that does not meet the eligibility criteria of subpart C of this part and that attempts to participate as an ACDBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the Department of Transportation (DOT) or the Federal Aviation Administration (FAA) may initiate suspension or debarment proceedings against the firm under 2 CFR parts 180 and 1200.
2. For a firm that, in order to meet ACDBE goals or other DBE program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria of subpart C of this part, DOT or FAA may initiate suspension or debarment proceedings against the firm under 2 CFR parts 180 and 1200.
3. In a suspension or debarment proceeding brought under paragraph (a) or (b) of this section, the FAA may consider the fact that a purported ACDBE has been certified. However, such certification does not preclude DOT from determining that the

- purported ACDBE, or another firm that has used or attempted to use it to meet ACDBE goals, should be suspended or debarred.
4. DOT may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the ACDBE program whose conduct is subject to such action under 49 CFR Part 31.
  5. DOT may refer to the Department of Justice, for prosecution under 18 U.S.C. §§ 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of an ACDBE in the Airport's ACDBE program or otherwise violates applicable Federal statutes.

### III. Subpart B - ACDBE Programs

#### A. Applicability (23.21)

The Bangor International Airport is a non-hub primary airport. As a condition of eligibility for FAA financial assistance, the Airport is required to submit this ACDBE program and overall goals to the FAA according to section 23.45.

Until this program is submitted and approved, the Airport will continue to implement the concessions DBE program that was previously in effect, except with respect to any provision that is contrary to 49 CFR Part 23.

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

#### B. Administrative Provisions (23.23)

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

**ACDBE Liaison Officer (ACDBELO):** The Airport has designated Jody M. Varney, Accounting Manager, 287 Godfrey Boulevard, Bangor ME 04401; [jmvarney@flybangor.com](mailto:jmvarney@flybangor.com); (207) 992-4617 as our ACDBELO. In this capacity, the ACDBELO is responsible for implementing all aspects of the ACDBE program and ensuring that the Airport complies with all provisions of 49 CFR Part 23. The ACDBELO has direct, independent access to the Airport Director concerning ACDBE program matters. The ACDBELO, with the assistance of the airport staff, will administer the ACDBE program. An organizational chart displaying the ACDBELO's position in the organization is found in Attachment 4 to this program. The Airport Director, Anthony P. Caruso Jr., is designated as the alternate ACDBELO and will support Ms. Varney as needed.

The ACDBELO is responsible for developing, implementing and monitoring the ACDBE program, in coordination with other appropriate officials. The ACDBELO has access to the Airport's administrative staff to assist in the administration of the program. The ACDBELO carries out the following responsibilities:

- a. Gathers and reports statistical data and other information as required by DOT/FAA.

- b. Ensures non-discrimination assurances are included in all new proposals and new concession agreements and management contracts (ref. Section 23.9, 23.45).
- c. Monitors compliance and exercises enforcement measures (ref. Section 23.11 and 23.29).
- d. Submits the next 3-year update (ref. Section 23.21 and 23.41).
- e. Submits interim updates when significant changes occur to the ACDBE program (ref. Section 23.21).
- f. Executes measures to ensure nondiscrimination participation of ACDBEs (ref. Section 23.25).
- g. Retains ACDBE information and conducts annual reporting. (ref. Section 23.27).
- h. Conducts stake holder consultation in goal setting (ref. Section 23.43).
- i. Monitors goal attainment and sets concession-specific goals (ref. Section 23.45).
- j. Obtains documentation of good faith efforts (ref. Section 23.45).
- k. Counts and calculates concession and rental car participation (ref. Section 23.53 and 23.55).
- l. Assesses potential for ACDBE participation when material amendments (renewals, extensions) to existing contracts are made (ref. Section 23.71).
- m. Prohibits long term (greater than 5 year) exclusive agreements without prior FAA approval (ref. Section 23.75).
- n. Collects and catalogs concessionaire receipts on an annual basis.
- o. Refers potential ACDBEs to the Maine DOT for certification.
- p. Directs interested parties to the Maine DOT Directory for certified DBEs.

**C. Directory (23.23)**

The Airport utilizes the Maine Uniform Certification Program (UCP) directory identifying all firms eligible to participate as DBEs and ACDBEs. The Directory lists the firm's name, address, phone number, date of the most recent certification and the type of work the firm has been certified to perform as an ACDBE. This list is available at <http://www.maine.gov/mdot/civilrights/dbe/>

The agreement between the Maine Department of Transportation and the City of Bangor is included as Attachment 6 of this plan.

**D. Ensuring Nondiscriminatory Participation of ACDBEs (23.25)**

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

- Identify opportunities for ACDBEs on concession agreements and sub agreements.
- Encourage non-ACDBE concessionaires to consider subcontracting opportunities with ACDBEs.
- Aid non-ACDBE concessionaires in locating ACDBEs for subcontracting opportunities.
- In all concession agreements entered into with the Airport, the agreement signed by the concessionaire will include statements that ensure to the Airport that: *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.*

1. The Airport 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))
2. The Airport 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)).
3. The Airport's overall goal methodology, as well as a description of the race-neutral measures it will take to meet the goals, are described in Section 23.25 and Attachments 1 & 2 of this plan. The goals are set consistent with the requirements of Subpart D (23.25(b), (d)).
4. If the Airport projects that race-neutral measures, standing alone, are not sufficient to meet an overall goal, it will use race-conscious measures as described in Section 23.25 (e) (1-2) and Attachment 1 and 2 of this plan. (23.25(e)(1-2)).
5. The Airport will not use set-asides or quotas as a means of obtaining ACDBE participation (23.25 (g)).

#### **E. Reporting requirements (23.27)**

1. Reporting  
The Airport will submit to the FAA Regional Civil Rights Office, an annual ACDBE participation report on the form in Appendix A of Part 23 on or about March 1st each year. The reporting period shall cover the previous fiscal year. (Oct. 1 – Sept. 30)
2. Information to be Retained  
The Airport will require concessionaires to maintain records and documents of award and performance of ACDBEs on contracts for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the Authority or the USDOT.

#### **F. Compliance and Enforcement Procedures (23.29)**

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

1. In the event that a concessionaire does not comply with the Airport's ACBDE Policy and Plan set forth in an agreement, nor establish a good faith effort to meet contract goals, the Airport will impose such contract sanctions as the Airport, the FAA or both may determine to be appropriate.
2. If at any time the Airport has reason to believe that the concessionaire is in default of this policy and plan, the Airport may, in addition to pursuing any other available legal remedy, terminate, suspend or cancel the agreement in whole or in part; and/or suspend or debar the concessionaire from eligibility to contract with the Airport in the future.
3. The Airport will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to

the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.

4. The Airport will consider similar action under its own legal authorities, including responsibility determinations in future contracts. (26.37) Concession contracts are entered into in accordance with the City of Bangor's Procurement Policy, <http://www.bangormaine.gov/filestorage/422/424/1261/1263/ProcurementPolicyAmended.pdf> Article 6 of the City's Policy contains the available procedures and authority regarding Debarment and Suspension.
5. The Airport will also implement a monitoring and enforcement mechanism to ensure that work committed to ACDBEs at contract award is actually performed by the ACDBEs. This mechanism will provide for a running tally of actual ACDBE attainments (e.g., payment actually made to ACDBE firms), including a means of comparing these attainments to commitments. This will be accomplished by:
  - a. *Requiring annual ACDBE participation reports.* Each concessionaire will be required by contract to submit gross receipts report to the Airport through the ACDBELO. The ACDBELO will verify that the ACDBEs utilized are certified as DBEs pursuant to Section 23.23. The gross receipts from each concessionaire will be entered into corresponding spreadsheets which will be used to track ACDBE participation and progress towards meeting the Airport's established goal. In the event that a concessionaire does not achieve the goal DBE participation, the concessionaire will be required by contract to submit documentation of a good faith effort. The good faith effort documentation will be reviewed by the ACDEBLO for conformance with SUBPART D of this plan. Reporting forms and reporting information are included in Attachment #9 of this plan.
6. In the reports of ACDBE participation to FAA, the Airport will show both commitments and attainments, as required by the DOT reporting form. (ref. 23.27)

#### **IV. SUBPART C - Certification and Eligibility**

##### **A. Certification Standards and Procedures (23.31)(a)**

The Airport will use the procedures and standards of Part 26, except as provided in 23.31, for certification of ACDBEs to participate in the ACDBE program.

The Airport is a member of the Unified Certification Program (UCP) administered by the State of Maine. The UCP will meet all requirements of this section and will make certification decisions on behalf of the Airport.

##### **B. Review of Eligibility (23.31)(c)**

The Airport will consider the Maine DOT UCP annual reviews as sufficient review of eligibility of DBEs. Also, prior to entering into a new contract, extension, or option with a currently certified ACDBE, the ACDBELO will review their eligibility at that time through the Maine DOT UCP. To review the eligibility, the ACDBELO will consult the Maine

DOT DBE Directory or other state UCP as appropriate. Eligibility requirements are specified in Sections 23.33, 23.35 and 23.37 of this plan.

**C. Size Standards (23.33)**

The Airport adopts the business size standards described in Part 23 §23.33 for small businesses eligible to be certified as ACDBEs. The Airport will direct the state UCP to the eligibility size criteria of this section. The firm will be treated as a small business eligible to be certified as an ACDBE if its gross receipts, averaged over the firm's previous three fiscal years, do not exceed \$56.42 million for non-car rental ACDBEs and \$75.23 million for car rental ACDBEs. The size standard for banks and other financial institutions is \$1 billion in assets; for pay telephone companies the standard is 1,500 employees; and for ACDBE automobile dealers the standard is 350 employees.

**D. Personal Net Worth (23.35)**

The personal net worth standard used in determining the eligibility of ACDBEs to participate in the Airport's ACDBE program is \$1.32 million. Personal Net Worth as defined in Part 23 §23.3 is as follows:

*“Personal net worth” means the net value of the assets of an individual remaining after total liabilities are deducted. An individual’s personal net worth does not include the following: (1) the individual’s ownership interest in an ACDBE firm or a firm that is applying for ACDBE certification; (2) the individual’s equity in his or her primary place of residence; and (3) other assets that the individual can document are necessary to obtain financing or a franchise agreement for the initiation or expansion of his or her ACDBE firm (or have in fact been encumbered to support existing financing for the individual’s ACDBE business), to a maximum of \$3 million. An individual’s personal net worth includes only his or her own share of assets held jointly or as community property with the individual’s spouse.*

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

**E. DBE firms Certified Under 49 CFR Part 26 (23.37)**

The Airport presumes that a firm certified as a DBE under Part 26 is eligible to participate as an ACDBE (23.37(a)). By meeting the size, disadvantage (including personal net worth), ownership and control standards of Part 26, the firm will have also met the eligibility standards for Part 23.

The Airport 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.

**F. Removal of a Concessionaire Based on Eligibility (23.39)(e)**

In instances when the eligibility of a concessionaire is removed after the concessionaire has entered into a concession agreement because the firm exceeded the size standard or the owner has exceeded the personal net worth standard, and the firm in all other respects remains an eligible DBE, we may continue to count the concessionaire's participation toward ACDBE goals during the remainder of the current concession agreement. We will

not count the concessionaire’s participation toward ACDBE goals beyond the termination date for the concession agreement in effect at the time of the decertification.

**V. SUBPART D - Goals, Good Faith Efforts, and Counting**

**A. Goals Requirements (23.41)**

The Airport will establish two separate overall ACDBE goals: one for car rentals and another for concessions other than car rentals. The overall goals will cover a three-year period and the Airport will review the goals annually to make sure the goal continues to fit the Airport’s circumstances. The Airport will report any significant overall goal adjustments to the FAA (23.41(a),(c)).

If the average annual concession revenues for car rentals over the preceding three years do not exceed \$200,000, the Airport 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 three years do not exceed \$200,000, the Airport need not submit an overall goal for concessions other than car rentals. The Airport understands that “revenue” means total revenue generated by concessions, not the fees received by the Airport from concessionaires (23.41(d)).

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

**B. Consultation and Public Participation (23.43)**

Before establishing the overall goal, the Airport consulted with current concessionaires to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses. The Airport also reviewed the Maine DOT DBE Directory for DBEs that could perform concession work or offer support to non-DBE concessionaires in an attempt to increase overall participation of ACDBEs.

**C. Requirements for Overall Goal Submission to the FAA (23.45)**

The Airport is a *non-hub primary* airport. As a condition of eligibility for FAA financial assistance, the Airport is required to submit its overall goals according to the following schedule:

<b>Non-hub Primary Airport</b>	<b>Due Date</b>	<b>Period Covered</b>
normal scheduled submission	October 1, 2022	2023/2024/2025
normal scheduled submission	October 1, 2025	2026/2027/2028
normal scheduled submission	October 1, 2028	2029/2030/2031

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 Airport will submit an appropriate adjustment to the overall goal to FAA for approval 90-days before executing the new concession agreement.

The Airport 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, or the “base figure”. The second step is to examine all relevant evidence reasonably available in the

Airport'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 Airport would expect in the absence of discrimination. Evidence may include, but is not limited to, past participation by ACDBEs; a disparity study; evidence from related fields that affect ACDBE opportunities to form, grow, and compete (such as statistical disparities in ability to get required financing, bonding, insurance; or data on employment, self-employment, education, training and union apprenticeship).

A description of the methodology to calculate the overall goal for car rentals, the goal calculations, and the data used can be found in Attachment 1 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 used on can be found in Attachment 2 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 1 and 2 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 Airport will use concession-specific goals to meet any portion of the overall goals that the Airport 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 the overall goal that is not projected to be met through the use of race-neutral means.

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

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 Airport's concession-specific goals.

a. Demonstration of Good Faith Efforts (26.53(a) & (c))

**Jody M. Varney, Accounting Manager, 287 Godfrey Blvd, Bangor ME 04401; [jmvarney@flybangor.com](mailto:jmvarney@flybangor.com) ; (207) 992-4617** is responsible for determining whether a concessionaire who has not met the concession-specific goal has documented sufficient good faith efforts to be regarded as responsive.<sup>1</sup>

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

b. Information to be Submitted (26.53(b))

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

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

1. The names and addresses of ACDBE firms or ACDBE suppliers of goods and services that will participate in the concession;
2. A description of the work that each ACDBE will perform;
3. The dollar amount of the participation of each ACDBE firm/supplier participating;
4. Written and signed documentation of commitment to use an ACDBE whose participation it submits to meet a contract goal;

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<sup>1</sup> A bidder/offeror must, in order to be responsive, make good faith efforts to meet the goal. The bidder can meet this requirement in either of two ways. First, the bidder can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn't meet the goal, the bidder can document adequate good faith efforts. This means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

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 (Refer to Appendix A of Part 26).

Forms for collecting and submitting this information can be found in Attachment 8 of this plan.

c. Administrative Reconsideration (26.53(d))

Within ten days of being informed by the Airport that it is not responsible because it has not documented sufficient good faith efforts, a concessionaire may request administrative reconsideration. Concessionaire should make this request in writing to the following reconsideration official: **Anthony Caruso, Airport Director, 287 Godfrey Blvd., Bangor, ME (207) 992-4605**. The reconsideration official will not have played any role in the original determination that the concessionaire did not document sufficient good faith efforts.

As part of this reconsideration, the concessionaire will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The concessionaire will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The Airport 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 may not be appealed administratively to the Department of Transportation.

d. Good Faith Efforts When an ACDBE is Replaced on a Concession (26.53(f))

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

In this situation, the concessionaire is required 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 to comply, the Airport may issue a termination for default proceeding.

e. 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 City of Bangor-Bangor International Airport 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 concession's firms and suppliers, including those who qualify as an ACDBE. An ACDBE concession specific goal of (**insert % here**) percent of (annual gross receipts; value of leases and/or purchases of goods and services) has been established for this concession. The concession firm shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 8), 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. Counting ACDBE Participation for Car Rentals (23.53)**

The Airport will count ACDBE participation for car rentals in accordance with 49 CFR 23.53.

The car rental companies will count the following:

- 1) purchases or leases of vehicles from certified ACDBE vendors. If the car rental company elects to use purchases and leases of vehicles, the car rental company must also submit to the Airport documentation of good faith efforts to ACDBE participation from other ACDBE providers of goods and service;
- 2) if elected, count ACDBE participation through direct ownership and
- 3) for other goods and services, count participation toward ACDBE goals as provided in part 26 §26.55 and §23.55 of this part. In the event of a conflict, §23.55 controls.

Special rules that apply to counting participation include the following:

- 1) count the entire number of repairs made by an ACDBE vendor, provided the fees are not excessive, are reasonable and are customary;
- 2) count the entire fee charged by an ACDBE to manage a car rental concession, provided the fees are not excessive, are reasonable and are customary;
- 3) do not count the fee paid to an ACDBE dealership or service station for warranty related work.

#### **E. Counting ACDBE Participation for Non-Car Rentals (23.55)**

The Airport will count ACDBE participation for non-car rentals in accordance with 49 CFR 23.55.

The non-car rental concessionaires will count the following:

- 1) ACDBE participation that results from a commercially useful function as defined in §26.55(c); except that the requirements of §26.55(c)(3) do not apply to concessions.
- 2) the total dollar value of gross receipts an ACDBE earns under a concession or sub-concession agreement;
- 3) the dollar value of a management contract or subcontract performed by an ACDBE;
- 4) in a joint venture, count the portion of the gross receipts equal to the distinct, clearly defined portion of work performed by the ACDBE;
- 5) the fees or commissions charged by the ACDBE for services;

- 6) 100% of the cost of goods obtained from an ACDBE manufacturer; and
- 7) 100% of the cost of goods purchased or leased from an ACDBE regular dealer.

If the ACDBE is neither a manufacturer nor a regular dealer, count the entire amount of fees, commissions and transportation costs charged in the procurement of the goods and delivery of the goods, provided the costs are reasonable, not excessive and customary. Do not count any portion of the costs of the goods.

Do not count the following:

- 1) the subcontract value a non-ACDBE enters into with an ACDBE;
- 2) cost of goods and services from firms not certified as ACDBE's;
- 3) gross receipts from a firm after its ACDBE eligibility has been removed; and
- 4) costs incurred in connection with renovation, repair or construction of a concession facility (i.e. "build-out")

**F. Quotas and Set-Asides (23.61)**

The Airport does not use quotas or set-asides in any way in the administration of this ACDBE program.

**VI. Subpart E – Other Provisions**

**A. Existing Concession Agreements (23.71)**

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

**B. Privately-Owned or Leased Terminal Buildings (23.73)**

The Airport does not have any privately-owned or leased terminal buildings.

**C. Long-term Exclusive Agreements (23.75)**

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

**D. State and Local Law (23.77)**

In the event that the Airport discovers that a state or local law differs from part 23, the Airport will take steps to comply with part 23 and the actions required in 23.77.

**E. Local Geographic Preferences (23.79)**

The Airport will not use local geographic preferences in administering its ACDBE program. (i.e., any requirement that gives an ACDBE located in the Bangor Area an advantage over ACDBEs from other places in obtaining business as, or with, a concession at the Airport.)

**VII. Attachments**

- 1- ACDBE Overall Goals for Car Rentals, Calculation, Consultation, Breakout of Race-Neutral & Race-Conscious Participation
- 2- ACDBE Overall Goals for Concessions Other Than Car Rentals, Calculation, Consultation, Breakout of Race-Neutral & Race-Conscious Participation
- 3- Regulations: 49 CFR Part 23
- 4- Organizational Chart
- 5- Maine DOT DBE Directory
- 6- UCP Agreement between the City of Bangor and the State of Maine
- 7- Revision Log
- 8- Forms 1 & 2 for Demonstration of good faith efforts
- 9- Annual Reporting Information

November, 2019

# **ATTACHMENT #1:**

**FFY 2020-2022 AIRPORT CONCESSION  
ACDBE OVERALL GOALS FOR CAR RENTALS  
CALCULATION, CONSULTATION, BREAKOUT  
OF ESTIMATED RACE-NEUTRAL & RACE-  
CONSCIOUS PARTICIPATION**

## Section 23.51: Overall Goal Calculation for Car Rentals

**Rental Car Goal**

The overall goal for car rentals during the period beginning October 1, 2019 and ending September 30, 2020 is 1.05% of the total goods and services of the car rental operations at the Bangor International Airport. The Airport anticipates most of the goal is likely to be met through the purchases by car rental companies of goods or services from ACDBEs.

**Annual Sales**

The Average Car Rental revenue at the Airport from past years is as follows:

**Table 1: Average Annual Gross Sales for FFY 2015-2018**

<b>Existing Concession Rental Car</b>	<b>FFY 2015-2018 Average Annual Gross Sales</b>
Alamo	\$1,953,792
Avis	\$3,070,483
Budget/Cendant	\$3,713,867
Enterprise	\$1,106,665
Hertz Rent A Car	\$3,494,582
National	\$1,564,517
<b>TOTAL</b>	<b>\$14,903,906</b>

Based on the available historical information, as provided in the Table 1 above, the average annual gross receipts during the FFY 2015-2018 goal period for car rental concessions at the Airport was approximately \$14.9 million per year. We do not anticipate any major changes that would alter rental car concession revenues over the next goal period. Therefore, for FFY 2020-2022 we anticipate the average car rental revenue of approximately \$14.9 million per year. If a new rental car 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 Airport will submit an appropriate adjustment to the overall goal. This will be submitted to the FAA for approval at least 90 days before executing the new concession agreement (23.45(i)).

**Methodology Used to Calculate Overall Goal**

The Airport has reached out and had discussions with each of the current rental car concessionaires. The feedback received was that most past and anticipated future participation at the Airport has and will come from the purchase of goods and services. As such, the goal calculation has been structured to reflect this.

## Market Area:

Market area is defined by the geographical area in which the substantial majority of firms seeking to do concession-related business with the Airport are located and the geographical area in which the firms that receive the substantial majority of the concession-related revenues are located. (23.51(b)(3)). The companies provided in Table 1 are national firms. However, historically, when DBE participation is achieved at the Airport it is performed by “local” firms. Therefore, instead of using a national market area, the market area is based upon the geographical area where the companies typically purchase their goods and services for the Airport. This area consists of the following counties: Androscoggin ME, Cumberland ME, Hancock ME, Kennebec ME, Penobscot ME, Somerset ME, and Waldo ME.

Using the Census Bureau’s County Business Pattern (CBP) database, the number of all ready, willing and able businesses in the market area that provide goods and services related to the rental car type businesses was determined. The Maine DOT D/WBE Directory of Businesses was then used to determine the number of ACDBE firms that provide related goods and services (i.e. towing, insurance, janitorial services, repair, and petroleum products) in the market area. This information is provided in Table 2.

**Table 2: Rental Car Related Businesses - Relative Availability of DBEs in Market Area Compared to All Firms**

County	Total # of Car Rental Related Companies in Market Area. <sup>1</sup>	# of Car Rental Related DBE Companies in Market Area <sup>2</sup>
Androscoggin, ME	96	1
Cumberland, ME	287	5*
Hancock ME	44	0
Kennebec ME	95	0
Penobscot ME	106	1
Somerset ME	24	0
Waldo ME	17	0
<b>TOTAL</b>	<b>669</b>	<b>7</b>

<sup>1</sup> Source: US Census Bureau Data, 2017 Small Business Edition – 2.6

NAICS Codes:

488410 – Motor Vehicle Towing

524210 – Insurance

561720 – Janitorial Services

811121 – Automotive Body, Paint, and Interior Repair

424720 – Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals)

<http://cbb.census.gov/sbe/#>

<sup>2</sup> Source: Maine DOT Disadvantaged Business Enterprise Weekly DBE Vendor List, November 22, 2019

<http://www.maine.gov/mdot/civilrights/dbe.htm>

\*#of car rental related DBE Companies on the MDOT DBE Vendor List with above listed NAICS Codes but with out of state addresses.

**Base Figure Calculation Step 1 - 23.51(c):**

The base figure for the relative availability of DBEs offering car rental related goods and services was determined. The base figure was calculated using the data presented in Table 2 as follows:

$$\text{Base figure} = \frac{\text{Ready, willing, and able car rental goods and service DBE's in the market area}}{\text{All ready, willing and able car rental goods and service companies in the market area}}$$

$$\text{Base Figure} = 7 / 669 = 1.05\%$$

Neither an Active Participants List (23.51(c)(2)) nor a disparity study (23.51(c)(3)) are available for use in the base goal calculation.

**Base Figure Adjustment Step 2 - 23.51(d):**

After calculating a base figure of the relative availability of DBEs, relevant evidence reasonably available to determine what adjustment, if any, is needed to the base figure in order to arrive at the overall goal was examined.

An adjustment to the base goal may be made based upon the current capacity of DBEs to perform work in the rental car program by measuring the volume of work DBEs have performed in the recent years. (23.51(d)(1)(i)). The past four years of data (2015-2018) from the Airport rental car program was reviewed. An average of \$5.5 million per year of goods and services (auto repair/service, supplies) was performed by certified DBE firms located in, or in the vicinity of the market area. This data confirms that there are ACDBE firms ready, willing, and able to provide goods and services. The Airport will continue to monitor the past participation of ACDBEs in the program. If the data is reasonably obtainable, the Airport will calculate the % ACDBE participation by dividing the estimated dollar value of purchases from ACDBEs by the total estimated dollar value of all purchases made by car rental companies. If this calculation indicates additional participation in excess of the base goal is possible, the Airport may elect to adjust and increase the overall goal.

An adjustment to the base goal may also be made based on a disparity study (23.51(d)(1)(ii)). There are no disparity studies conducted within the Airport's jurisdiction that relate to rental car activities. The Airport will continue to contact state and local agencies to determine when a disparity study becomes available. The Airport does not have any evidence of disparities affecting the ability of DBEs to grow, form and compete.

Given the above information, the Airport has decided to adjust the base goal. The goal figure of 1.05% is believed to be a very low compared to prior years actual percentage of total dollars to ACDBEs. The Airport elects to adjust the goal to more accurately reflect ACDBE participation under rental car concessions during the next three-year period. **Using an average of 14.9 million in gross sales and a 4 year low of 4.4 million for ACDBE participation, the Airport sets a 3-year goal for rental car concessions at 29.53%**

**Goals, Good Faith Efforts and Counting – Car Rentals (23.49)**

Goods and Services:

The Airport strives to meet the percentage goal by including the purchase from ACDBEs of goods and services used in the rental car businesses at the Airport. This is the alternative method provided in 23.51(c)(5)(ii). 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 (23.51(c)(5)(ii)). The base for the goal does not include the total gross receipts of car rental operations at the Airport (23.49) because the Airport has elected the alternative method noted above.

Management Contract or Subcontract:

The Airport will count the purchases of goods and services. Management contracts and subcontracts will not be counted for rental car activities.

**Breakout of Estimated Race-Neutral & Race Conscious Participation Section 23.45(f) and 23.51(d)(5)**

The Airport will strive to meet the maximum feasible portion of its overall goal by using both race-neutral and race-conscious means of facilitating DBE participation. The Airport will:

1. Identify opportunities for DBE's on concession agreements and sub agreements and notify concessionaires of potential participation opportunities.
2. Encourage non-DBE concessionaires to consider subcontracting opportunities with DBEs.
3. Aid non-DBE concessionaires in locating DBEs for subcontracting opportunities. (Reference list of potential DBE firms capable of performing "goods and services" included in Attachment 5 to this plan)
4. Provide information concerning the availability of DBE firms to competitors to assist them in obtaining DBE participation; (Reference Attachment 5 to this plan)

Historically, there has been no ACDBE participation on concession leases that did not have ACDBE goal requirements. Thus, the Airport will:

1. Continue to work with current and potential new concessionaires to establish concession-specific goals for particular concession opportunities (23.25(e)(1)).
2. Continue to work with current and potential new concessionaires to include DBE participation in the operation of the Airport concession (23.25(e)(2)).

**In reviewing the most recent ACDBE participation in FFY18, it is estimated the Airport will obtain 1.24% from race-neutral participation and 28.29% from race-conscious participation for a total goal of 29.53%**

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In order to ensure that the ACDBE program will be narrowly tailored to overcome the effects of discrimination, when concession specific goals are used, the Airport will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual ACDBE participation (see 26.51(f)). The Airport will track and report race-neutral and race conscious participation separately.

For reporting purposes, race-neutral ACDBE participation includes, but is not necessarily limited to, the following: ACDBE participation through a prime contract that an ACDBE obtains through customary competitive procurement procedures; ACDBE participation through a subcontract on a prime contract that does not carry ACDBE goal; ACDBE participation on a prime contract exceeding a concession specific goal; and ACDBE participation through a subcontract from a prime contractor that did not consider a firm's ACDBE status in making the award.

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

# **ATTACHMENT #2:**

## **FY 2020-2022 AIRPORT CONCESSION ACDBE GOAL METHODOLOGY OVERALL GOAL CALCULATION FOR CONCESSIONS OTHER THAN CAR RENTALS, CONSULTATION, BREAKOUT OF ESTIMATED RACE-NEUTRAL & RACE- CONSCIOUS PARTICIPATION**

## Section 23.51: Overall Goal Calculation for Concessions Other Than Car Rentals

**Concessions Goal**

The Airport's overall goal for concessions other than car rental during the period beginning October 1, 2019 and ending September 30, 2022 is the following: 0.49% of the total gross receipts for concessions at Bangor International Airport.

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 concessions.

**Annual Sales**

Current concessionaires at the Airport have reported the following information on gross sales from the past periods indicated:

**Table 1: Average Annual Gross Sales for FY 2015-2018**

<b>Existing Concession Type</b>	<b>Location of Operating Company</b>	<b>Most Applicable NAICS Code</b>	<b>FY 2011-2014 Average Annual Gross Sales</b>
Four Points Sheraton	White Plains, NY	72111 Hotels (except Casino Hotels) and Motels	\$3,691,071
Montage DBA Grasshopper Shop	Bangor, ME	453220 Gift, Novelty, and Souvenir Stores	\$279,628
Interspace	Allentown, PA	541810 Advertising Agencies	\$86,529
BAFS	Bangor, ME	722310 Food Service Contractors	\$1,253,242
Smarte Carte	St. Paul, MN	5322 Consumer Goods Rental	\$12,439
Republic Parking Systems	Chattanooga, TN	812930 Parking Lots and Garages	\$1,626,161
<b>TOTAL</b>			<b>\$6,949,070</b>

Based on the available historical information, as provided in the Table 1 above, the average concession opportunities anticipated during the next 3 year goal period (FY 2020-2022) for non-car rental concessions at the Airport is approximately \$6.9 million per year. 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 Airport will submit an appropriate adjustment to the overall goal. This will be submitted to the FAA for approval at least 90 days before executing the new concession agreement. (23.45(i)).

**Methodology Used to Calculate Overall Goal**

Market Area:

Market area is defined by the geographical area in which the substantial majority of firms seeking to do concession-related business with the Airport are located and the geographical area in which the firms that receive the substantial majority of the concession-related revenues are located. (23.51(b)(3)). Based on the available historical information, as provided in Table 1 above, two out of the six companies are based in Maine. Additionally, when DBE participation is achieved on Airport-related work, it typically comes from “local” businesses. Therefore, the State of Maine has been selected to be the market area.

Using the Census Bureau’s County Business Pattern (CBP) database, the number of all ready, willing and able businesses in the Maine market that perform work related to the concession type businesses currently and in the anticipated future at the Airport was determined. This information is provided in Table 2.

**Table 2: US Census Bureau Data – Maine Data**

Concession Type Businesses	NAICS Code	Number of Establishments in ME <sup>1</sup>
Hotels (except Casino Hotels) and Motels	72111	503
Gift, Novelty, and Souvenir Stores	453220	241
Advertising Agencies	541810	39
Food Service Contractors	722310	105
Consumer Goods Rental	5322	117
Parking Lots and Garages	812930	18
<b>TOTAL</b>		<b>1,023</b>

<sup>1</sup> Derived from US Census Bureau data, 2017 Small Business Edition – 2.6 (NAICS) <http://cbb.census.gov/sbe/#>

Based on the Maine market area, the Maine DOT DBE directory was used to determine DBEs that could provide services to the concession type businesses listed in Table 2. This information is provided in Table 3.

**Table 3: Maine DOT DBE Directory – Maine Data**

Service Provided	Number of DBE’s in ME <sup>1</sup>
Hotels (except Casino Hotels) and Motels	0
Gift, Novelty, and Souvenir Stores	2
Advertising Agencies	2
Food Service Contractors	0
Consumer Goods Rental	0
Parking Lots and Garages	1
<b>TOTAL</b>	<b>5</b>

<sup>1</sup> Derived from *Maine DOT Disadvantaged Business Enterprise Weekly DBE Vendor List, November 22, 2019* <http://www.maine.gov/mdot/civilrights/dbe.htm>

**Base Figure Calculation Step 1 - 23.51(c)(1):**

The base figure for the relative availability of ACDBEs other than car rentals was determined. The base figure was calculated using the data presented in Tables 2 and 3 as follows:

$$\text{Base figure} = \frac{\text{Ready, willing, and able non-car rental ACDBEs in the market area (Table 3)}}{\text{All ready, willing and able non-car rental concession firms in the market area (Table 2)}}$$

Base Figure for non-car rental concessions =  $5/1,023 = 0.49\%$

Neither an Active Participants List (23.51(c)(2)) nor a disparity study (23.51(c)(3)) are available for use in the base goal calculation.

**Base Figure Adjustment Step 2 - 23.51(d):**

After calculating a base figure of the relative availability of ACDBEs, relevant evidence reasonably available to determine what adjustment, if any, is needed to the base figure in order to arrive at the overall goal was examined.

An adjustment to the base goal may be made based upon the current capacity of ACDBEs to perform work in the concessions program by measuring the volume of work ACDBEs have performed in the recent years. (23.51(d)(1)(i)). The past four years of data (2015-2018) from the Airport concessions program was reviewed. The data indicates no (0%) ACDBE participation. The Airport will continue to monitor the past participation of ACDBEs in the program. If the data indicates additional participation in excess of the base goal is possible, the Airport may elect to adjust and increase the overall goal.

An adjustment to the base goal may also be made based on a disparity study (23.51(d)(1)(ii)). There are no disparity studies conducted within the Airport’s jurisdiction that relate to concessions. The Airport will continue to contact state and local agencies to determine when a disparity study becomes available. The Airport does not have any evidence of disparities affecting the ability of DBEs to grow, form and compete.

Given the above information, the Airport has determined not to adjust the base goal. The goal figure of 0.49% is believed to accurately reflect ACDBE other than car rental concession participation that can be achieved during the next three-year period for the market area. **Therefore, the goal for Concessions Other Than Car Rentals will be 0.49%.**

**Goals, Good Faith Efforts and Counting – Other than Car Rentals (23.47)**

Goods and Services:

The Airport strives to meet the percentage goal by including the purchase from ACDBEs of goods and services used in businesses conducted at the Airport. The Airport, 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 total gross receipts of concessions (ACDBEs and non-ACDBEs) may be added to the denominator (23.47(a)).

Management Contract or Subcontract:

The Airport strives to meet the percentage goal by including any business operated through a management contract or subcontract with an ACDBE. The Airport, and the businesses at the Airport, will add the dollar amount of a management contract or subcontract with an ACDBE to the total participation by ACDBEs in Airport concessions (both the numerator AND the denominator) and to the base from which the Airport's percentage goal is calculated. However, the dollar amount of a management contract or subcontract with a non-ACDBE and the gross revenue of business activities to which the management contract or subcontract pertains will not be added to this base in either the numerator or denominator. While this appears to go against the normal rules and rationale for goal-setting, it is understood that this method is nevertheless required by Section 23.47(c).

**Breakout of Estimated Race-Neutral & Race Conscious Participation**  
**Sections 23.45(f) and 23.51(d)(5)**

The Airport will strive to meet the maximum feasible portion of its overall goal by using both race-neutral and race-conscious means of facilitating DBE participation. The Airport uses the following measures to increase DBE participation.

1. Identify opportunities for DBE's on concession agreements and sub agreements and notify concessionaires of potential participation opportunities.
2. Encourage non-DBE concessionaires to consider subcontracting opportunities with DBEs.
3. Aid non-DBE concessionaires in locating DBEs for subcontracting opportunities.  
(Reference list of potential DBE firms capable of performing "goods and services" included in Attachment 5 to this plan)
4. Provide information concerning the availability of DBE firms to competitors to assist them in obtaining DBE participation; (Reference Attachment 5 to this plan)

Historically, there has been no ACDBE participation on concession leases that did not have ACDBE goal requirements. Thus, the Airport will:

1. Continue to work with current and potential new concessionaires to establish concession-specific goals for particular concession opportunities (23.25(e)(1)).
2. Continue to work with current and potential new concessionaires to include DBE participation in operation of the Airport concession (23.25(e)(2)).

**In review of the past four years of data showing 0% ACDBE participation for Concessions Other Than Car Rentals, the Airport will strive to obtain .24% from race-neutral participation and .25% from race-conscious participation for a total goal of .49%**

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In order to ensure that the ACDBE program will be narrowly tailored to overcome the effects of discrimination, when concession-specific goals are used, the Airport will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual ACDBE participation (see 26.51(f)). The Airport will track and report race-neutral and race conscious participation separately.

For reporting purposes, race-neutral ACDBE participation includes, but is not necessarily limited to, the following: ACDBE participation through a prime contract that an ACDBE obtains through customary competitive procurement procedures; ACDBE participation through a subcontract on a prime contract that does not carry ACDBE goal; ACDBE participation on a prime contract exceeding a concession specific goal; and ACDBE participation through a subcontract from a prime contractor that did not consider a firm's ACDBE status in making the award.

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

November, 2019

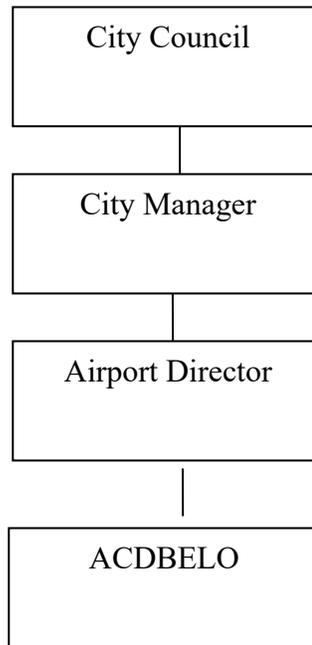
# **ATTACHMENT #3:**

## **COPY OF FEDERAL REGULATIONS 49 CFR PART 23**

[http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title49/49cfr23\\_main\\_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title49/49cfr23_main_02.tpl)

# ATTACHMENT #4:

## ORGANIZATIONAL CHART



# ATTACHMENT #5:

## MAINE DOT DBE DIRECTORY

<http://www.maine.gov/mdot/civilrights/dbe.htm>

Sample List of DBE's who may perform goods and services needed by Concessions:

453220	The Nia Corporation	MW BE/ ACD BE	Chesapeake, VA 23322	757-724- 1296	rosa@theniacorp.com
561720	Penobscot Support Services, LLC	DBE	Indian Island, ME 04468	207-817- 6045	enicolar@pine-pss.com
561720	Down east Logistics, LLC – Janitorial and grounds keeping	WBE	Port Charlotte, FL 33981	207-730- 0472	www.downeastlogistics.com
561720	Rose's Commercial Cleaning, LLC	WBE	Lewiston ME 04241	207-786- 4052	kimr@rosescommercialcleaning.com
541810	Rinck Advertising, Inc	WBE	Lewiston, ME 04240	207-755- 9470	laura@rinckadvertising.com
453220	Jacobsen/Daniels Associates, LLC	DBE	Ypsilanti, MI 48197	734-961- 3200	certifications@jacobsendaniels.com
541810	Morris Communications, Inc.	WBE	Kennebunkport ME 04046	207-329- 6502	cmorris@morriscomm.net
524210	Leslie Saunders Insurance Agency	WBE	Lutz FL 33548	813-949- 8964	dbe@lesliesaunders.com
424720	Atlantic Petroleum	DBE	Houston, TX 77008	713-223- 2767	sales@atlanticpetro.com
524210	Market International Insurance Agency	MW BE	Hanover MA 02339	781-834- 3311	lgarcia@marketinternational.com
999002	Ford of Santa Monica CA	MBE	Santa Monica CA 90404	310-451- 1588	

November, 2019

# ATTACHMENT #6:

## UCP AGREEMENT BETWEEN THE CITY OF BANGOR AND THE STATE OF MAINE



ANGUS S. KING, JR.  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF TRANSPORTATION  
16 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0016

JOHN G. MELROSE  
COMMISSIONER

April 17, 2002

US Department of Transportation  
Office of the General Counsel  
Uniform Certification Program  
Attention: Robert Ashby C-50  
Room 10428  
400 Seventh Street, SW  
Washington, DC 20590

Mr. Ashby:

Please find enclosed copies of the various UCP Agreements entered between Maine Department of Transportation and FTA, FAA, FRA (via Northern New England Passenger Rail Authority, the Metropolitan/County or Regional Planning Organizations, Cities or Municipalities with jurisdictional authority for aviation facilities, and the Maine Department of Environmental Protection.

These agreements serve to formalize informal relationships with these agencies and the Maine Department of Transportation regarding the certification of Disadvantaged Business Enterprises. As you may know, the Maine Department of Transportation is the only certifying entity in Maine, and as such these agreements while required by 49 CFR Part 26 § 81 simply reaffirm many years of professional relationships with these entities.

We have chosen to enter into separate agreements with each grantee and they are provided as an enclosure to this letter.

Inquiries may be directed to me at 207-624-3066.

Sincerely,

Penny Bourde, Manager  
Small Business Programs

Encs  
Cc: Maine Division FHWA



PRINTED ON RECYCLED PAPER

THE MAINE DEPARTMENT OF TRANSPORTATION IS AN AFFIRMATIVE ACTION - EQUAL OPPORTUNITY EMPLOYER

AGREEMENT

Between the

MAINE DEPARTMENT OF TRANSPORTATION  
OFFICE OF HUMAN RESOURCES

And

City of Bangor, Maine

This Agreement is made this 10<sup>th</sup> day of April, 2002, by and between the State of Maine, through its Department of Transportation (MDOT), with an address of 16 State House Station, Augusta, Maine, and the City of Bangor, with an address of 123 Harlow Street Bangor, Maine.

I. AGREEMENT

MDOT and the named party hereby agrees as follows:

1. The named party agrees that as a recipient of USDOT financial assistance it will cooperate fully with the Maine Department of Transportation in the certification of Disadvantaged Business Enterprises.
2. The named party agrees it shall utilize the MDOT Disadvantaged Business Enterprise Certification program.
3. The named party agrees to refer potential applicants for DBE Certification to MDOT.
4. The named party agrees to honor the decisions made by MDOT with respect to certification decisions made in accordance with 49 CFR Parts 23 and 26 Subpart E Certification Procedures.
5. MDOT will accept, review, and make determinations about DBE Certification for those entities referred to it by the named party.

II TERMS

This Agreement remains in place indefinitely.

SEEN AND AGREED TO BY:

MAINE DEPARTMENT OF TRANSPORTATION

Penny Plourde

By: Penny Plourde Manager, Small Business Programs

David W. Pellegrina Purchasing Agent  
By: David W. Pellegrina Title

# ATTACHMENT #7:

## REVISION LOG

Significant changes were made to the Airport's ACDBE plan in April 2015. They include but are not limited to the following:

1. Updated plan prior to new Car rental request for proposals.
2. Added Table of Contents.
3. Updated ACDBE participation goal for car rentals. Attachment 1.
4. Updated ACDBE participation goal for concessions other than car rentals. Attachment 2
5. Updated Airport Director. New signed policy by current Airport Director inserted.
6. Updated designated ACDBELO and alternate ACDBELO.
7. Updated web links as required.
8. Added organizational chart. Attachment #4
9. Added documentation of UCP agreement with the State of Maine. Attachment #6
10. Added Revisions Log. Attachment #7
11. General – Reviewed and updated plan as needed to comply with current 49 CFR Part 23.
12. Added applicable forms. Attachment #8 & #9

In January 2015, the following changes were made:

13. Update DBELO
14. Update Goal Period to be FFY's 2017-2019

# ATTACHMENT #8:

## FORMS 1 & 2 FOR DEMONSTRATION OF GOOD FAITH EFFORTS

*Forms 1 and 2 to be provided as part of the solicitation documents.*

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

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

\_\_\_\_\_ The bidder/offeror is committed to a minimum of \_\_\_\_\_ % ACDBE utilization on this contract.

\_\_\_\_\_ The bidder/offeror (if unable to meet the ACDBE goal of \_\_\_\_\_%) is committed to a minimum of \_\_\_\_\_% ACDBE utilization on this contract and submitted documentation demonstrating good faith efforts.

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

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

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

**FORM 2: LETTER OF INTENT**

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

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

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

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

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

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

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

Description of work to be performed by ACDBE firm:

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-----  
-----  
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The bidder/offeror is committed to utilizing the above-named ACDBE firm for the work described above. The estimated dollar value of this work is \$ \_\_\_\_\_.

**Affirmation**

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

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

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

(Submit this page for each ACDBE subcontractor.)

November, 2019

# **ATTACHMENT #9:**

## **ANNUAL REPORTING INFORMATION**

EACH CONCESSIONAIRE SHALL COMPLETE THE APPLICABLE SECTIONS OF THE FOLLOWING FORMS AND SUBMIT THE INFORMATION TO THE ACDBELO ANNUALLY BY DECEMBER 31ST.

THE ACDBELO WILL COMPILE THE INFORMATION AND SUBMIT ONE UNIFORM REPORT TO THE FAA BY MARCH 1ST.

November, 2019

**REPORT OF CERTIFIED ACDBE FORM  
(CONCESSIONAIRES/SUBCONCESSIONAIRES/  
SUPPLIERS/MANAGEMENT CONTRACTORS - COUNTED TOWARD GOALS)**

Name of Airport \_\_\_\_\_

Airport Sponsor \_\_\_\_\_

City/State/Zip \_\_\_\_\_

Preparer \_\_\_\_\_

Telephone Number \_\_\_\_\_

Date \_\_\_\_\_

List below each ACDBE that participated in a concession during the preceding fiscal year and which are included in your submission of the Uniform Report of ACDBE Participation. If no ACDBE firm participated, write "NONE" below.

---

Name of ACDBE Firm \_\_\_\_\_

Address \_\_\_\_\_

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

Type of concession/subconcession/supplier, etc., business \_\_\_\_\_

Date Agreement (*i.e., lease, sublease*) Began \_\_\_\_\_ Date Agreement (*i.e., lease, sublease*) Expires \_\_\_\_\_

Options to Renew \_\_\_\_\_ How Many \_\_\_\_\_ Length of time \_\_\_\_\_

Dates that material amendments have been or will be made to agreement, if known \_\_\_\_\_

Estimated gross receipts for this reporting period: \_\_\_\_\_

The disadvantaged individual having the largest ownership interest is:

\_\_\_\_\_ Black \_\_\_\_\_ Hispanic \_\_\_\_\_ Native American \_\_\_\_\_ Asian-Indian American

\_\_\_\_\_ Asian-Pacific American \_\_\_\_\_ Non-Minority Woman \_\_\_\_\_ Other Disadvantaged

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(Use additional sheets as needed)

<b>UNIFORM REPORT OF ACDBE PARTICIPATION</b>								
**Please refer to the Instructions sheet for directions on filling out this form**								
1. Name of Recipient:								
2. Contact Information: Preparer's Name: _____		Phone No. ( ) _____		Fax No. ( ) _____		email address: _____		
3a. Federal fiscal year in which reporting period falls: FY _____ (Oct. 1, _____ to Sep. 30, _____)		3b. Date This Report Submitted: _____						
<b>4. Current Non-Car Rental ACDBE Goal:</b>		Race Conscious Goal _____ %		Race Neutral Goal _____ %		ACDBE OVERALL Goal _____ %		
<b>5. NON-CAR RENTAL CUMULATIVE ACDBE PARTICIPATION</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>	
	Total Dollars (Everyone)	Total Number (Everyone)	Total to ACDBEs (dollars) [E+F]	Total to ACDBEs (number)	Total to ACDBEs /Race Conscious (dollars)	Total to ACDBEs/Race Neutral (dollars)	Percentage of total dollars to ACDBEs [C/A]	
	Prime Concessions							
	Subconcessions							
	Management Contracts							
Goods and Services								
Total Cumulative Non-Car Rental ACDBE Participation								
<b>6. NON-CAR RENTAL NEW ACDBE PARTICIPATION THIS PERIOD</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>	
	Total Dollars (Everyone)	Total Number (Everyone)	Total to ACDBEs (dollars) [E+F]	Total to ACDBEs (number)	Total to ACDBEs /Race Conscious (dollars)	Total to ACDBEs/Race Neutral (dollars)	Percentage of total dollars to ACDBEs [C/A]	
	Prime Concessions							
	Subconcessions							
	Management Contracts							
Goods and Services								
Total Non-Car Rental New ACDBE Participation								
<b>7. Current Car Rental ACDBE Goal:</b>		Race Conscious Goal _____ %		Race Neutral Goal _____ %		ACDBE OVERALL Goal _____ %		
<b>8. CAR RENTAL CUMULATIVE ACDBE PARTICIPATION</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>	
	Total Dollars (Everyone)	Total Number (Everyone)	Total to ACDBEs (dollars) [E+F]	Total to ACDBEs (number)	Total to ACDBEs /Race Conscious (dollars)	Total to ACDBEs/Race Neutral (dollars)	Percentage of total dollars to ACDBEs [C/A]	
	Prime Concessions							
	Subconcessions							
	Goods and Services							
Total Cumulative Car Rental ACDBE Participation								
Page 2								
<b>9. CAR RENTAL NEW ACDBE PARTICIPATION THIS PERIOD</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>	
	Total Dollars (Everyone)	Total Number (Everyone)	Total to ACDBEs (dollars) [E+F]	Total to ACDBEs (number)	Total to ACDBEs /Race Conscious (dollars)	Total to ACDBEs/Race Neutral (dollars)	Percentage of total dollars to ACDBEs [C/A]	
	Prime Concessions							
	Subconcessions							
	Goods and Services							
Total Cumulative Car Rental New ACDBE Participation								
<b>10. CUMULATIVE ACDBE PARTICIPATION BY RACE/GENDER</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>	<b>H</b>
	Black Americans (numbers & dollars)	Hispanic Americans (numbers & dollars)	Asian-Pacific Americans (numbers & dollars)	Asian - Indian Americans (numbers & dollars)	Native Americans (numbers & dollars)	Non-Minority Women (numbers & dollars)	Other (i.e. not of any other group listed here) (numbers & dollars)	<b>TOTALS</b> [A+B+C+D+E+F+G] (numbers & dollars)
	Car Rental							
	Non-Car Rental							
Total Cumulative Race/Gender ACDBE Participation								

## Instructions for Uniform Report of ACDBE Participation

1. Insert name of airport receiving FAA financial assistance and AIP number.
2. Provide the name and contact information (phone, fax, e-mail) for the person FAA should contact with questions about the report.
- 3a. Provide the annual reporting period to which the report pertains (e.g. October 2005 – September 2006).
- 3b. Provide the date on which the report is submitted to FAA.
4. This block and blocks 5 and 6 concern *non-car rental* goals and participation only. In this block, provide the overall non-car rental percentage goal and the race-conscious (RC) and race-neutral (RN) components of it. The RC and RN percentages should add up to the overall percentage goal.
5. For purposes of this block and blocks 6, 8, and 9, the participation categories listed at the left of the block are the following: 1) “Prime Concessions” are concessions that have a direct relationship with the airport (e.g. a company who has a lease agreement directly with the airport to operate a concession), 2) A “subconcession” is a firm that has a sublease or other agreement with a prime concessionaire, rather than with the airport itself, to operate a concession at the airport, 3) A “management contract” is an agreement between the airport and a firm to manage a portion of the airport’s facilities or operations (e.g., manager the parking facilities), and 4) “Goods/services” refers to those goods and services purchased by the airport itself or by concessionaires and management contractors from certified DBEs. **If reporting joint ventures with more than one agreement, count the joint venture for each agreement that they are covered by, e.g. a single joint venture might have 3 different agreements, they should be counted 3 times.**

Block 5 concerns *all* non-car rental concession activity covered by 49 CFR part 23 during the reporting period, both new or continuing.

In Column A, enter the total concession gross revenues for concessionaires (prime and sub) and purchases of goods and services (ACDBE and non-ACDBE combined) at the airport. In Column B, enter the number of lease agreements, contracts, etc. in effect or taking place during the reporting period in each participation category for all concessionaires and purchases of goods and services (ACDBE and non-ACDBE combined).

Because, by statute, non-ACDBE management contracts do not count as part of the base for ACDBE goals, the cells for total management contract participation (A & B) and ACDBE participation as a percentage of total management contracting dollars (G) are not intended to be filled in Blocks 5 & 6.

In Column C, enter the total gross revenues in each participation category (ACDBEs) only.

In D, enter the number of lease agreements, contracts, etc., in effect or entered into during the reporting period in each participation category for all concessionaires and purchases of goods and services (ACDBEs only).

Column E and F are subsets of Column C: break out the total gross revenues listed in Column C into the portions that are attributable to race-conscious and race-neutral measures, respectively. Column G is a percentage calculation. It answers the question, what percentage of the numbers in Column A is represented by the corresponding numbers in Column C?

6. The numbers in this Block concern only *new* non-car rental concession opportunities that arose during the current reporting period. In other words, the information requested in Block 6 is a subset of that requested in Block 5. Otherwise, this Block is filled out in the same way as Block 5.
7. Blocks 7-9 concern car rental goals and participation. In Block 7, provide the overall car rental percentage goal and the race-conscious (RC) and race-neutral (RN) components of it. The RC and RN percentage should add up to the overall percentage goal.
8. Block 8 is parallel to Block 5, except that it is for car rentals. The instructions for filing it out are the same as for Block 5.
9. Block 9 is parallel to Block 6, except that it is for car rentals. The information requested in Block 9 is a subset of that requested in Block 8. The instructions for filling it out are the same as for Block 6.
10. Block 10 instructs recipients to bring forward the cumulative ACDBE participation figures from Blocks 5 and 8, breaking down these figures by race and gender categories. **NOTE: Please report both numbers and dollars.** Participation by non-minority women-owned firms should be listed in the “non-minority women” column. Participation by firms owned by minority women should be listed in the appropriate minority group column. The “other” column should be used to reflect participation by individuals who are not a member of a presumptively disadvantaged group who have been found disadvantaged on a case-by-case basis.
11. This block instructs recipients to **fill out the information on the Report of Certified ACDBE Form (Concessionaires/Subconcessionaires/Suppliers/Management Contractors - Counted Towards the Goal** or attach another document containing the same basic information for each ACDBE firm participating in its program during the reporting period. If the firm’s participation numbers are reflected in Blocks 5-6 and/or 8-9, the requested information about that firm should be attached in response to this item.