

AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

FOR



Greenville-Spartanburg Airport District
Greenville-Spartanburg International Airport
Greenville, SC

Greenville-Spartanburg Airport District ACDBE Policy Statement

Greenville-Spartanburg Airport District (The District) 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 District** 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 District** has signed airport grant assurances that it will comply with 49 CFR part 23.

It is the policy of **The District** to ensure that ACDBEs as defined in part 23 have an equal opportunity to receive and participate in concession opportunities. It is also our policy:

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

Matthew Hall, the GSP Procurement Manager, has been designated as the ACDBE Liaison Officer (ACDBELO). In that capacity, **the GSP Procurement Manager** is responsible for implementing all aspects of the ACDBE program. Implementation of the ACDBE program is accorded the same priority as compliance with all other legal obligations incurred by the **The District** in its financial assistance agreements with the Department of Transportation.

The District disseminates this policy statement throughout the **District** and to all of the components of our organization. This statement will be distributed to ACDBE and non-ACDBE concessionaire communities that may perform work on **The District's** DOT-assisted contracts.

David
Edwards

Digitally signed by David
Edwards
Date: 2024.11.26
11:52:13 -05'00'

David N. Edwards, Jr.
President/CEO

GENERAL REQUIREMENTS

Section 23.1 Objectives

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

Section 23.3 Definitions

The Greenville-Spartanburg Airport District ("District") will use terms in this program that have the meaning defined in Section 23.3 and part 26 Section 26.5 where applicable.

Section 23.5 Applicability

The District is a primary airport and the sponsor of federal airport funds authorized for airport development after January 1988 that was authorized under Title 49 of the United States Code.

Section 23.9 Non-discrimination Requirements

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

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

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

Section 23.11 Compliance and Enforcement

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

ACDBE PROGRAM

Section 23.21 ACDBE Program Updates

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

Although the program applies to all of the above airports, the District will submit a separate goal methodology for each primary airport.

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

Section 23.23 Administrative Provisions

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

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

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

Matthew Hall
2000 GSP Drive,
Suite 1,
Greer, SC 29651
(864) 655-5301
mhall@gspairport.com

In that capacity, the ACDBELO is responsible for implementing all aspects of the ACDBE program and ensuring that the District complies with all provision of 49 CFR part 23. The ACDBELO has direct, independent access to David N. Edwards, Jr.

concerning ACDBE program matters. An organizational chart displaying the ACDBELO's position in the organization is found in Attachment 1 to this program.

The ACDBELO is responsible for developing, implementing, and monitoring the ACDBE program, in coordination with other appropriate officials. The ACDBELO has a staff of two to assist in the administration of the program. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by FAA or DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to ACDBEs in a timely manner.
5. Identifies contracts and procurements so that ACDBE goals are included in solicitations (both race-neutral methods and contract specific goals)
6. Analyzes the District's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO/governing body on ACDBE matters and achievement.
9. Provides ACDBEs with information and assistance in preparing bids, obtaining bonding, financing, and insurance; acts as a liaison to the OSDBU-Minority Resource Center (MRC).
10. Plans and participates in ACDBE training seminars.
11. Acts as liaison to the Unified Certification Program (UCP) in South Carolina.
12. Provides outreach to ACDBEs and community organizations to advise them of opportunities.
13. Maintains the District's updated directory on certified ACDBEs and distinguishes them from DBEs.

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

Section 23.25 Ensuring Nondiscriminatory Participation of ACDBEs

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

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

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

- 1) *Locating and identifying ACDBEs and other small businesses who may be interested in participating as concessionaires under this part;*
- 2) *Notifying ACDBEs of concession opportunities and encouraging them to compete, when appropriate;*
- 3) *When practical, structuring concession activities to encourage and facilitate the participation of ACDBEs;*
- 4) *Providing technical assistance to ACDBEs in overcoming limitations, such as inability to obtain bonding or financing;*
- 5) *Ensuring that competitors for concession opportunities are informed during pre-solicitation meetings about how the recipient's ACDBE program will affect the procurement process;*
- 6) *Providing information concerning the availability of ACDBE firms to competitors to assist them in obtaining ACDBE participation; and*

The District will also provide for the use of race-conscious measures when race-neutral measures, standing alone, are not projected to be sufficient to meet an overall goal. The following are examples of race-conscious measures we will implement, as needed:

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

- e. When a concession-specific goal is set, the District will require competitors to make good faith efforts to meet this goal. A competitor may do so either by obtaining enough ACDBE participation to meet the goal or by documenting that it made sufficient good faith efforts to do so.
 - f. The administrative procedures applicable to contract goals in part 26, § § 26.51 through 26.53. apply with respect to concession-specific goals.
2. Negotiate with a potential concessionaire to include ACDBE participation, through direct ownership arrangements or measures, in the operation of the non-car rental concessions.
 3. With the prior approval of FAA, other methods that take a competitor's ability to provide ACDBE participation into account in awarding a concession.

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

Section 23.26 Fostering Small Business Participation

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

The small business element is incorporated as Attachment 10 to this ACDBE Program. The program elements will be actively implemented to foster small business participation. The District acknowledges that active use of the small business element is a requirement of the good faith implementation of this ACDBE program.

The District will submit an annual report on small business participation obtained through the use of this small business element. The report must be submitted in the format acceptable to the FAA based on a schedule established and posted to the agency's website, available at:

https://www.faa.gov/about/office_offices/acr/bus_ent_program.

Section 23.27 Reporting

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

The District will submit an annual report on ACDBE participation to the FAA by March 1 following the end of each fiscal year. This report will be submitted in the format

acceptable to the FAA and contain all of the information described in the Uniform Report of ACDBE Participation.

- 1) The District will create and maintain active participants list information and enter it into a system designated by the FAA. The District will collect the following information about ACDBE and non-ACDBEs who seek to work on each of our concession opportunities.
 - a. Firm name;
 - b. Firm address including ZIP code;
 - c. Firm status as an ACDBE or non-ACDBE;
 - d. Race and gender information for the firm's majority owner;
 - e. NAICS code applicable to the concession contract in which the firm is seeking to perform;
 - f. Age of the firm; and
 - g. The annual gross receipts of the firm.

:

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

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

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

Section 23.29 Compliance and Enforcement Procedures

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

1. The District will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.
2. The District will consider similar action under its own legal authorities, including responsibility determinations in future agreements and contracts.
3. The District 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 making observations or obtaining any documentation deemed necessary to verify the ACDBEs actual participation. An example includes:

Audit of Operator's Books and Records

a. District shall have the right to audit or authorize audits of Operator's book, records, and accounts relevant to its operations of the rental car concession at the Airport. If either an annual audit or any other lesser period audit performed by District discloses an under reporting of Commissionable Gross Receipts, Operator shall pay to District any amounts due under this Agreement within fifteen (15) calendar days of written notice by District, plus interest calculated in accordance with Section 8.3 of this Agreement. If an audit conducted by District or at District's direction discloses an under reporting of Commissionable Gross Receipts by two percent (2%) or more for any twelve (12) month period, Operator shall reimburse District for the full cost of the audit, interest calculated in accordance with Section 8.3, any applicable legal fees and expenses and shall pay a penalty of ten percent (10%) of the under reported Percentage Fee.

The District will show both commitments and attainments in the annual Uniform Report of ACDBE Participation as required by the DOT reporting form.

CERTIFICATION AND ELIGIBILITY

Section 23.31 Certification Standards and Procedures

The District is a **non-certifying member** of the South Carolina Unified Certification Program (UCP) and relies upon the UCP's determinations of certification eligibility. South Carolina UCP will use the certification standards of Subpart C of Part 23 to determine the eligibility of firms to participate as ACDBEs in airport concessions contracts. To be certified as an ACDBE, a firm must meet all certification eligibility

standards. Certifying South Carolina UCP members make all certification decisions based on the facts as a whole.

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

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

South Carolina Minority & Small Business Affairs
955 Park Street
PO Box 191
Columbia, SC 29202-3959
(803) 737-1372
DBECertification@scdot.org

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

Section 23.33 Business Size Standards

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

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

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

Section 23.35 Personal Net Worth Limits

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

Section 23.37 Firms Certified as DBEs

The District will presume that a firm that is certified as a DBE under part 26 is eligible to participate as an ACDBE. However, before certifying such a firm, the District will ensure that the disadvantaged owners of a DBE certified under part 26 are able to control the firm with respect to its activity in the concessions program.

Section 23.39 Other ACDBE Certification Requirements

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

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

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

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

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

The District will use the Uniform Certification Application found in part 26 of this chapter without change. If the District seeks to supplement the form by requesting specified additional information consistent with this part, we will first seek written approval of the concerned Operating Administration and update this ACDBE program plan.

The District will require every applicant to state that it is applying for certification as an ACDBE and complete all of section 5.

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

GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 23.41 Overall Goals

The District will establish two separate overall ACDBE goals: one for car rentals and another for concessions other than car rentals. The overall goals will cover a three-year period and the sponsor will review the goals annually to make sure the goal continues to fit the sponsor's circumstances. The District will submit any significant overall goal adjustments to the FAA.

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

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

Section 23.43 Consultation in Goal Setting

The District consults with stakeholders before submitting the overall goals to the FAA. Stakeholders will include, but not be limited to, minority and women's business groups, community organizations, trade associations representing concessionaires currently located at the airport, as well as existing concessionaires themselves, and other officials or organizations which could be expected to have information concerning the availability

of disadvantaged businesses, the effects of discrimination on opportunities for ACDBEs, and the sponsors efforts to increase participation of ACDBEs.

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

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

Section 23.45 Overall Goals

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

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

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

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

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

Section 23.53 Counting ACDBE Participation for Car Rental Goals

The District will count ACDBE participation toward overall goals for car rental as provided in 49 CFR 23.53.

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

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

Section 23.55 Counting ACDBE participation for Concessions Other than Car Rentals

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

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

Firms are required to inform the District in writing of any change in circumstances affecting their ability to meet ownership or control requirements of subpart C of this part

or any material change. Reporting must be made as provided in § 26.83(i) of this chapter.

Section 23.57 Goal shortfall accountability.

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

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

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

The District may be regarded as being in noncompliance with this part, and therefore subject to the remedies in § 23.11 of this part and other applicable regulations, for failing to implement our ACDBE program in good faith if any of the following things occur:

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

Section 23.61 Quotas or Set-asides

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

OTHER PROVISIONS

Section 23.71 Existing Agreements

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

Section 23.73 Privately-Owned or Leased Terminal Buildings

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

Section 23.75 Long-Term Exclusive Agreements

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

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

- 1) Special local circumstances exist that make it important to enter such agreement; and
- 2) FAA approves the District plan for meeting the standards of paragraph (c) of § 23.75.

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

- 1) A description of the special local circumstances that warrant a long-term, exclusive agreement;
- 2) A copy of the solicitation;
- 3) ACDBE contract goal analysis developed in accordance with this part;
- 4) Documentation that ACDBE participants are certified in the appropriate NAICS code in order for the participation to count towards ACDBE goals;

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

Section 23.77 Preemption of Local Requirements

In the event that a State or local law, regulation, or policy differs from the requirements of this part, the District will, as a condition of remaining eligible to receive Federal financial assistance from the DOT, take such steps as may be necessary to comply with the requirements of 49 CFR part 23. However, nothing in part 23 preempts any State or local law, regulation, or policy enacted by the governing body of the District, or the authority of any State or local government or recipient to adopt or enforce any law, regulation, or policy relating to ACDBEs, as long as the law, regulation, or policy does not conflict with part 23.

Section 23.79 Geographic Preferences

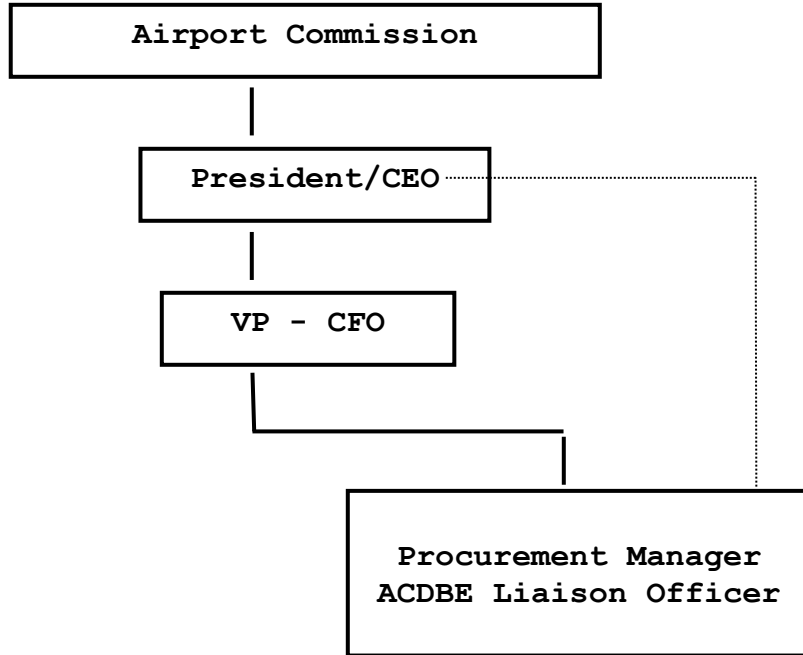
The District will not use a local geographic preference. For purposes of this section, a local geographic preference is any requirement that gives a concessionaire located in one place (e.g., our local area) an advantage over concessionaires from other places in obtaining business as, or with, a concession at our airport(s).

ATTACHMENTS

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

Attachment 1

Organizational Chart



Attachment 2

South Carolina Directory of Certified DBE/ACDBE Firms

South Carolina Disadvantaged Business Program

<https://www.scdot.org/business/bus-development-dbe-certification.html>

DBE Certification Directory

<https://www.scdot.org/business/bus-development-dbe-sbe-cert.html>

Minority & Small Business Affairs Staff

<https://www.scdot.org/business/bus-development-directory.html>

Attachment 3

Sample Monitoring and Enforcement Mechanisms

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

1. A breach of contract action, pursuant to the terms of the contract.

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

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

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

1. The District will insert the following provisions into concessions agreements and management contracts:
 - a. Nondiscrimination: This agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR part 23. The concessionaire or contractor agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR part 23. The concessionaire or contractor agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR part 23, that it enters and cause those businesses to similarly include the statements in further agreements.
 - b. Equal Opportunity Contracting Statement: All businesses, including those that meet the definition of socially and economically disadvantaged, as defined in 49 Code of Federal Regulations ("CFR") Part 23 and 26, will be provided equal access to participate in the performance of all Authority and in DOT-assisted contracting and leasing opportunities. In the procurement of service and consulting agreements and the purchase of supplies, materials and equipment, the District's President/CEO or his or her designee shall be responsible for following all procedures required by the District, as amended from time to time, and other applicable federal, state and local laws.

- c. Equal Opportunity Requirements: All companies interested in conducting business with the District shall not discriminate against any employee or applicant for employment, because of race, color, religion, gender, national origin, ancestry, physical or mental disability, veteran status, medical condition, marital status, age (40 years and older), sexual orientation, pregnancy or other non-job-related criteria. Interested companies shall also take action to assure that applicants and employees are treated without regard to the same criteria listed above. Questions regarding the Equal Opportunity Program Requirements – call 864.877.7426.
- d. Small Business Development: The District encourages small businesses to contact all potential prime contractors on the RFP mailing list if they are interested in participating in this process. The District discourages prime contractors from imposing limitations on small businesses on the number of other proposals they wish to participate in as subcontractors.
- e. ACDBE Participation: In accordance with Regulations of the U.S. Department of Transportation, 49 CFR Part 23, the District has implemented an Airport Concession Disadvantaged Business Enterprise (ACDBE) Program Plan under which qualified firms may have the opportunity to operate an airport business. The District encourages the participation of certified ACDBEs in the Agreement to be awarded. In order to be counted toward the District's overall ACDBE program, the Respondent's businesses must be certified as an ACDBE by the South Carolina Unified Certification Program.

There is no project specific ACDBE goal for this opportunity; however, any participation achieved by the successful respondent on the opportunity will be applied to the District's overall ACDBE program goal. If Respondent proposes ACDBE participation, please provide the name, email, address, and contact information of any ACDBE firm(s) that will participate and describe how that ACDBE participation will be achieved. This should include a description of the legal arrangement to be used to achieve participation (e.g. subcontract, joint venture, etc.) and the gross revenues to be earned by the ACDBE firm. If ACDBE participation is proposed in the form of the purchase of goods and/or services from an ACDBE firm(s), please provide the name, email, address, and contact information of any ACDBE firm(s) that will participate, the dollar amount of purchases anticipated for ACDBE firm(s) and the total dollar amount for the purchase of goods and/or services from all firms for the concession.

- f. ACDBE Credit: In the event that the Respondent wishes to receive ACDBE participation credit for a joint venture agreement, the agreement must be in compliance with 49 CFR part 23, the Joint Venture Guidance issued by the FAA in 2025, and the above requirements.

- g. Compliance: The District, in its sole discretion, shall determine if any proposed joint venture agreement is in compliance with the above requirements. If the District determines that the submitted joint venture is not in compliance, Respondent will have an opportunity to revise the joint venture agreement to remedy any issues identified by the District.
 - h. Airport Concessions Disadvantaged Business Enterprise Program: The Greenville-Spartanburg International Airport District is a recipient of federal funds issued by the Federal Aviation Administration. Code of Federal Regulations (“CFR”) 49, Part 23 and 26, requires the District to establish an overall airport concessions disadvantaged business enterprise (“ACDBE”) goal for each federal fiscal year. A federal fiscal year is a twelve-month period commencing on October 1.
2. The District will implement the following additional monitoring and compliance procedures:
- a. Concessionaires or contractors will be required to submit quarterly gross revenue earned by ACDBEs and expenditures to DBEs.
 - b. Concessionaires or contractors will be required to list the specific duties, functions, and responsibilities that ACDBEs or DBEs 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 and DBEs prior to implementing the change.
 - d. The District will review, annually, the specific duties, functions, and responsibilities of each ACDBE and DBE to confirm that no material change has occurred.
 - e. The District will perform periodic reviews, including site visits, each year on concessionaires or contractors to confirm ACDBEs and DBEs are performing listed duties, functions, and responsibilities.
3. The District will implement its compliance and monitoring procedures as follows:
- a. The District will require that concessionaires submit written confirmation, annually, that there are no changes in duties, functions, and responsibilities of ACDBEs, including terms and conditions of joint venture agreements.
 - b. The District will perform reviews of ACDBEs to ensure that their activities correspond to the previously submitted list of duties, functions and responsibilities. Reviews may include review of appropriate records, contracts, financial information, joint venture agreements, certification information, site visits, and other relevant information deemed necessary.
 - c. Joint ventures will be reviewed in accordance with 49 CFR part 23 and the 2025 FAA Joint Venture Guidance.
 - d. The District will include in the contract files a written certification that it has reviewed records of all contracts, leases, joint venture agreement, or other concession-related agreements and monitored the work on-site for each concession contract to which 49 CFR part 23 applies.

Attachment 4

(THIS INFORMATION HAS BEEN SUBMITTED IN FAA CIVIL RIGHT CONNECT)

Attachment 5

(THIS INFORMATION HAS BEEN SUBMITTED IN FAA CIVIL RIGHT CONNECT)

Attachment 6

Demonstration of Good Faith Efforts - Forms 1 and 2

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

The undersigned bidder/respondent has satisfied the ACDBE requirements of the concession this bid or proposal in the following manner:

- Bidder/respondent has met the ACDBE goal
The bidder/offeror is committed to a minimum of ____ % ACDBE participation in this opportunity.

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

Legal name of bidder/respondent's firm: _____

Bidder/Respondent Representative:

Name & Title

Signature

Date

FORM 2: LETTER OF INTENT

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

Name of bidder/respondent’s firm: _____

Name & title of firm’s AR: _____

Phone: _____ Email: _____

Name of ACDBE firm: _____

Name & title of ACDBE firm’s AR: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

Role to be performed by ACDBE firm:

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

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

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

Signature of Bidder/Respondent’s Authorized Representative

Date: _____

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

Signature of ACDBE’s Authorized Representative

Date: _____

Submit this page for each ACDBE participant.

Attachment 7

ACDBE Certification Application Form

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

ATTACHMENT 8

State's UCP Agreement

South Carolina Unified Certification Program Agreement For the Disadvantaged Business Enterprise Program & Small Business Enterprise Program

This AGREEMENT is made and entered into by and between the attached listed participants (hereinafter "Program Partners") and the South Carolina Department of Transportation (SCDOT), each recipient as defined in 49 CFR Part 26.81 and in accordance with SCDOT approved Disadvantaged Business Enterprise (DBE) and Small Business Enterprise (SBE) Program.

WHEREAS, 49 CFR Part 26.81 requires federal transportation fund recipients of a state to create a Unified Certification Program (UCP) as part of each recipient's DBE and SBE program; and

WHEREAS, the parties require certification, recertification, and decertification of firms as a DBE or SBE; and

WHEREAS, all recipients of federal transportation funds in this state are covered by the requirements of 49 CFR, and are also required to participate in a Unified Certification Program; and

WHEREAS, the parties desire to join together for cooperative action pursuant to carrying out the requirements of 49 CFR Part 26 and to establish a South Carolina Unified Certification Program (SCUCP); and

WHEREAS, by that Agreement, all current recipients and/or future recipients identified by SCDOT are bound by the requirements of the SCUCP, which is a continuation of the current and previous processes of the SCDOT. This Agreement applies to all direct and indirect recipients.

NOW, THEREFORE, in consideration of the mutual promises and benefits that each party shall derive there from, the parties agree as follows:

ARTICLE I

PURPOSES

The parties have entered into this Agreement for the purposes of creating a South Carolina Unified Certification Program (SCUCP) to be administered by the South Carolina Department of Transportation, Division of Minority & Small Business Affairs.

SCDOT shall provide "one-stop shopping" to applicants for DBE and SBE certification, so that an applicant will apply only once for certification which is to be honored by all USDOT recipients in South Carolina. SCDOT

will develop a uniform application letter and notice of certification. A uniform certification application developed by the USDOT may be designated as the official application. The application may be modified as permitted by the USDOT to comply with streamlining adopted by SCDOT, the lead agency.

SCDOT will review all DBE/SBE applicants of Program Partners. This shall include firms that provide aviation, heavy highway and transit oriented services or products, including but not limited to, aviation specialty firms, heavy highway and bridge construction, products and services, planning and engineering consultants, specialty consultants, non-heavy construction, products and services, roadway suppliers, steel manufacturers or fabricators, food service firms, and structural construction firms.

If additional expertise is required, aviation specialty firms such as concessionaires may be collaboratively reviewed by SCDOT and an entity knowledgeable about airport issues.

ARTICLE II

SERVICES

Section 2.1 South Carolina Unified Certification Program

The SCUCP is hereby created and implemented in accordance with 49 CFR Part 26.81, as amended.

- a. SCDOT will follow all certification, recertification, and decertification procedures in accordance with the Certification Standards of 49 CFR Part 26, Subpart D, and the Certification Procedures of 49 CFR Part 26, Subpart E as applied by SCDOT in its DBE and SBE Program.

1. **Certification Location**

Applications are available from the South Carolina Department of Transportation (SCDOT), Division of Minority & Small Business Affairs, 955 Park Street, Columbia, South Carolina 29201 or the SCDOT website at <http://www.scdot.org>. HQ SCDOT office will serve as the centralized location for processing applications and updating any changes as they are made. The mailing address is: SCDOT, Division of Minority & Small Business Affairs, Room 117, Post Office Box 191, Columbia, South Carolina 29202.

2. Receipt of Application

The certification process starts with SCDOT's receipt of a completed Certification Application. SCDOT will log the application into the Certification Request database, assemble a file, and assign the file to a Certification Program Analyst (hereinafter "Analyst") for review. To be processed, an application must contain all required documentation. If the required documentation is not included, the Analyst will promptly notify the applicant that the omitted documents must be provided. Applicants are urged to submit required information to SCDOT as soon as possible. Faxed documents will be accepted. Where the applicant has failed to provide the required information within a reasonable period of time, as determined by the Analyst, the Analyst will notify the applicant that consideration of the application will be discontinued unless the required information is received within fourteen (14) calendar days. If the information is not received within fourteen (14) calendar days, the applicant will be notified that the application has been closed and will be returned. The applicant can reapply anytime with all of the required documentation included.

3. Out-of-State Applicants

SCDOT shall review and make an eligibility determination on all firms applying for DBE/SBE certification whose business is located in the State of South Carolina. SCDOT will accept applications from firms located across state lines in accordance with USDOT's Interstate Certification Process.

4. Processing of Applications

SCDOT will process completed applications within sixty (60) days for out-of-state firms and ninety (90) days for in-state firms after a complete application has been received. An additional sixty (60) days for reviewing an application may be determined upon written notification to the applicant.

At any point during the review process, an applicant may submit a written request to withdraw its application. Upon receipt of such a request, the applicant's file will be closed.

5. Onsite Review

After the complete application has been received, an onsite review with the firm will be conducted. On sites for out of state applicants will be conducted by their home state DOT.

6. Approval Process

After the onsite review is completed and all requests for information are satisfied, the Analyst will prepare a summary of the application and make a recommendation to the Director, Division of Minority & Small Business Affairs (hereinafter "Director"). The Director will issue a decision to the applicant in the form of a written letter.

7. Issuance of Notice of SCUCP Certification

Upon approval, a Notice of Certification will be issued to the applicant and include a Certification Letter, date of certification and a listing of the approved applicable areas of work.

All Program Partners will be notified of all newly certified firms by e-mail.

8. Notice of SCUCP Denial

When a firm does not meet the DBE or SBE eligibility requirements at the time of application, the firm will be denied certification as a DBE or SBE by the Director. The firm will be provided a written explanation of the reasons for denial as required by 49 CFR Part 26.86. The denial will be the decision of the Director. If the applicant does not choose to appeal the decision, they may re-apply after a period of twelve months from the date of the Letter of Denial.

Section 2.2 Right to Appeal

A firm may appeal the decision of the Director. Appeals are to go to the South Carolina Administrative Law Court (ALC) and must be filed within 30 days of receipt of the Letter of Denial, pursuant to the State Administrative Procedures Act, Section 1-23-310 et seq. Code of Laws of South Carolina (1976); or a

firm may choose to appeal directly in writing to the USDOT within ninety (90) days of the date of final decision by the Director. Appeals to USDOT may be emailed to S33AppealsManagementRecords@dot.gov.

If the applicant does not appeal to the ALC or the USDOT within the allotted time, the denial becomes administratively final. When a decision of the Director to deny certification is upheld in the appeals process, the firm in question is not eligible to participate as a DBE or SBE on federally funded projects and may not reapply for DBE or SBE certification for at least one year from the date of the Letter of Denial by the Director.

Section 2.3 Expansion Request for Additional Types of Work

In accordance with 49 CFR Part 26.71(n), SCDOT will grant certification to a firm only for specific types of work in which the socially and economically disadvantaged owners have the ability to demonstrate ownership and control of the firm. SCDOT may expand the list of approved work areas for a certified DBE or SBE after the firm has demonstrated its ability with respect to that type of work.

Section 2.4 Unified DBE and SBE Directory

SCDOT is the only authorized agency to publish and maintain the Unified DBE and SBE Directory for the State of South Carolina.

SCDOT will maintain the unified DBE and SBE directory for all firms certified by SCDOT, to include the firm's name, address, telephone number, and the types of work the firm has been certified to perform as a DBE and SBE. SCDOT will make the Directory available as follows:

- a. An electronic version of the directory will be updated daily with additions, deletions, and other changes as they occur and in accordance with 49 CFR Part 26.81(g).
- b. The electronic version of the directory will be used as the official directory reference and available to the Program Partners and the general public on the SCDOT website at: <http://www.scdot.org>.
- c. An updated hardcopy version of the directory will be readily available at SCDOT, Division of Minority & Small Business Affairs, 955 Park Street, Columbia, South Carolina.

Section 2.5 Certification Standards

SCDOT shall cooperate fully with oversight, review, and monitoring activities of the USDOT and its operating administrations. SCDOT will follow the Certification Standards of 49 CFR Part 26, Subpart D and the Certification Procedures of 49 CFR Part 26, Subpart E in determining eligibility of firms to participate as a DBE or SBE in USDOT-assisted contracts.

Pursuant to 49 CFR Part 26.81(c), all certifications by SCDOT shall be certifications that have been made final before the due date for bids or offers on a contract on which an applicant firm seeks to participate as a DBE or SBE.

The SCUCP shall implement USDOT directives and guidelines concerning certification matters. All obligations of Program Partners with respect to certification and nondiscrimination will be carried out by SCUCP, and Program Partners may use only the SCUCP that complies with the certification and nondiscrimination requirements of 49 CFR Part 26.81.

Section 2.6 Authority to Make Certification Decisions

SCDOT will make all DBE and SBE certification decisions on behalf of all Program Partners in the State of South Carolina. DBE and SBE certification decisions by SCDOT shall be binding on all parties to the Agreement.

Section 2.7 Interface With Other UCPs

SCDOT may enter into written reciprocity agreements with other UCPs. Such an agreement will outline the specific responsibilities of each participant. SCDOT may accept the certification of any other UCP or USDOT recipient, but is not required to do so.

Section 2.8 Program Partners Responsibility for Their Own DBE and SBE Program

SCDOT will not establish, recommend, or alter any Program Partner's overall DBE or SBE Program, other than to complement the Program Partner's approved program. DBE and SBE goal development, administration, monitoring, and reporting will remain the sole responsibility of the Program Partner.

Section 2.9 Media Contacts

All “media” contacts related to the SCUCP or its activities are to be made by SCDOT. SCDOT will not handle or be responsible for any inquiries or criticisms outside its role as the lead agency. Program Partners shall refer all media contacts regarding the SCUCP Agreement to SCDOT and all responses will be made by SCDOT.

Section 2.10 Resources and Expertise of the SCUCP

The Program Partners agree that SCDOT will provide the staff, physical space, web site space, office supplies and travel necessary to carry out the obligations of the SCUCP. The administrative cost for the SCUCP will be absorbed by SCDOT for the first year of operation. The SCUCP funding for succeeding years will be negotiated between SCDOT and the individual Program Partners on an annual basis.

Section 2.11 Decertification

SCDOT will take action to decertify a DBE or SBE firm if it is determined that it does not meet the eligibility standards in accordance with the certification procedures of 49 CFR Part 26, Subpart E. Certification challenges and ineligibility complaints should be forwarded to SCDOT for inquiry and/or investigation.

Section 2.12 Compliance and Enforcement

SCDOT will notify the appropriate Program Partner when an enforcement issue is identified. The individual Program Partner is then responsible to take the appropriate enforcement action in accordance with 49 CFR Part 26, Subpart F, Compliance and Enforcement.

ARTICLE III

TERM AND SCOPE OF AGREEMENT

Section 3.1 Term

This Agreement shall be effective immediately upon its execution by all the parties hereto and the approval of the SCUCP by the USDOT Secretary of Transportation. This Agreement and the SCUCP shall continue in force as long as

required by federal laws and regulations, unless terminated pursuant to Section 3.2 of this Agreement.

Section 3.2 Termination

Any party to this Agreement may terminate its relationship to the SCUCP by official notification including a showing of non-recipient status to the SCDOT. SCDOT will notify the USDOT of this request for termination.

Section 3.3 Limited Agreement

This Agreement is limited in scope and nothing contained in this Agreement shall imply any relationship between any of the signing parties beyond the creation and implementation of the SCUCP.

Section 3.4 Amendment of the SCUCP Agreement

SCDOT, as the lead agency, may make minor revisions to this document to facilitate processing of certifications without formal approval of Program Partners.

**SCUCP Agreement
Signature Page**

IN WITNESS WHEREOF, the parties have executed this SCUCP Agreement on the dates indicated below.

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION

By: 

Title: Lead DBE Certification Analyst

Date: MAY 12, 2024

PROGRAM PARTNER

Agency Name: Greenville-Spartanburg Airport District

By: Kelly G. Dawsey Digitally signed by Kelly G. Dawsey
Date: 2024.04.10 09:26:22 -0400'

(Signature)

Kelly Dawsey

(Printed Name)

Title: VP-Chief Human Resources Officer

Date: 04/10/2024

Attachment 9

Regulations: 49 CFR part 23

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

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

Attachment 10

Small Business Element

1. Objective/Strategies

(1) Establish a race-neutral small business set-aside for certain concession opportunities. The District will document the rationale for selecting small business set-aside concession opportunities which may include consideration of size and availability of small businesses to operate the concession.

(2) Consider the concession opportunities available through all types of concession models.

(3) On concession opportunities that do not include ACDBE contract goals, require all concession models to provide subleasing opportunities of a size that small businesses, including ACDBEs, can reasonably operate. Concessionaires be required to demonstrate which subleasing opportunities they identified. Concessionaires will they alert the District so that it may conduct or support outreach activities to showcase the opportunity.

(4) Identify alternative concession contracting approaches to facilitate the ability of small businesses, including ACDBEs, to compete for and obtain direct leasing opportunities. The District will consider short-term leases for “pop-up” locations that are supported by the airport or by the concessionaires. The District will ensure that financing options, bonding requirements, and bonding requirements are suited to allow for opportunities.

2. Definition

Airport Concession Disadvantaged Business Enterprise (ACDBE) - a firm seeking to operate as a concession that is a for-profit small business concern that satisfies the following:

(1) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and

(2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

Concession - means one or more of the types of for-profit businesses that serve the traveling public listed in the paragraphs below:

(1) A business, located on an airport subject to this part, that is engaged in the sale of consumer goods or services to the traveling public under an agreement with the

recipient, another concessionaire, or the owner or lessee of a terminal, if other than the recipient.

(2) A business conducting one or more of the following covered activities, even if it does not maintain an office, store, or other business location on an airport subject to this part, as long as the activities take place on the airport: Management contracts and subcontracts, a web-based or other electronic business in a terminal or which passengers can access at the terminal, an advertising business that provides advertising displays or messages to the public on the airport, or a business that provides goods and services to concessionaires.

Small business size standard – means recipients must treat a firm as a small business eligible to be certified as an ACDBE if the gross receipts of the applicant firm and its affiliates, calculated in accordance with 13 CFR 121.104 averaged over the firm's previous five fiscal years, do not exceed \$56.42 million. Some types of business have size standards that differ from the standard set and include the following: banks and financial institutions, passenger car rental companies, pay telephones, and new car dealers.

Personal Net Worth (PNW) standards – means the net value of an individual's reportable assets and liabilities, per the calculation rules in § 26.68. An owner whose PNW exceeds \$2,047,000 is not presumed economically disadvantaged.

3. Verification

The District will take steps to verify eligibility of a firm to participate in the District's ACDBE program. The District will rely on the certification/verification process from other entities and accept the following certifications:

South Carolina Unified Certification Program (SCUCP) ACDBE Certification – The Commission is a non-certifying member of the SCUCP and relies on certification decisions of the South Carolina Department of Transportation. DBE certification by a certifying member of the SCUCP which stipulates that a firm has been determined to meet all the requirements in accordance with 49 CFR Part 23. All certification determinations are evidenced by a letter of DBE certification issued by the South Carolina Department of Transportation.

Small Business Administration (SBA) Business Development Certification – The District rely on the certification process used by the SBA in accordance with 13 CRF Parts 121 and 124.

4. Monitoring/Record Keeping

- The District will track and monitor participation by ACDBEs and other small businesses that results from the implementation of this small business element.

Participation will be reported annually as part of the Uniform Report of ACDBE Participation.

5. Assurances

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