

GREATER ASHEVILLE REGIONAL AIRPORT AUTHORITY  
AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE  
(ACDBE) POLICY AND PROGRAM



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**POLICY STATEMENT**

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


The Greater Asheville Regional Airport Authority (“GARAA” or the “Authority”) has established an Airport Concession Disadvantaged Business Enterprise (ACDBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR part 23. Asheville Regional Airport is a primary airport and has received federal funds authorized for airport development after January 1988 (authorized under Title 49 of the United States Code). GARAA has signed airport grant assurances that it will comply with 49 CFR part 23.

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

Kathy Price, Business Development & Property Manager, has been designated as the ACDBE Liaison Officer (ACDBELO). In that capacity, Ms. Price 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 Authority in its financial assistance agreements with the Department of Transportation.

GARAA has disseminated this policy statement to the Greater Asheville Regional Aviation Authority Board and all of the components of our organization. We will distribute this statement to ACDBE and non-ACDBE concessionaire communities in our area through publication on the website and providing information on how to access the Program at pre-proposal and tenant meetings.

  
\_\_\_\_\_  
Lew Bleiweis  
President & CEO

11-22-24  
Date

## **GENERAL REQUIREMENTS**

### **Section 23.1 Objectives**

The objectives are found in the policy statement on the first page of this program. A link to 49 CFR part 26 can be found in Attachment 8.

### **Section 23.3 Definitions**

GARAA 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**

AVL is a primary airport, operated by GARAA. GARAA is 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**

GARAA 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, GARAA 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.

GARAA 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**

GARAA 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**

GARAA 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):

- Asheville Regional Airport

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

**Section 23.23 Administrative Provisions****Policy Statement**

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

GARAA 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. GARAA will also encourage prime concessionaires to use such institutions.

There are currently no certified DBE Financial Institutions listed in the North Carolina Unified Certification Program ("NC UCP") directory. GARAA will monitor the NC UCP Directory annually to determine if any financial institutions are added to the DBE/ACDBE list. GARAA also monitors annually the FDIC list of Minority Owned Banks, the Bureau of the Fiscal Service, Office of the Comptroller of the Currency and other internet sources such as Forbes and Investopedia to locate minority and women owned banks. Information on the availability of such institutions, if any, will be made at pre-proposal conferences.

GARAA has designated the following individual as our ACDBELO:

Kathy Price  
Greater Asheville Regional Airport Authority  
61 Terminal Drive, Suite 1  
Fletcher, NC 28732  
Telephone: (828) 209-5061  
Email: kprice@flyavl.com

In that capacity, the ACDBELO is responsible for implementing all aspects of the ACDBE program and ensuring that GARAA complies with all provisions of 49 CFR part 23. The ACDBELO has direct, independent access to the GARAA Chief Executive Officer 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 is a staff of one(1) to administer 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 GARAA's progress toward attainment and identifies ways to improve progress.
6. Participates in pre-proposal meetings.
7. Advises the CEO/governing body on ACDBE matters and achievement.
8. Acts as liaison to the Unified Certification Program (UCP) in North Carolina.
9. Provides outreach to ACDBEs and community organizations to advise them of opportunities.

Directory: The North Carolina Unified Certification Program (NC 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**

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

GARAA will seek ACDBE participation in all types of concession activities.

GARAA 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. GARAA will take measures to ensure nondiscriminatory participation of ACDBEs in concessions, and other covered activities (23.25(a)) through monitoring of ACDBE participation, tenant meetings, debriefings with unsuccessful proposers, community outreach and open communications with ACDBE participants. In addition, nondiscrimination language is included in every concession contract.

Race-neutral measures may include but are not limited to:

- 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
- 7) Implementing a small business element in GARAA's concession program in accordance with 49 CFR part 23, section 23.26.

GARAA 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 may 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, GARAA 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, GARAA 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, GARAA 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, GARAA 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, GARAA 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, GARAA 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.

GARAA 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. A copy of forms used in Request for Proposals can be found in Attachment 6.

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

GARAA 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 9 to this ACDBE Program. The program elements will be actively implemented to foster small business participation. GARAA acknowledges that active use of the small business element is a requirement of the good faith implementation of this ACDBE program.

GARAA will submit an annual report on small business participation obtained through the use of this small business element. The report must be submitted in the format acceptable to the FAA based on a schedule established and posted to the agency's website, available at [https://www.faa.gov/about/office\\_offices/acr/bus\\_ent\\_program](https://www.faa.gov/about/office_offices/acr/bus_ent_program).

### **Section 23.27 Reporting**

GARAA 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.



GARAA 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.

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

GARAA 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. GARAA 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. A copy of the Active Participants List Collection Form can be found in Attachment 3.

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 North Carolina 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.

A link to the North Carolina UCP DBE/ACDBE Directory can be found in Attachment 2

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

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

1. GARAA will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 49 CFR § 26.107.
2. GARAA will consider similar action under our own legal authorities, including responsiveness determinations in future contracts. We have listed the regulations, provisions, and contract remedies available to us in the events of non-compliance with the ACDBE regulation by a participant in our procurement activities (See Attachment 4).
3. GARAA will implement a monitoring and enforcement mechanism to ensure that work committed to ACDBEs at contract award is performed by the ACDBEs. This mechanism will provide a running tally of ACDBE attainments (e.g., gross receipts earned by ACDBE firms), including a means of comparing these attainments to commitments. This will be accomplished by documenting ongoing, scheduled, and unscheduled onsite visits to the operations and meetings with staff. The contract monitoring files will contain written certification that GARAA staff has 1) reviewed records of all contracts, leases, joint venture agreements, and other concession-related agreements, and 2) monitored onsite Airport operations for the purpose of compliance with ACDBE contract requirements and the Airport's ACDBE Program.
4. GARAA will show ACDBE commitments and attainments in the annual Uniform Report of ACDBE Participation as required by the FAA.
5. All required contract provisions from 49 CFR part 23, 49 CFR part 26, section 26.53 and the FAA contract provisions document will be included in concession leases as applicable.

## **CERTIFICATION AND ELIGIBILITY**

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

GARAA is a non-certifying member of the North Carolina Unified Certification Program (NC UCP) and relies upon the UCP's determinations of certification eligibility. North 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 NC UCP members make all certification decisions based on the facts as a whole.

Detailed certification processes are described in the NC UCP agreement. A link to the full UCP agreement can be found at the link in Attachment 7.

The NC 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:

The North Carolina Department of Transportation

DBE Email Address for NCUCP: [DBEOpportunity@ncdot.gov](mailto:DBEOpportunity@ncdot.gov)

Phone: 984-236-1245

Application portal: <https://connect.ncdot.gov/business/SmallBusiness/Online-Cert-App-Portal/Pages/default.aspx>

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**

GARAA is not a certifying member of the UCP. Requirements of this section will be fulfilled by the North Carolina UCP.

**Section 23.39 Other ACDBE Certification Requirements**

GARAA is not a certifying member of the UCP. Requirements of this section will be fulfilled by the North Carolina UCP.

**GOALS, GOOD FAITH EFFORTS, AND COUNTING****Section 23.41 Overall Goals**

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

GARAA'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**

GARAA consults with stakeholders before submitting the overall goals to the FAA. Stakeholders may 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, GARAA 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 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.

GARAA 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).

GARAA 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 GARAA'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 GARAA.

Overall goals for non-car rental concessions can be found in Attachment 5. Overall goals for car rental concessions can be found in Attachment 5.

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

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

When an ACDBE is decertified because one or more of its disadvantaged owners exceed the PNW cap or the firm exceeds the business size standards of part 23 during the performance of a contract or other agreement, the firm's participation may continue to be counted toward ACDBE goals for the remainder of the term of the contract or other agreement. However, GARAA will verify that the firm in all other respects remains an eligible ACDBE. To accomplish this verification, GARAA 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. GARAA 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 GARAA 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**

GARAA 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, GARAA will verify that the firm in all other respects remains an eligible ACDBE. To accomplish this verification, GARAA 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. GARAA 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 GARAA 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, GARAA 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;

- GARAA will submit the analysis and corrective actions developed under paragraphs (b)(1) and (2) of this section to the FAA for approval by April 1 following the report submittal.

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

GARAA 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:

- GARAA 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
- GARAA 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, GARAA 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**

GARAA 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**

GARAA 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.

GARAA 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 GARAA's plan for meeting the standards of paragraph (c) of §23.75.

To obtain FAA approval of a long-term exclusive concession agreement, GARAA 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, GARAA 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, GARAA 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, GARAA 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 GARAA, 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**

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

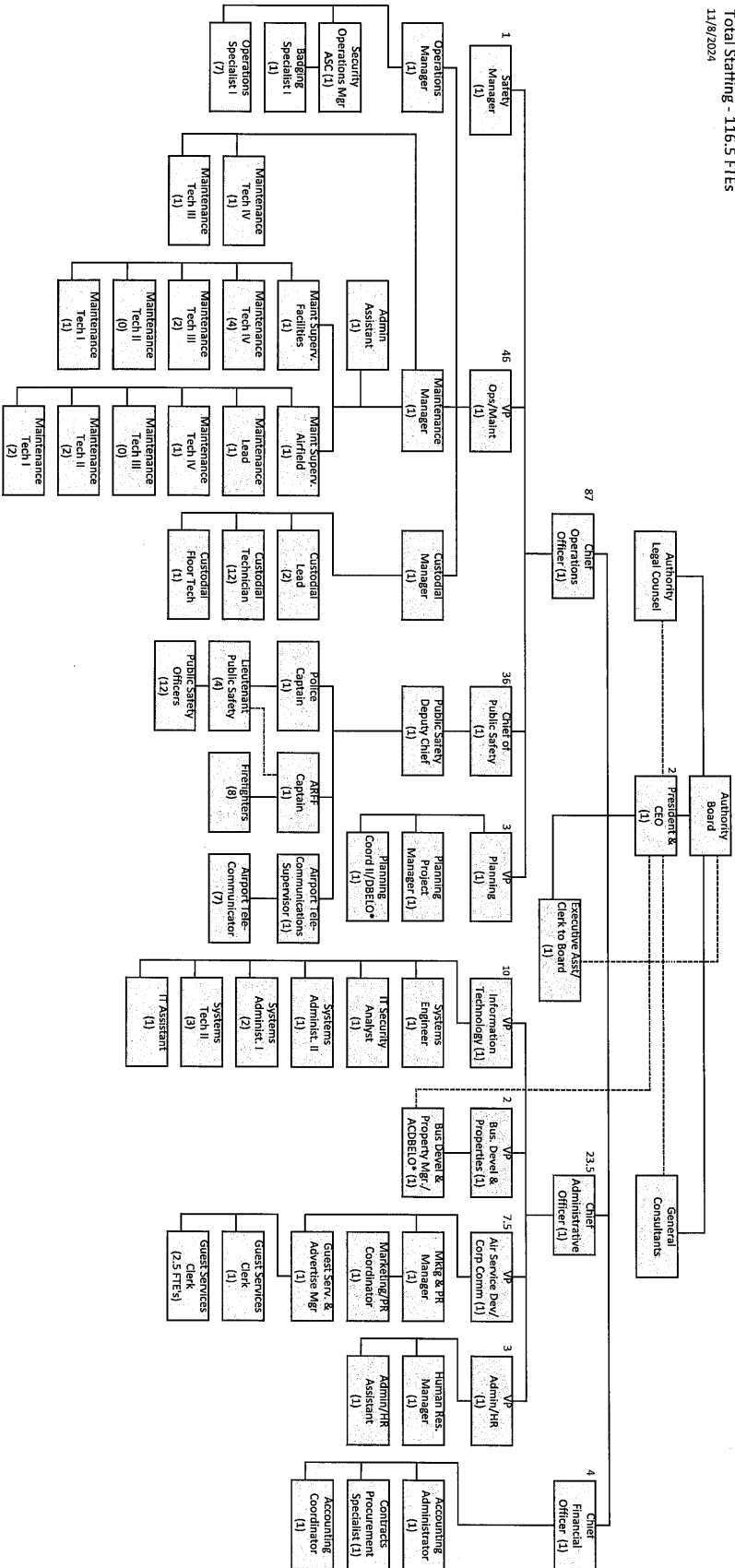
## **ATTACHMENTS**

|                     |   |
|---------------------|---|
| <b>Attachment 1</b> | <b>Organizational Chart</b>   |
| <b>Attachment 2</b> | <b>DBE/ACDBE Directory</b>  |
| <b>Attachment 3</b> | <b>Active Participants List Collection Form</b>                     |
| <b>Attachment 4</b> | <b>Monitoring and Enforcement Mechanisms</b>                        |
| <b>Attachment 5</b> | <b>Overall Goal Methodology – Concessions Other Than Car Rental</b> |
| <b>Attachment 6</b> | <b>Form 1 &amp; 2 for Demonstration of Good Faith Efforts</b>       |
| <b>Attachment 7</b> | <b>State’s UCP Agreement</b>  |
| <b>Attachment 8</b> | <b>Regulations: 49 CFR part 23</b>                                  |
| <b>Attachment 9</b> | <b>Race-Neutral Small Business Element</b>                          |

# Attachment 1 Organizational Chart

GREATER ASHEVILLE REGIONAL AIRPORT AUTHORITY  
Organizational Chart - Fiscal Year 2025

Total Staffing - 116.5 FTEs  
11/8/2024



\* DBE reports indirectly to President & CEO

## **Attachment 2 North Carolina Directory of Certified DBE/ACDBE Firms**

The North Carolina UCP DBE/ACDBE Directory may be found at:

<https://www.ebs.nc.gov/VendorDirectory/search.html?s=cert&a=new>

### Attachment 3 Active Participants List Collection Form

List all entities (Both ACDBE and Non-ACDBE) that expressed interest to your firm in participating in this concession opportunity.

RFP#: \_\_\_\_\_

| Prime Contractor (Bidder) Name | Bidder Address/<br>Phone # | DBE or Non-DBE Status  | Race and Gender of Firm's Majority Owner(s)   | NAICS Code Applicable to the Work Bid for this Contract | Age of Firm   | Annual Gross Receipts   |
|--------------------------------|----------------------------|--|---|---|---|---|
|                                |                            | <input type="checkbox"/> DBE<br><input type="checkbox"/> Non-DBE | <input type="checkbox"/> Female <input type="checkbox"/> Male<br><input type="checkbox"/> Black American<br><input type="checkbox"/> Hispanic American<br><input type="checkbox"/> Native American<br><input type="checkbox"/> Asian Pacific American<br><input type="checkbox"/> Subcontinent Asian American<br><input type="checkbox"/> Other |   | <input type="checkbox"/> Less than 1 year<br><input type="checkbox"/> 1-3 years<br><input type="checkbox"/> 4-7 years<br><input type="checkbox"/> 8-10 years<br><input type="checkbox"/> More than 10 years | <input type="checkbox"/> Less than \$1 million<br><input type="checkbox"/> \$1-3 million<br><input type="checkbox"/> \$3-6 million<br><input type="checkbox"/> \$6-10 million<br><input type="checkbox"/> Greater than \$10 million |

| Interested Subcontractor, JV Partner, Supplier (ACDBE and non-ACDBE) | Firm Address/<br>Phone # | DBE or Non-DBE Status (verify via State's UCP Directory)         | Race and Gender of Firm's Majority Owner(s)  | NAICS Code Applicable to the Work Bid for this Contract (see NAICS.com) | Age of Firm  | Annual Gross Receipts  |
|--|--------------------------|--|--|---|--|--|
|  |                          | <input type="checkbox"/> DBE<br><input type="checkbox"/> Non-DBE | <input type="checkbox"/> Female <input type="checkbox"/> Male<br><input type="checkbox"/> Black American<br><input type="checkbox"/> Hispanic American<br><input type="checkbox"/> Native American |   | <input type="checkbox"/> Less than 1 year<br><input type="checkbox"/> 1-3 years<br><input type="checkbox"/> 4-7 years<br><input type="checkbox"/> 8-10 years | <input type="checkbox"/> Less than \$1M<br><input type="checkbox"/> \$1-3M<br><input type="checkbox"/> \$3-6M<br><input type="checkbox"/> \$6-10M<br><input type="checkbox"/> \$10-\$15M |

|  |  |  |   |  |  |   |
|--|--|--|---|--|--|---|
|  |  | <input type="checkbox"/> DBE<br><input type="checkbox"/> Non-DBE | <input type="checkbox"/> Asian Pacific American<br><input type="checkbox"/> Subcontinent Asian American<br><input type="checkbox"/> Other<br><input type="checkbox"/> Female <input type="checkbox"/> Male  |  | <input type="checkbox"/> More than 10 years<br><input type="checkbox"/> Less than 1 year<br><input type="checkbox"/> 1-3 years<br><input type="checkbox"/> 4-7 years<br><input type="checkbox"/> 8-10 years<br><input type="checkbox"/> More than 10 years | <input type="checkbox"/> \$15-\$20M<br><input type="checkbox"/> \$20-\$30M<br><input type="checkbox"/> \$30-\$40M<br><input type="checkbox"/> Over\$40M   |
|  |  | <input type="checkbox"/> DBE<br><input type="checkbox"/> Non-DBE | <input type="checkbox"/> Female <input type="checkbox"/> Male<br><input type="checkbox"/> Black American<br><input type="checkbox"/> Hispanic American<br><input type="checkbox"/> Native American<br><input type="checkbox"/> Asian Pacific American<br><input type="checkbox"/> Subcontinent Asian American<br><input type="checkbox"/> Other |  | <input type="checkbox"/> Less than 1 year<br><input type="checkbox"/> 1-3 years<br><input type="checkbox"/> 4-7 years<br><input type="checkbox"/> 8-10 years<br><input type="checkbox"/> More than 10 years  | <input type="checkbox"/> Less than \$1M<br><input type="checkbox"/> \$1-3M<br><input type="checkbox"/> \$3-6M<br><input type="checkbox"/> \$6-10M<br><input type="checkbox"/> \$10-\$15M<br><input type="checkbox"/> \$15-\$20M<br><input type="checkbox"/> \$20-\$30M<br><input type="checkbox"/> \$30-\$40M<br><input type="checkbox"/> Over\$40M |
|  |  | <input type="checkbox"/> DBE<br><input type="checkbox"/> Non-DBE | <input type="checkbox"/> Female <input type="checkbox"/> Male<br><input type="checkbox"/> Black American<br><input type="checkbox"/> Hispanic American<br><input type="checkbox"/> Native American<br><input type="checkbox"/> Asian Pacific American<br><input type="checkbox"/> Subcontinent Asian American<br><input type="checkbox"/> Other |  | <input type="checkbox"/> Less than 1 year<br><input type="checkbox"/> 1-3 years<br><input type="checkbox"/> 4-7 years<br><input type="checkbox"/> 8-10 years<br><input type="checkbox"/> More than 10 years  | <input type="checkbox"/> Less than \$1M<br><input type="checkbox"/> \$1-3M<br><input type="checkbox"/> \$3-6M<br><input type="checkbox"/> \$6-10M<br><input type="checkbox"/> \$10-\$15M<br><input type="checkbox"/> \$15-\$20M<br><input type="checkbox"/> \$20-\$30M<br><input type="checkbox"/> \$30-\$40M<br><input type="checkbox"/> Over\$40M |

(Add pages as needed)

## **Attachment 4 Sample Monitoring and Enforcement Mechanisms**

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

The GARAA has available the following remedy to enforce the ACDBE requirements contained in its contracts: breach of contract action, pursuant to the default and termination terms of the contract.

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

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

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

1. The GARAA will monitor the compliance and good faith efforts of concessionaires in meeting the requirements of this Program. The GARAA will have access to the necessary records to examine such information as may be appropriate for the purpose of investigating and determining compliance with this Program, including, but not limited to, records, records of expenditures, contracts between concessionaire and the ACDBE participant, and other records pertaining to the ACDBE participation plan. The extent of the ACDBE participation will be reviewed prior to the exercise of any renewal, extension or material amendment to the agreement to consider whether an adjustment in the ACDBE requirement is warranted. Without limiting the requirements of the agreement, the GARAA reserves the right to review and approve all sub-leases or subcontracts and joint venture agreements, in advance of their commitment, utilized by the concessionaire for the achievement of its goals.
2. The GARAA 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., gross revenues generated by ACDBEs and/or payments made to ACDBE firms), including a means of comparing these attainments to commitments. This will be accomplished through monthly reporting of gross receipts.
3. The GARAA will monitor for compliance all car rental and non-car rental, concessions and management companies for each month submitted quarterly by following these procedures:
  - a. Each company is required to submit a monthly gross receipts report.
  - b. The ACDBELO verifies that ACDBEs utilized are currently certified with the North Carolina UCP.
  - c. The ACDBELO compares actual performance to commitments and takes follow-up action as necessary.

## **Attachment 5 Overall Goal Calculation for Non-Car Rental and Car Rental Concessions**

Overall ACDBE Goals for Car Rental and Non-Car Rental Concessions may be found at the following link:

**<https://flyavl.com/sites/default/files/inline-files/AVL%20ACDBE%20Goals%20FFY%202025-2027%20For%20Website%20%28002%29%20Proposed.pdf>**



## 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 [*bid/RFP/RLI*] in the following manner:

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

Legal name of bidder/respondent's firm: \_\_\_\_\_

Bidder/Respondent Representative:

\_\_\_\_\_  
Name & Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**FORM 2: LETTER OF INTENT**

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

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

Name & title of firm's AR: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

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

Name & title of ACDBE firm's AR: \_\_\_\_\_

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

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

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Role to be performed by ACDBE firm:

| <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: \_\_\_\_\_

**If the bidder/respondent does not receive award of the prime concession opportunity, all representations in this Letter of Intent shall be null and void.**

**Submit this page for each ACDBE participant.**

## **Attachment 7 State's UCP Agreement**

The North Carolina UCP Agreement is currently in revision.  
See link below:

[Disadvantaged Businesses FAQs - Is there a copy of the UCP document available?...](#)

## **Attachment 8 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 9 Race Neutral Small Business Element**

### **I. CONCESSION SMALL BUSINESS PROGRAM POLICY**

The Greater Asheville Regional Airport Authority (“GARAA”) is committed to ensuring that small businesses are offered an equitable opportunity to participate in the airport concession program contracting and procurement process at Asheville Regional Airport (“AVL”). AVL’s Concession Small Business Program (the “Small Business Program” or the “Program”), as described herein, applies to airport concessions as defined by 49 CFR part 23. The Program does not replace the ACDBE Program or otherwise operate as a substitute for the ACDBE Program. It operates as a race-and gender-neutral tool that may assist small businesses, including ACDBEs, to participate more fully in AVL’s concession opportunities.

This Small Business Program will not be used to discriminate against any company or groups of companies. The Program is designed to include all segments of the business community and is open to participation without regard to race, color, sex, religion, national or ethnic origin, age, disability, or geographic location.

The Small Business Program will utilize procedures that promote inclusion and opportunity, while maintaining race and gender-neutral measures.

### **II. AUTHORIZATION**

In accordance with the regulations governing the U.S. Department of Transportation (DOT) Airport Concession Disadvantaged Business Enterprise (ACDBE) Program, 49 CFR part 23, AVL is required to set overall ACDBE goals every three years. Pursuant to 49 CFR Part 23, section 23.25, recipients are required to maximize the use of race-neutral measures, obtaining as much as possible of the ACDBE participation needed to meet overall goals through such measures. (49 CFR § 23.25(d)). This Small Business Program has been developed in compliance with this directive.

### **III. NON-DISCRIMINATION**

In accordance with 49 CFR Part 23, section 23.9, each concession contract or lease that AVL signs with a concessionaire will include the following assurance. In addition, AVL will require each contractor to include this clause in its subcontracts.

- (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.”*

### **IV. SMALL BUSINESS ENTERPRISE DEFINITION**

A Small Business Enterprise Concession (SBEC) shall be defined as follows:

A small business concession is defined as a for-profit business concern for which gross receipts, including gross receipts of all affiliate firms as defined by the Small Business Administration, averaged over the firm's previous five fiscal years, do not exceed \$56.42 million.

Further, the owners of a minimum of 51% of the applicant small business shall not have a personal net worth exceeding \$2.047 million. For purposes of verification as an SBE, personal net worth shall be reviewed in accordance with the definition, policy and procedure detailed in 49 CFR parts 23 and 26.

Generally, 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 individual's ownership interest in the applicant firm; the individual's equity in his or her primary place of residence; or the individual's assets in qualified retirement accounts. An individual's personal net worth includes only his or her own share of assets held jointly with the individual's spouse. Instructions for completing the personal net worth form are included in the form.

## **V. SMALL BUSINESS ENTERPRISE CONCESSION VERIFICATION**

A firm who wishes to participate as an SBEC and is not certified as an ACDBE by the North Carolina Unified Certification Program ("NC UCP"), may apply for certification as an SBEC by filing a Small Business Enterprise (SBEC) application and submitting the form along with all required attachments to the GARAA at least 30 days prior to the submission date for a small business concession opportunity. Firms with a current, valid ACDBE certification from the NC UCP are automatically considered to SBEC firms in the same NAICS codes as their ACDBE certification without further procedure.

Firms applying for certification as an SBEC must provide all information and documentation required by GARAA necessary to verify that the firm meets the definition of a Small Business Enterprise Concession.

The only eligibility criteria for certification are that the firm, including affiliates, meets the appropriate size threshold and that the owner(s) of a minimum of 51% of the firm fall below the personal net worth threshold. A site visit to the firm is not required.

GARAA will work with SBEC certified firms that appear to meet the eligibility criteria for ACDBE certification to encourage and assist the firms in applying for ACDBE certification. SBEC firms will not be required to apply for ACDBE certification to be eligible to participate in the Concession Small Business Program. SBEC certification will be valid for one year with annual updates required for continued certification.

## **VI. SCOPE OF THE PROGRAM**

The intent of GARAA's Small Business Program is to provide opportunities for participation by small businesses in AVL's concession program.

All future concession solicitations will be reviewed by AVL concession staff to determine if single unit solicitations or unbundling a contract to provide for small business set-aside opportunities is appropriate for the solicitation.

AVL will consider including SBEC contract goals for a concession contract when it has been determined that a race-conscious contract goal will not be set and that, instead, race-neutral

measures will be used. An SBEC goal may be used as a race-neutral measure for concessions that have subcontracting opportunities only.

The criteria used to determine if an opportunity is appropriate for the program shall include small business capacity, small business availability, nature of the contract, past experiences with small business participation with similar contracts, and subcontracting opportunities. Procedures for implementation and information submitted with proposal and reporting procedures shall be consistent with procedures utilized in AVL's ACDBE Program under a race neutral environment.

AVL is currently fully leased for its food/beverage and retail concessions program with contracts not expiring until 2047 as a result of the new terminal construction. The existing terminal does not contain sufficient space to develop a kiosk program. AVL is planning for a single solicitation over the next three years and is currently evaluating the opportunity to determine if a small business set-aside is feasible. AVL is working with a local small business agency and is surveying potential applicants for the opportunity. If any other opportunities arise, they will be considered under the small business program described herein. This plan will be updated in 2027 when space availability in new areas has been determined.

## **VII. TRACKING/REPORTING SBE PARTICIPATION**

AVL 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 in compliance with 49 CFR part 23, section 23.26.

## **VIII. COMPLIANCE PROCEDURES**

Monitoring and enforcement procedures applicable to a race neutral environment for this element of the ACDBE Program will be implemented in the same manner as concession projects containing ACDBE goals, excluding the race and gender component of the Program.

## **IX. ASSURANCES**

AVL makes the following assurances regarding this small business element:

- This small business element is authorized [*i.e., not prohibited*] under State law;
- Certified ACDBEs that meet the size criteria established under this element are presumptively eligible to participate therein;
- 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;
- AVL 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.