



Harrisburg International Airport  
Capital City Airport  
Franklin County Regional Airport  
Gettysburg Regional Airport

# Airport Concession DBE (ACDBE) Program

*for*

## Harrisburg International Airport

L.R. Kimball Project Number  
SQA.M000160.EB18

*prepared for*

## Susquehanna Area Regional Authority

One Terminal Drive, Suite 300  
Middletown, PA 17057

September 2018 ©



# Susquehanna Area Regional Airport Authority ACDBE Program

## POLICY STATEMENT

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### Section 23.1, 23.23 Objectives/Policy Statement

The Susquehanna Area Regional Airport Authority (SARAA) 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. Harrisburg International Airport (MDT) 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). SARAA has signed airport grant assurances that it will comply with 49 CFR Part 23.

It is the policy of SARAA 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 Department of Transportation (DOT) financial assistance;
2. To create a level playing field on which ACDBEs can compete fairly for opportunities for concessions;
3. To ensure that our ACDBE program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as ACDBEs at our airport;
5. To help remove barriers to the participation of ACDBEs in opportunities for concessions at our airport; and,
6. To provide appropriate flexibility to our airport in establishing and providing opportunities for ACDBEs.

The Executive Director has been delegated as the ACDBE Liaison Officer (ACDBELO). In that capacity, the Executive Director 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 SARAA in its financial assistance agreements with the DOT.

SARAA has disseminated this policy statement to all Authority members and all of the components of our organization. We have distributed this statement to ACDBE and non-ACDBE concessionaire communities in our area, including the current concessionaires at the airport and the various Chambers of Commerce in appropriate surrounding communities. This statement will also be distributed at any stakeholders meetings and as part of any Request for Proposal package for upcoming concession opportunities.

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Stephen Libhart, Chairman  
Susquehanna Area Regional Airport Authority

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Date

## **SUBPART A – 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 Susquehanna Area Regional Airport Authority (SARAA) 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**

Harrisburg International Airport is a primary airport with SARAA as 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**

SARAA 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, SARAA 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.

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

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

- (1) This agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. The concessionaire or contractor agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23.
- (2) The concessionaire or contractor agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR Part 23, that it enters and cause those businesses to similarly include the statements in further agreements.

## Section 23.11 Compliance and Enforcement

SARAA will comply with and is subject to the provisions of 49 CFR Part 26 (§§ 26.101, 26.105, 26.107, and 2 CFR Parts 180 and 1200).

SARAA will comply with this part or be subject to formal enforcement action under §26.105 or appropriate program sanctions, such as the suspension or termination of Federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied. Program sanctions may include actions consistent with 49 U.S.C. §§ 47106(d), 47111(d), and 47122.

2 CFR Part 180, Government-wide Debarment and Suspension (Non-procurement), effective November 15, 2006, adopted and supplemented by DOT at 2 CFR Part 1200, effective June 2, 2008, provides Office of Management and Budget (OMB) guidance for Federal agencies on the government-wide debarment and suspension system for non-procurement transactions, programs and activities. 2 CFR Part 1200 adopts the OMB guidance in subparts A through I of 2 CFR Part 180, as supplemented by Part 1200, as the Department of Transportation policies and procedures for non-procurement suspension and debarment.

SARAA's compliance with all requirements of this part is enforced through the procedures of Title 49 of the United States Code, including 49 U.S.C. 47106(d), 47111(d), and 47122, and regulations implementing them.

The following enforcement actions apply to firms participating in SARAA's ACDBE program:

- (a) For a firm that does not meet the eligibility criteria of subpart D of this part and that attempts to participate as an ACDBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the DOT or the Federal Aviation Administration (FAA) may initiate suspension or debarment proceedings against the firm under 2 CFR Parts 180 and 1200.
- (b) For a firm that, in order to meet ACDBE goals or other AC/DBE program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria of subpart D of this part, DOT or FAA may initiate suspension or debarment proceedings against the firm under 2 CFR Parts 180 and 1200.
- (c) DOT may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the ACDBE program whose conduct is subject to such action under 49 CFR Part 31.
- (d) DOT may refer to the Department of Justice, for prosecution under 18 U.S.C. §§ 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of an ACDBE in SARAA's ACDBE program or otherwise violates applicable Federal statutes.

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

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

## SUBPART B – ACDBE PROGRAMS

### Section 23.21 ACDBE Program Updates

Since Harrisburg International Airport is a small hub primary airport, SARAA is required to have an ACDBE program. As a condition of eligibility for FAA financial assistance, SARAA will submit its ACDBE program and overall goals to FAA according to 23.45(a) of this section.

Until our new ACDBE program is submitted and approved, we will continue to implement our ACDBE program that was in effect previously, except with respect to any provision that is contrary to 49 CFR Part 23. This ACDBE program will be implemented at Harrisburg International Airport. However, if applicable, we will establish separate ACDBE goals at other locations. When SARAA makes significant changes to its ACDBE program, we will provide the amended program to the FAA for approval prior to implementing the changes.

### Section 23.23 Administrative Provisions

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

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

Name	Timothy J. Edwards, A.A.E.
Title	Executive Director
Address	One Terminal Drive, Suite 300, Middletown, PA 17057
Telephone Number	(717)-948-3900
Fax Number	(717)-948-3870
E-mail Address	<a href="mailto:TEdwards@saraa.org">TEdwards@saraa.org</a>

In that capacity, the ACDBELO is responsible for implementing all aspects of the ACDBE program and ensuring that SARAA complies with all provision of 49 CFR Part 23. The ACDBELO has direct, independent access to Airport Authority's Chairman 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 staff from several departments of SARAA to assist in the administration of the program to include Finance & Administration, Purchasing and Property Management. 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 SARAA's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the SARAA Board 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. Provides outreach to ACDBEs and community organizations to advise them of opportunities.

**Directory:** SARAA is a qualified (contributing) member of the Pennsylvania Unified Certification Program (UCP), therefore the Authority will utilize this directory for identifying all firms eligible to participate as ACDBEs. The directory lists the firm's name, address, phone number, date of the most recent certification and the type of work the firm has been certified to perform as an ACDBE.

The UCP will ensure that the Directory lists each type of work for which a firm is eligible to be certified by using the most specific NAICS code available to describe each type of work. The UCP will make any changes to the current directory entries necessary to meet the requirements of this paragraph.

The UCP Directory is routinely updated (more than once a year). The Pennsylvania UCP web site is <http://www.paucp.com>. A sample from the directory may be found in Attachment 2 to this program document.

### **Section 23.25 Ensuring Nondiscriminatory Participation of ACDBEs**

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

- SARAA will publish notice seeking Requests for Proposals in local newspapers as well as in other appropriate media. Since certain concession opportunities may be limited to large companies, we will require these businesses to make good faith efforts to explore the purchase of goods and services from ACDBE vendors.
- SARAA will identify opportunities for ACDBEs on concession and management agreements and review the availability of qualified ACDBEs capable of providing those services and review proposed agreements to identify opportunities for participation by certified ACDBEs.
- In concession and management agreements entered into with SARAA, the agreement signed by the concessionaire and/or subconcessionaire must assure the Authority that: "The concessionaire and subconcessionaire will not discriminate on the basis of race, color, national origin, or sex in the performance of this agreement. The concessionaire will carry out applicable requirements of 49 CFR Part 23 in the award and administration of agreements. Failure by the concessionaire to carry out these requirements shall be considered a material breach of this agreement, which may result in the termination or such other remedy as the Authority deems appropriate."
- SARAA will seek ACDBE participation in all types of concession activities, rather than concentrating participation in one category or a few categories to the exclusion of others. (23.25(c))
- SARAA's overall goal methodology and a description of the race-neutral measures it will use to meet the goals are described in Section 23.25 and Attachment 4 of this plan. The goals are set consistent with the requirements of Subpart D. (23.25(b), (d))
- If SARAA projects that race-neutral measures alone, are not sufficient to meet an overall goal, it will use race-conscious measures as described in Section 23.25 (e) (1-2) and Attachment 4 and 5 of this plan. (23.25(e))
- SARAA will require businesses subject to ACDBE goals at the airport (except car rental companies) to make good faith efforts to explore all available options to meet goals, to the maximum extent practicable, through direct ownership arrangements with ACDBEs. (23.25(f))
- SARAA will not use set-asides or quotas as a means of obtaining ACDBE participation. (23.25(g))

## Section 23.27 Reporting

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

We will submit the report to the FAA Regional Civil Rights Office via hard copy of the form or electronically via the FAA Civil Rights Connect (dbe-Connect) Online Reporting System.

## Section 23.29 Compliance and Enforcement Procedures

SARAA will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 23. Additional measures are set out in **Attachment 3**.

1. Concessionaires ACDBE participation must be reported to the Airport at least quarterly in a reporting format that is acceptable to SARAA. Report must be certified by an authorized official of the Concessionaire.
2. Concessionaire's failure to furnish such report as required will be considered a default under the terms of the agreement.
3. We will bring to the attention of the DOT any false, fraudulent or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.
4. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts.
5. We 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 as detailed in **Attachment 3**.
6. In our reports of ACDBE participation to FAA, we will show both commitments and attainments as required by the DOT reporting form.

## SUBPART C – CERTIFICATION AND ELIGIBILITY

### Section 23.31

We will use the procedures and standards of Part 26, except as provided in 23.31, for certification of ACDBEs to participate in our concessions program and such standards are incorporated herein. SARAA is a member of the PA Unified Certification Program (UCP), administered by PennDOT which will make certification decisions on behalf of SARAA for ACDBEs.

The UCP's directory of eligible DBEs specifies whether a firm is certified as a DBE for purposes of Part 26, and ACDBE for purposes of Part 23, or both.

Prior to entering into a new contract, extension, or option with a currently certified ACDBE, the PA UCP will review their eligibility at that time (i.e., "as soon as possible") rather than waiting until the latest date allowed under Part 23. The PA UCP has established a schedule for this review process.

The PA UCP will treat a firm as a small business eligible to be certified as an ACDBE if its gross receipts, averaged over the firm's previous three fiscal years do not exceed \$56.42 million for non-car rental ACDBEs and \$75.23 million for car rental ACDBEs. The size standard for banks and other financial institutions is \$1 billion in assets, for pay telephone companies is 1,500 employees, and for ACDBE automobile dealers is 350 employees.

### Section 23.35

The personal net worth standard used in determining eligibility for purposes of Part 23 is \$1.32 million.

SARAA recognizes that 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 (PNW) does not include the following:

- (1) The individual's ownership interest in an ACDBE firm or a firm that is applying for ACDBE certification;
- (2) The individual's equity in his or her primary place of residence; and
- (3) Other assets that the individual can document are necessary to obtain financing or a franchise agreement for the initiation or expansion of his or her ACDBE firm (or have in fact been encumbered to support existing financing for the individual's ACDBE business) to a maximum of \$3 million.

The effectiveness of this paragraph (3) of this definition is suspended with respect to any application for ACDBE certification made or any financing or franchise agreement obtained after June 20, 2012. (23.3)

An individual's personal net worth includes only his or her own share of assets held jointly or as community property with the individual's spouse.

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

The PA UCP will presume that a firm that is certified as a DBE under Part 26 is eligible to participate as an ACDBE. However, before certifying such a firm, the PA UCP 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 our concessions program. The PA UCP is not obligated to certify a Part 26 DBE as an ACDBE if the firm does not perform work relevant to our concessions program. (23.37)

The PA UCP recognizes that the provisions of Part 26, Sections 26.83(c) (2-6) do not apply to certifications for purposes of Part 23. They will follow the provisions of 23.39 (a) through (i). They will obtain resumes or work histories of the principal owners of the firm and personally interview these individuals. They will analyze the ownership of stock of the firm, if it is a corporation. They will analyze the bonding and financial capacity of the firm. The PA UCP will determine the work history of the firm, including any concession contracts or other contracts it may have received. They will 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. They will obtain a statement from the firm of the types of concessions it prefers to operate or the type of other contracts it prefers to perform. The PA UCP will ensure that the ACDBE firm meets the applicable size standard. (23.39(a)(b)).

The PA UCP acknowledges that a prime contractor includes a firm holding a prime contract with an airport concessionaire to provide goods or services to the concessionaire or a firm holding a prime concession agreement with a recipient. The PA UCP recognizes that the eligibility of Alaska Native Corporations (ANC) owned firms for purposes of Part 23 is governed by Part 26 Section 26.73(h). (23.39(c)(d)).

The PA UCP uses the certification standards of Part 23 to determine the ACDBE eligibility of firms that provide goods and services to concessionaires. (23.39(i)).

In instances when the eligibility of a concessionaire is removed after the concessionaire has entered into a concession agreement because the firm exceeded the size standard or the owner has exceeded the PNW standard, and the firm in all other respects remains an eligible DBE, SARAA may continue to count the concessionaire's participation toward ACDBE goals during the remainder of the current concession agreement. SARAA 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. (23.39(e)).

The PA UCP will use the Uniform Application Form found in Appendix F to Part 26 with additional instruction as stated in 23.39(g).

## **SUBPART D – GOALS, GOOD FAITH EFFORTS, AND COUNTING**

### **Section 23.41 Basic Overall Goal Requirement**

SARAA 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 SARAA will review the goals annually to make sure the goal continues to fit our circumstances. We will report any significant overall goal adjustments to the FAA.

If the average annual concession revenues for car rentals over the preceding 3 years do not exceed \$200,000, SARAA does not need to submit an overall goal for car rentals. Likewise, if the average annual concession revenues for concessions other than car rentals over the preceding 3 years do not exceed \$200,000, SARAA does not need to submit an overall goal for concessions other than car rentals. We understand that "revenue" means total revenue generated by concessions, not the fees received by the airport from concessionaires.

Our 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

SARAA 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 our efforts to increase participation of ACDBEs.

When submitting our overall goals, SARAA will identify the stakeholders that we consulted with and provide a summary of the information obtained from the stakeholders. See **Attachments 4 and 5** as applicable.

### Section 23.45 Overall Goals

Harrisburg International Airport is a small hub primary airport. As a condition of eligibility for FAA financial assistance, SARAA will submit its overall goals according to the following schedule:

Primary Airport Size	Region	Date Due	Period Covered	Next Goal Due
Large/Medium Hubs	All regions	October 1, 2020	2021/2022/2023	2023 (2024/2025/2026)
Small Hubs	All regions	October 1, 2018	2019/2020/2021	2021 (2022/2023/2024)
Non-Hubs	All regions	October 1, 2019	2020/2021/2022	2022 (2023/2024/2025)

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, we 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. (23.45i)

SARAA will establish overall goals in accordance with the 2-Step process as specified in Section 23.51. After determining the total gross receipts for the concession activity, the first step is to determine the relative availability of ACDBEs in the market area, "base figure". The second step is to examine all relevant evidence reasonably available in SARAA'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 SARAA 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).

SARAA will arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by ACDBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under § 26.39 of this part.

A description of the methodology to calculate the overall goal for car rentals, the goal calculations, and the data we relied on can be found in **Attachment 5** to this program.

A description of the methodology to calculate the overall goal for concessions other than car rentals, the goal calculations, and the data we relied on can be found in **Attachment 4** to this program.

**Projection of Estimated Race-Neutral & Race-Conscious Participation (23.45(f), 23.25(d-e))**

The breakout of estimated race-neutral and race-conscious participation can be found with the goal methodology in **Attachments 4 and 5** to this program. This section of the program will be reviewed annually when the goal calculation is reviewed under 23.41(c).

**Concession Specific Goals (23.25 (c)(e)(1)(iv))**

SARAA will use concession specific goals to meet any portion of the overall goals we do not project being able to meet using race-neutral means. Concession specific goals are established so that, over the period to which the overall goals apply, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

We will establish concession specific goals only on those concessions that have direct ownership arrangements (except car rentals), sublease, or subcontracting possibilities. We will require businesses subject to ACDBE goals at the Harrisburg International Airport (except car rental companies) to make good faith efforts to explore all available options to meet goals, to the maximum extent practicable, through direct ownership arrangements with DBEs (23.25 (f)). Car rental firms are not required to change their corporate structure to provide for direct ownership arrangements. In the case of a car rental goal, where it appears that all or most of the goal is likely to be met through the purchases by car rental companies of vehicles or other goods or services from ACDBEs, one permissible alternative is to structure the goal entirely in terms of purchases of goods and services.

We need not establish a concession specific goal on every such concession, and the size of concession specific goals will be adapted to the circumstances of each such concession (e.g., type and location of concession, availability of ACDBEs.)

If the objective of a concession specific goal is to obtain ACDBE participation through direct ownership with an ACDBE, SARAA will calculate the goal as a percentage of the total estimated annual gross receipts from the concession. (23.25(e)(1)(i))

If the concession specific goal applies to purchases and/or leases of goods and services, SARAA will calculate the goal by dividing the estimated dollar value of such purchases and/or leases from ACDBEs by the total estimated dollar value of all purchases to be made by the concessionaire. (23.25(e)(1)(ii))

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

To be eligible to be awarded a concession that has a concession specific goal, bidders/offerors must make good faith efforts to meet the goal. A bidder/offeror may do so either by obtaining enough ACDBE participation to meet the goal or by documenting that it made sufficient good faith efforts to do so. (23.25(e)(1)(iv)). Examples of good faith efforts are found in Appendix A to 49 CFR Part 23. The procedures applicable to 49 CFR Sections 26.51 and 26.53, regarding contract goals apply to SARAA's concession specific goals.

## Section 26.53 Good Faith Efforts Procedures

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

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26.

The ACDBELO, Timothy J. Edwards, Executive Director, is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive.

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

### Information to be submitted (26.53(b))

In our solicitations for concession contracts for which a contract goal has been established, we will require the following:

- (1) Award of the contract will be conditioned on meeting the requirements of this section;
- (2) All bidders or offerors will be required to submit the following information to the recipient, at the time provided in paragraph (b)(3) of this section:
  - (i) The names and addresses of ACDBE firms that will participate in the contract;
  - (ii) A description of the work that each ACDBE will perform. To count toward meeting a goal, each ACDBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
  - (iii) The dollar amount of the participation of each ACDBE firm participating;
  - (iv) Written documentation of the bidder/offeror's commitment to use an ACDBE sub-concession whose participation it submits to meet a contract goal; and
  - (v) Written confirmation from each listed ACDBE firm that it is participating in the contract in the kind and amount of work provided in the prime concessionaire's commitment.
  - (vi) If the contract goal is not met, evidence of good faith efforts (see Appendix A of this part). The documentation of good faith efforts must include copies of each ACDBE and non-ACDBE sub-concession quote submitted to the bidder when a non-ACDBE sub-concession was selected over an ACDBE for work on the contract; and
- (3) We will require that the bidder/offeror present the information required by paragraph (b)(2) of this section: No later than 5 days after bid opening as a matter of **responsibility**.

Provided that, in a negotiated procurement, including a design-build procurement, the bidder/offeror may make a contractually binding commitment to meet the goal at the time of bid submission or the presentation of initial proposals but provide the information required by paragraph (b)(2) of this section before the final selection for the contract is made by SARAA.

Administrative reconsideration (26.53(d))

Within seven (7) business days of being informed by SARAA that it is not responsive because it has not documented sufficient good faith efforts, a concessionaire may request administrative reconsideration. Concessionaire should make this request in writing to the following reconsideration official:

Mr. Timothy Edwards  
Executive Director  
Susquehanna Area Regional Airport Authority  
One Terminal Drive, Suite 300  
Middletown, PA 17057  
717.948.3900  
[tedwards@saraa.org](mailto:tedwards@saraa.org)

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

As part of this reconsideration, the concessionaire will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The concessionaire will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. We will send the concessionaire a written decision on reconsideration, explaining the basis for finding that the concessionaire did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

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

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

In this situation, we will require the concessionaire to obtain our prior approval of the substitute ACDBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

We will provide such written consent only if we agree, for reasons stated in our concurrence document, that the prime concession has good cause to terminate the ACDBE firm. For purposes of this paragraph, good cause includes the following circumstances:

- (1) The listed ACDBE sub-concession fails or refuses to execute a written contract;
- (2) The listed ACDBE sub-concession fails or refuses to perform the work of its sub-concession in a way consistent with normal industry standards. Provided however, that good cause does not exist if the failure or refusal of the ACDBE sub-concession to perform its work on the sub-concession results from the bad faith or discriminatory action of the prime contractor;
- (3) The listed ACDBE sub-concession fails or refuses to meet the prime concession's reasonable, non-discriminatory bond requirements.
- (4) The listed ACDBE sub-concession becomes bankrupt, insolvent, or exhibits credit unworthiness;
- (5) The listed ACDBE sub-concession is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state law;
- (6) We have determined that the listed ACDBE subcontractor is not responsible;
- (7) The listed ACDBE sub-concession voluntarily withdraws from the project and provides to us written notice of its withdrawal;
- (8) The listed ACDBE is ineligible to receive ACDBE credit for the type of work required;
- (9) An ACDBE owner dies or becomes disabled with the result that the listed ACDBE concession is unable to complete its work on the contract;
- (10) Other documented good cause that we have determined compels the termination of the ACDBE sub-concession. Provided, that good cause does not exist if the prime concession seeks to terminate an ACDBE it relied upon to obtain the contract so that the prime concession can self-perform the work for which the ACDBE concession was engaged or so that the prime contractor can substitute another ACDBE or non-ACDBE concession after contract award.

Before transmitting to us its request to terminate and/or substitute an ACDBE sub-concession, the prime concession must give notice in writing to the ACDBE sub-concession, with a copy to us, of its intent to request to terminate and/or substitute, and the reason for the request.

The prime concession must give the ACDBE five days to respond to the prime concession's notice and advise us and the concessionaire of the reasons, if any, why it objects to the proposed termination of its sub-concession and why we should not approve the prime concession's action. If required in a particular case as a matter of public necessity (*e.g.*, safety), we may provide a response period shorter than five days.

SARAA will require a concessionaire to make good faith efforts to replace an ACDBE that is terminated or has otherwise failed to complete its work on a concession with another certified ACDBE. These good faith efforts shall be directed at finding another ACDBE to perform at least the same amount of work under the concession contract as the ACDBE that was terminated, to the extent needed to meet the concession contract goal that we established for the procurement. The good faith efforts shall be documented by the concessionaire. If we request documentation from the concessionaire under this provision, the concessionaire shall submit the documentation to us within seven (7) days, which may be extended for an additional seven (7) days if necessary at the request of the concessionaire, and the recipient shall provide a written determination to the concessionaire stating whether or not good faith efforts have been demonstrated.

If the concessionaire fails or refuses to comply in the time specified, our contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the concessionaire still fails to comply, the contracting officer may issue a termination for default proceeding.

Also see implementation of the enforcement mechanisms set forth in **Attachment 3**.

Sample Proposal/Bid Specification:

The requirements of 49 CFR Part 23, regulations of the U.S. Department of Transportation, applies to this concession. It is the policy of SARAA to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this concession will be conditioned upon satisfying the requirements of this proposal/bid specification. These requirements apply to all concessions firms and suppliers, including those who qualify as an ACDBE. An ACDBE concession specific goal of \_\_\_\_ percent of annual gross receipts has been established for this concession. The concession firm shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 6), to meet the concession specific goal for ACDBE participation in the performance of this concession.

The concession firm will be required to submit the following information:

1. The names and addresses of ACDBE firms and suppliers that will participate in the concession;
2. A description of the work that each ACDBE will perform;
3. The dollar amount of the participation of each ACDBE firm participating;
4. Written and signed documentation of commitment to use a ACDBE whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the ACDBE that it is participating in the concession as provided in the prime concessionaire's commitment; and
6. If the contract goal is not met, evidence of good faith efforts.

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

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

### **Section 23.55 Counting ACDBE Participation for Concessions Other than Car Rentals**

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

### **Section 23.57 (b) Goal Shortfall Accountability**

If the awards and commitments on our Uniform Report of ACDBE Participation (found in Appendix A to this Part) at the end of any fiscal year are less than the overall goal applicable to that fiscal year, we will: 1) Analyze in detail the reasons for the difference between the overall goal and our awards and commitments in that fiscal year; and 2) Establish specific steps and milestones to correct the problems we have identified in our analysis to enable us to fully meet our goal for the new fiscal year.

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

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



## **SUBPART E – OTHER PROVISIONS**

### **Section 23.71 Existing Agreements**

We will assess potential for ACDBE participation when an extension or option to renew an existing agreement is exercised or when a material amendment is made. We will use any means authorized by Part 23 to obtain a modified amount of ACDBE participation in the renewed or amended agreement.

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

We 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 longer than 5 years. We understand that an “exclusive” agreement is one in which an entire category of a particular business opportunity is limited to a single business entity. If special, local circumstances exist that make it important to enter into a long-term and exclusive agreement, we will submit detailed information to the FAA Regional Civil Rights Office for review and approval.

### **Section 23.79 Geographic Preferences**

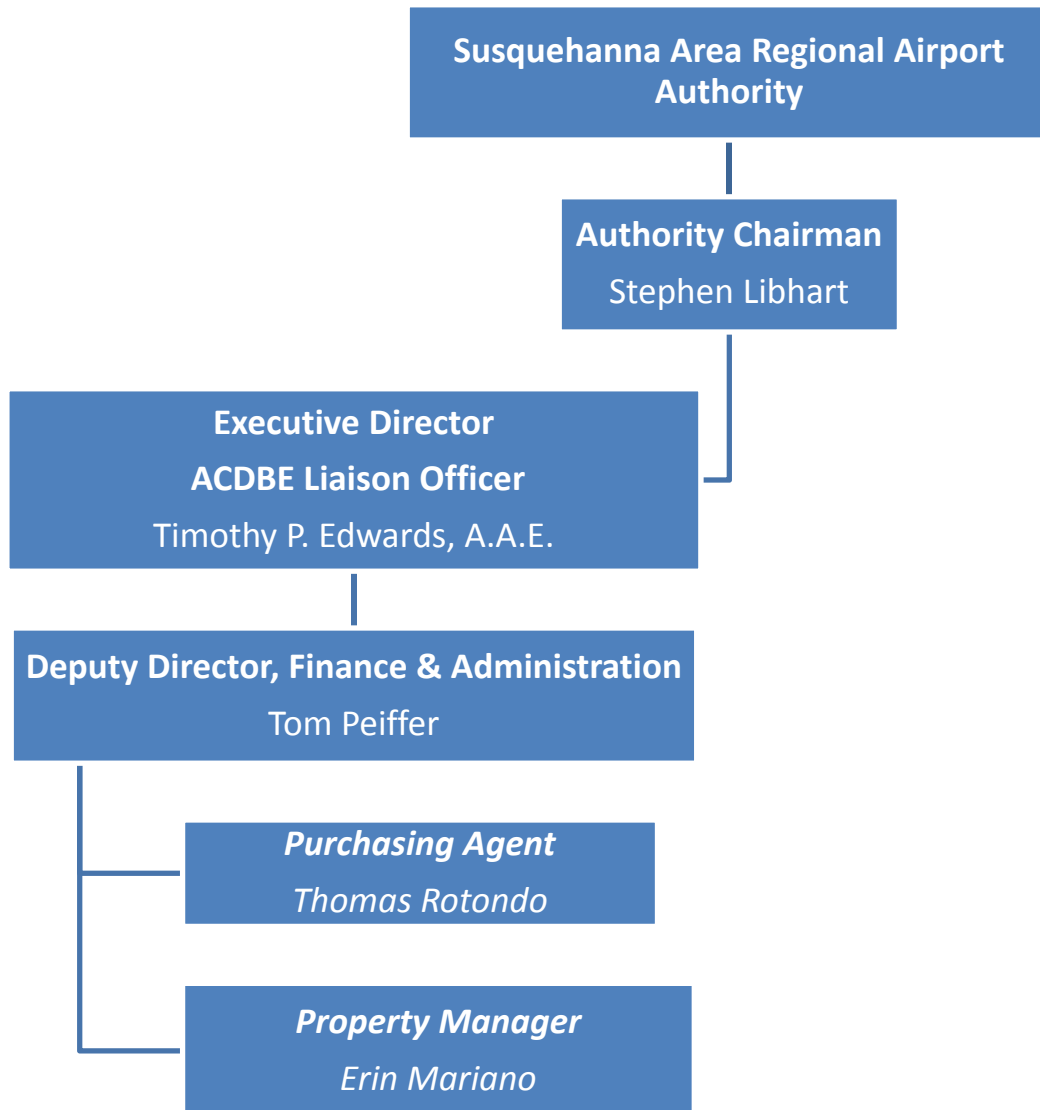
We will not use a “local geographic preference”, i.e., any requirement that gives an ACDBE located in one place an advantage over ACDBEs from other places in obtaining business as, or with, a concession at the Harrisburg International Airport.

## **ATTACHMENTS**

- Attachment 1 Organizational Chart
- Attachment 2 ACDBE Directory
- Attachment 3 Monitoring and Enforcement Mechanisms
- Attachment 4 Overall Goal for Concessions other than Car Rental Calculation, Consultation, Breakout of Estimated Race-Neutral & Race-Conscious Participation
- Attachment 5 Overall Goals for Car Rentals Calculation, Consultation, Breakout of Estimated Race-Neutral & Race-Conscious Participation
- Attachment 6 Form 1 & 2 for Demonstration of Good Faith Efforts
- Attachment 7 ACDBE Certification Application Forms
- Attachment 8 Procedures for Removal of ACDBEs Eligibility
- Attachment 9 State's UCP Agreement
- Attachment 10 Regulations: 49 CFR Part 23

# ATTACHMENT 1

## SARAA Organizational Chart



## ATTACHMENT 2

### ACDBE Directory

A sample of the SARAA ACDBE list appears below. The complete list can be found at the Pennsylvania Unified Certification Program website at [www.paucp.com](http://www.paucp.com). As of September 2018, there were 79 ACDBE certified concessionaires listed via this website located in the United States.

**Air Ventures, LLC**

Service Category: Airport Concessionaires

NAICS Codes: 722511, 722513

Description: Airport retail concessionaire snack and nonalcoholic beverage bars, and food service contractors.

Owner: George H Walker

Phone: 202-682-9100; Fax: 202-682-9109; Email: ghwalker4@aol.com

Website:

Address: 4301 Connecticut Avenue NW #350, Washington DC 20008

**AirPanchos, LLC**

Service Category: Airport Concessionaires

NAICS Codes: 311811, 453998, 722310, 722511, 722513

Description: Retail Bakeries, All Other Miscellaneous Store Retailers (except Tobacco Stores), Food Service Contractors, Full-Service Restaurants, Limited-Service Restaurants

Owner: Maria Sirica, Anthony C Sirica

Phone: 407-927-1319; Email: msirica@yahoo.com

Website:

Address: 401 E. 1st Street Suite 4096 Sanford, FL 32772

**Airport Customer Relationship Management Specialists, LLC**

Service Category: Other, Airport Concessionaires

NAICS Codes: 541613, 541618, 541820, 611430

Description: Provide customer service for WiFi providers at airports

Owner: Jennifer Adams

Phone: 305-629-3669; Fax: 305-675-4613; Email: [jennifer.adams@airportcrms.com](mailto:jennifer.adams@airportcrms.com)

Website: <http://www.airportcrms.com>

Address: 1093 Cortez Road, Lake Ariel, PA 18436

**Airport Field Services**

Service Category: Airport Concessionaires

NAICS Codes: 488190, 561720

Description: The firm is certified in its home state to provide maintenance services in the airport and janitorial services in the aircraft.

Owner: Alvin Brown

Phone: 972-814-5749; Fax: 817-502-9290; Email: ahbrown@airportfieldservices.com

Website: <http://www.airportfieldservices.com>

Address: 500 West Seventh Street Suite 550 Unit 34 Fort Worth TX 76102

## ATTACHMENT 3

### Monitoring and Enforcement Mechanisms

SARAA has several remedies available to enforce the ACDBE requirements contained in its contracts, including, but not limited to, 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 program, 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.

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

1. We will insert the following provisions into concessions agreements and management contracts:
  - A. It is the requirement of the Federal Department of Transportation that Disadvantaged Business Enterprises as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of concession agreements at Harrisburg International Airport. Consequently, the DBE requirements of 49 CFR Part 23 are hereby included in this Agreement. Concessionaire agrees to comply with the requirements of any such regulations as applicable to this Agreement. Furthermore, Concessionaire agrees to submit information at the request of SARAA concerning the DBE(s) that may participate in this Agreement. This information will include the name and address of each DBE, a description of the work to be performed by each named DBE and the dollar value of the DBE's contracted participation. The Concessionaire will also provide information as requested by SARAA describing the purchase or lease of goods or services from DBE(s) including, but not limited to, the purchase or lease of automobiles, fuel, tires, maintenance and janitorial services and other services.
  - B. In the event of breach of any of Concessionaire's duties contained in this Paragraph ( ), subparagraphs ( ), SARAA shall have the right to terminate this Agreement and to reenter and repossess the facilities and hold the same as if said Agreement had never been made or issued, provided, however, that the Concessionaire shall have the right to contest said alleged breach under applicable procedures and any sanctions under or termination of this Agreement shall be withheld pending completion of such procedures; provided, however, that the Concessionaire will pursue these applicable procedures with diligence and dispatch.
2. We will implement the following additional monitoring and compliance procedures:
  - A. Review of day to day operations of the concession to ensure that DBE participation is occurring and that the DBE's contribution is meaningful.
  - B. Quarterly review of concessionaires' revenue reports to determine if the DBE is involved in the financial management of the entity.
  - C. Random inspection of the spaces occupied by DBE businesses.
3. We will implement our compliance and monitoring procedures as follows:
  - A. Each year we will review concession leases and determine compliance with any DBE requirements. Given the size of the facility and the fact that the number of concessionaires is small, informal contact is easy and frequent. Informal meetings are held with concessionaires as needed.

## ATTACHMENT 4

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

**Name of Recipient:** Susquehanna Area Regional Airport Authority

**Airport:** Harrisburg International Airport

**Goal Period:** FFY 2019-2020-2021 – October 1, 2019 through September 30, 2021

**Overall Three-Year Goal:** 1.04% to be accomplished through 100% Race Neutral

#### Goal Base and Calculation Detail:

SARAA's overall goal for concessions other than car rental during the period beginning October 1, 2019, and ending September 30, 2021, is the following: 1.04% of the total gross receipts for concessions at Harrisburg International Airport. The following are not included in the total gross receipts for concessions: (a) the gross receipts of car rental operations, (b) the dollar amount of a management contract or subcontract with a non-ACDBE, (c) the gross receipts of business activities to which a management contract or subcontract with a non-ACDBE pertains, and (d) any portion of a firm's estimated gross receipts that will not be generated from a concession.

#### Market Area for Non-Car Rental Concessionaires

SARAA has determined that its market area is the Harrisburg Standard Metropolitan Statistical Area. This is the geographical area in which the substantial majority of firms which seek to do concessions business with the airport are located and the geographical area in which the firms receive a substantial majority of concessions related revenues are located. Current concessionaires located at the Airport include:

Company	Type of Concession	City	State	Nationwide
HMS	Food and Vending			X
Phillips Seafood	Food			X
Subway	Food			X
Auntie Anne's	Food			X
Hudson News	News/Gifts			X
Perfectly Pennsylvania, LLC	Gifts	Middletown	Pennsylvania	
Interspace Advertising	Advertising	Allentown	Pennsylvania	

#### Base of Goal

To calculate the base of the goal SARAA considered the previous three (3) years of gross concession receipts and the projected potential concession revenue (gross receipts) three years into the future including upcoming new opportunities.

#### Gross Receipts for Previous 3 Years - Non-Car Rental Concessions

Fiscal Year	Concessions Revenue (Excluding Car Rental)
2015	\$4,938,015.00
2016	\$5,050,702.00
2017	\$5,305,489.00
<b>Total</b>	<b>\$15,294,206.00</b>
Average	\$5,098,068.67

SARAA estimates that revenues to existing concessions will grow by 5% over the next three years due to inflation and increased passenger traffic. As a result, the average annual concession revenue of \$5,098,068.67 detailed above will grow to \$5,352,972.00 based on the 5% growth estimate or an increase of \$254,903.00

If a new concession opportunity arises prior to the end of this goal period and the estimated average of annual gross revenues are anticipated to be \$200,000 or greater, SARAA will submit to the FAA an appropriate adjustment to the overall goal. This will be submitted to the FAA for approval no later than 90 days before issuing the solicitation for the new concession opportunity. (23.45(i)).

**Methodology used to Calculate Overall Goal**

**Goods and Services**

We can meet the percentage goal by including the purchase from ACDBEs of goods and services used in businesses conducted at the Harrisburg International Airport. We, and the businesses at the airport, shall make good faith efforts to explore all available options to achieve, to the maximum extent practicable, compliance with the goal through direct ownership arrangements, including joint ventures and franchises. The dollar value from purchases of goods and services from ACDBEs may be added to the numerator, and the dollar value from purchases of goods and services from all firms (ACDBEs and non-ACDBEs) may be added to the denominator.

**Management Contract or Subcontract**

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

**Step 1: 23.51(c)**

We determined the base figure for the relative availability of ACDBEs other than car rentals. Specifically, census data from the Pennsylvania statistical area was used to determine the availability of ACDBEs to provide service to the Authority. The base figure was calculated as follows:

Option 1:

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

The data source or demonstrable evidence used to derive the numerator was the Pennsylvania Unified Certification Program. The data source or demonstrable evidence used to derive the denominator was the U.S. Census bureau data for NAICS codes which might provide airport concession services.

Type of Service	NAICS Code	Census	UCP Database	% ACDBE Availability	Average Gross Receipts	% Gross Receipts
Clothing & Clothing accessories stores Retail & RMUs, Vending machine operators, Display advertising, Food services & drinking places, All other personal care services	448000, 446120, 446130, 448140, 448310, 448320, 453220 454210, 541850, 722000, 812199	1734	18	1.04%	\$5,098,068.67	1.04%
<b>Base Figure Availability</b>						<b>1.04%</b>

Applying the percentage of all Pennsylvania Unified Certification Program willing and able ACDBE's to total firms within the entire commonwealth and then applying the percentage of estimated gross receipts associated with each concession opportunity resulted in a base figure availability of 1.04% or \$53,019.91 of the projected gross receipts.

**Step 2: 23.51(d)**

After calculating a base figure of the relative availability of ACDBEs, we examined evidence to determine what adjustment was needed to the base figure in order to arrive at the overall goal. We chose not to adjust the base figure.



## PUBLIC PARTICIPATION

### Consultation: Section 23.43

Concession growth is limited at the Harrisburg International Airport. As new concession opportunities arise during this goal period, we will have the opportunity conduct stakeholder meetings for each concession opportunity during the goal setting process for the specific opportunity. We will invite the current concessionaires, ACDBEs listed in the PA UCP directory for the appropriate trades and members of the various organizations that could be expected to have information concerning the availability of disadvantaged businesses and the effects of discrimination on opportunities for ACDBEs

Regardless we have released an e-mail as detailed below to the organizations below to notify them of our program and goal to be set for the upcoming Federal Fiscal Years. These organizations are as follows:

Organization	Consultation / Remarks
American Civil Liberties Union (ACLU) of Pennsylvania Southcentral PA (Harrisburg) Chapter P.O. Box 11761 Harrisburg, PA 17108-1761 (717) 238-2258 <a href="mailto:hbginfo@aclupa.org">hbginfo@aclupa.org</a>	E-mail released October 3, 2018 – no response.
The Harrisburg Regional Chamber & CREDC Business Diversity Advisory Council 3211 North Front Street, Suite 201 Harrisburg, PA 17110-1342 Kara Luzik Canale, VP of Chamber Operations Main: (717) 213-5030 <a href="mailto:kara@hbgrc.org">kara@hbgrc.org</a> <a href="http://www.harrisburgregionalchamber.org/">http://www.harrisburgregionalchamber.org/</a>	E-mail released October 3, 2018 – no response.
NAACP <a href="http://pastatenaacp.org/g-h-i/">http://pastatenaacp.org/g-h-i/</a> <b>Harrisburg Branch Unit #2263</b> PO Box 2757 Harrisburg, PA 17105 President: Franklin E. Allen <a href="mailto:preachallenpreach@yahoo.com">preachallenpreach@yahoo.com</a> Secretary: Shirley Yates <a href="mailto:ryates1006@comcast.net">ryates1006@comcast.net</a> <a href="tel:717-710-3109">717-710-3109</a>  <b>Greater Gettysburg Area Unit #2384</b> P.O. BOX 4775 Gettysburg, PA 171325 717-359-0645 <a href="mailto:gettysburgnaacp2384@live.com">gettysburgnaacp2384@live.com</a> Sara Gondwe, President Dr. Bettye F. Baker, Vice President	E-mail released October 3, 2018 – no response.

Organization	Consultation / Remarks
<b>Eastern Minority Supplier Development Council</b> Rodin Place 2000 Hamilton Street Suite 308 Philadelphia, PA 19130 Main: (215) 569-1005 <a href="mailto:info@emsdc.org">info@emsdc.org</a> <a href="http://emsdc.org">http://emsdc.org</a>	E-mail released October 3, 2018 – no response.
<b>Pennsylvania Department of Transportation</b> Bureau of Equal Opportunity P.O. Box 3251 Harrisburg, PA 17105-3251 DBE / Title VI Division Direct: (717) 787-5891 <a href="mailto:penndoteoreports@pa.gov">penndoteoreports@pa.gov</a> <a href="https://www.penndot.gov/about-us/EqualEmployment/Pages/TitleVI.aspx">https://www.penndot.gov/about-us/EqualEmployment/Pages/TitleVI.aspx</a>	E-mail released October 3, 2018 – no response.

An e-mail was sent out on October 3, 2018 to these organizations and contacts identified to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the impacts, if any, of discrimination on opportunities for ACDBEs and SARAA's continuing efforts to establish a level playing field for the participation of ACDBEs. A copy of this e-mail follows.

*The Susquehanna Area Regional Airport Authority is in the process of establishing its Airport Concession DBE (ACDBE) goal participation for Federal Fiscal Year 2019 thru 2021 at the Harrisburg International Airport owned by our Authority. Anticipated ACDBE participation is required for recipients of grants for airport development anytime after January 1988 that were authorized under Title 49 of the United States Code per the current edition located at <http://www.ecfr.gov/>. Thus based upon concession activity at the Harrisburg International Airport an overall disadvantaged business goal of 1.04 percent was determined for airport concessions excluding car rentals.*

*Further, do you know of any other impediments which have or may impact minorities and/or women from effectively competing for airport concession business at the Harrisburg International Airport owned by the Susquehanna Area Regional Airport Authority?*

*We would appreciate your replying with any information you would be willing to offer. If you have any comments or questions, do not hesitate to contact Ronald Morris, PE, CM at (717) 971-1206 or [Ron.Morris@cdicorp.com](mailto:Ron.Morris@cdicorp.com) within two weeks of receipt of this e-mail/letter. The ACDBE Goal report will be available for review and comment for a period of 45 days at the offices of the Susquehanna Area Regional Airport Authority (SARAA) located at the Harrisburg International Airport. Any and all information provided will be incorporated into the Airport's ACDBE Goal report and submitted to the Federal Aviation Administration as required by federal regulations (49 CFR Part 23).*

***A teleconference has been scheduled for Tuesday, October 16, 2018 at 3 p.m. to provide a direct and interactive exchange of interested stakeholders to focus on obtaining information relevant to the goal setting process. To participate in the teleconference, please utilize the following call-in information:***

***Dial: 1-866-652-5088; Passcode: 8268983 press # key***

In conjunction with the Public Meeting/Teleconference, we have published on the SARAA website at [www.flyhia.com](http://www.flyhia.com), a notice of the proposed overall goal informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the office of the Executive Director for thirty (30) days following the date of the notice, and informing

the public that the Airport and DOT will accept comments on the goals for (45) days from the date of notice. Normally, we will issue this notice by June 1st of the reporting period.

**The Sponsor received comments from these individuals or organizations:**

*Initiated 45 day comment period and awaiting comments.*

**Summaries of these comments are as follows:**

*Initiated 45 day comment period and awaiting comments.*

**The Sponsor's response to these comments is as follows:**

*Initiated 45 day comment period and awaiting comments.*

Our overall goal submission to DOT will include a summary of information and comments received during this public participation process and our responses.

SARAA will begin using our overall goal on October 1<sup>st</sup> of the reporting period, unless we have received other instructions from DOT.

The Airport is unaware of any disparity studies relative to our market area. Nor have we identified any other evidence relating to discrimination specific to our market area. We are continuing to monitor and investigate information that is related to goal setting and barriers confronting ACDBE's.

All advertisements for Non-Car Rental Concessionaries will be listed on our website at: <http://flyhia.com/> and/or in a geographically appropriate local newspaper such as:

- Harrisburg Patriot-News (<http://www.pennlive.com/>)
- Chambersburg Public Opinion (<http://www.publicopiniononline.com/>)
- Gettysburg Times (<http://www.gettysburgtimes.com/>)
- York Daily Record (<http://www.ydr.com/>)

## **Section 23.51: Breakout of Estimated Race-Neutral & Race Conscious Participation**

SARAA will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating ACDBE participation. We use the following race-neutral measures to increase ACDBE participation. We understand that we will be expected to actually take these steps, and this is not merely a paper exercise.

1. Locating and identifying ACDBEs and other small businesses who may be interested in participating as concessionaires under 49 CFR Part 23. We entertain any and all requests for doing business at the Airport; and
2. Notifying ACDBEs of concession opportunities and encouraging them to compete, when appropriate.

We estimate that, in meeting our overall goal of 1.04%, we will obtain 100% from race-neutral participation and 0% through race-conscious measures.

We believe the race-neutral measures alone are sufficient to achieve our goal. In order to ensure that our ACDBE program will be narrowly tailored to overcome the effects of discrimination, if we use concession specific goals we will adjust the estimated breakout of race-neutral and race conscious participation as needed to reflect actual ACDBE participation (see 26.51(f)) and we will track and report race-neutral and race conscious participation separately. For reporting purposes, race-neutral ACDBE participation includes, but is not necessarily limited to, the following: ACDBE participation through a prime contract that an ACDBE obtains through customary competitive procurement procedures; ACDBE participation through a subcontract on a prime contract that does not carry ACDBE goal; ACDBE participation on a prime contract exceeding a concession specific goal; and ACDBE participation through a subcontract from a prime contractor that did not consider a firm's ACDBE status in making the award.

We will maintain data separately on ACDBE achievements in those contracts with and without concession specific goals, respectively. We will complete all required FAA Annual Accomplishment Reporting and maintain files to provide actual to forecasted ACDBE goal results.

# ATTACHMENT 5

## Section 23.45: Overall Goal Calculation for Car Rentals

**Name of Recipient:** Susquehanna Area Regional Airport Authority  
**Airport:** Harrisburg International Airport  
**Goal Period:** FFY 2019-2020-2021 – October 1, 2019 through September 30, 2021

**Overall Three-Year Goal:** 0%

### Goal Base and Calculation Detail:

SARAA's overall goal for car rentals during the period beginning October 1, 2019 and ending September 30, 2021 is the following: 0% of the total gross receipts of car rental operations at Harrisburg International Airport.

Lease agreement expiration vary given the various car rental agencies located at the Harrisburg International Airport. If a new car rental concession opportunity arises prior to the end of this goal period and the estimated average of annual gross revenues are anticipated to be \$200,000 or greater, SARAA will submit to the FAA an appropriate adjustment to the overall goal. This will be submitted to the FAA for approval no later than 90 days before issuing the solicitation for the new concession opportunity. (23.45(i)).

The Airport has determined that its market area for rental cars is the United States of America. The majority of rental car companies are all national companies that continue to grow.

### Methodology used to Calculate Overall Goal

Goods and Services

We can meet the percentage goal by including the purchase from ACDBEs of goods and services used in businesses conducted at the airport. The dollar value from purchases of goods and services from ACDBEs may be added to the numerator, and the dollar value from purchases of goods and services from all firms (ACDBEs and non-ACDBEs) may be added to the denominator.

#### Step 1: 23.51(c)

We determined the base figure for the relative availability of car rental ACDBEs. The base figure was calculated as follows:

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

The data source or demonstrable evidence used to derive the numerator was the Pennsylvania Unified Certification Program. This number was zero (0). Therefore, our numerator was 0. When we divided the numerator by the denominator we arrived at the base figure for our overall goal for car rental concessions of: 0 %

#### Step 2: 23.51(d)

We do not currently believe there should be an adjustment to the goal of 0%. There are no car rental companies listed in the PA UCP nor are there any companies listed as suppliers of goods and services to rental car companies. Prior to the expiration of the current contracts, the Airport will reevaluate the information to determine if an adjustment in the Step 1 base figure is warranted.

## PUBLIC PARTICIPATION

### Consultation: Section 23.43

Concession growth is limited at the Harrisburg International Airport. As new concession opportunities arise during this goal period, we will have the opportunity to conduct stakeholder meetings for each concession opportunity during the goal setting process.

Regardless we have released an e-mail as detailed below to the organizations below to notify them of our program and goal to be set for the upcoming Federal Fiscal Years. These organizations are as follows:

Organization	Consultation / Remarks
American Civil Liberties Union (ACLU) of Pennsylvania Southcentral PA (Harrisburg) Chapter P.O. Box 11761 Harrisburg, PA 17108-1761 (717) 238-2258 <a href="mailto:hbginfo@aclupa.org">hbginfo@aclupa.org</a>	E-mail released October 2018 – response pending.
The Harrisburg Regional Chamber & CREDC Business Diversity Advisory Council 3211 North Front Street, Suite 201 Harrisburg, PA 17110-1342 Kara Luzik Canale, VP of Chamber Operations Main: (717) 213-5030 <a href="mailto:kara@hbgrc.org">kara@hbgrc.org</a> <a href="http://www.harrisburgregionalchamber.org/">http://www.harrisburgregionalchamber.org/</a>	E-mail released October 2018 – response pending.
NAACP <a href="http://pastatenaacp.org/g-h-i/">http://pastatenaacp.org/g-h-i/</a> <b>Harrisburg Branch Unit #2263</b> PO Box 2757 Harrisburg, PA 17105 President: Franklin E. Allen <a href="mailto:preachallenpreach@yahoo.com">preachallenpreach@yahoo.com</a> Secretary: Shirley Yates <a href="mailto:ryates1006@comcast.net">ryates1006@comcast.net</a> <a href="tel:717-710-3109">717-710-3109</a>  <b>Greater Gettysburg Area Unit #2384</b> P.O. BOX 4775 Gettysburg, PA 17325 717-359-0645 <a href="mailto:gettysburgnaacp2384@live.com">gettysburgnaacp2384@live.com</a> Sara Gondwe, President Dr. Bettye F. Baker, Vice President	E-mail released October 2018 – response pending.          E-mail released October 2018 – response pending.

Organization	Consultation / Remarks
<b>Eastern Minority Supplier Development Council</b> Rodin Place 2000 Hamilton Street Suite 308 Philadelphia, PA 19130 Main: (215) 569-1005 <a href="mailto:info@emsdc.org">info@emsdc.org</a> <a href="http://emsdc.org">http://emsdc.org</a>	E-mail released October 2018 – response pending.
<b>Pennsylvania Department of Transportation</b> Bureau of Equal Opportunity P.O. Box 3251 Harrisburg, PA 17105-3251 DBE / Title VI Division Direct: (717) 787-5891 <a href="mailto:penndoteoreports@pa.gov">penndoteoreports@pa.gov</a> <a href="https://www.penndot.gov/about-us/EqualEmployment/Pages/TitleVI.aspx">https://www.penndot.gov/about-us/EqualEmployment/Pages/TitleVI.aspx</a>	E-mail released October 2018 – response pending.

An e-mail was sent out in October 2018 to these organizations and contacts identified to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the impacts, if any, of discrimination on opportunities for ACDBEs and SARAA's continuing efforts to establish a level playing field for the participation of ACDBEs. A copy of this e-mail follows.

*The Susquehanna Area Regional Airport Authority is in the process of establishing its Airport Concession DBE (ACDBE) goal participation for Federal Fiscal Year 2019 thru 2021 at the Harrisburg International Airport owned by our Authority. Anticipated ACDBE participation is required for recipients of grants for airport development anytime after January 1988 that were authorized under Title 49 of the United States Code per the current edition located at <http://www.ecfr.gov/>. Thus based upon concession activity at the Harrisburg International Airport an overall disadvantaged business goal of 0.00 percent was determined for airport concession car rentals.*

*Further, do you know of any other impediments which have or may impact minorities and/or women from effectively competing for airport concession business at the Harrisburg International Airport owned by the Susquehanna Area Regional Airport Authority?*

*We would appreciate your replying with any information you would be willing to offer. If you have any comments or questions, do not hesitate to contact Ronald Morris, PE, CM at (717) 971-1206 or [Ron.Morris@cdicorp.com](mailto:Ron.Morris@cdicorp.com) within two weeks of receipt of this e-mail/letter. The ACDBE Goal report will be available for review and comment for a period of 45 days at the offices of the Susquehanna Area Regional Airport Authority (SARAA) located at the Harrisburg International Airport. Any and all information provided will be incorporated into the Airport's ACDBE Goal report and submitted to the Federal Aviation Administration as required by federal regulations (49 CFR Part 23).*

***A teleconference has been scheduled for Tuesday, October 16, 2018 at 3 p.m. to provide a direct and interactive exchange of interested stakeholders to focus on obtaining information relevant to the goal setting process. To participate in the teleconference, please utilize the following call-in information:***

***Dial: 1-866-652-5088; Passcode: 8268983 press # key***

**The Sponsor received comments from these individuals or organizations:**

*Initiated 45 day comment period and awaiting comments.*

**Summaries of these comments are as follows:**

*Initiated 45 day comment period and awaiting comments.*

**The Sponsor's response to these comments is as follows:**

*Initiated 45 day comment period and awaiting comments.*

Our overall goal submission to DOT will include a summary of information and comments received during this public participation process and our responses.

SARAA will begin using our overall goal on October 1<sup>st</sup> of the reporting period, unless we have received other instructions from DOT.

The Airport is unaware of any disparity studies relative to our market area. Nor have we identified any other evidence relating to discrimination specific to our market area. We are continuing to monitor and investigate information that is related to goal setting and barriers confronting ACDBE's.

All advertisements for Car Rental Concessionaries will be listed on our website at: <http://flyhia.com/> and/or in a geographically appropriate local newspaper such as:

- Harrisburg Patriot-News (<http://www.pennlive.com/>)
- Chambersburg Public Opinion (<http://www.publicopiniononline.com/>)
- Gettysburg Times (<http://www.gettysburgtimes.com/>)
- York Daily Record (<http://www.ydr.com/>)



## Section 23.51 Breakout of Estimated Race-Neutral & Race Conscious Participation

SARAA will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating ACDBE participation. SARAA uses the following race-neutral measures.

We understand that we will be expected to actually take these steps, and this is not merely a paper exercise.

1. When practical, structuring concession activities so as to encourage and facilitate the participation of ACDBEs; and
2. Ensuring that competitors for concession opportunities are informed during pre-solicitation meetings about how the sponsor's ACDBE program will affect the procurement process.

We estimate that, in meeting our overall goal of 0.00%, we will obtain 0.00% from race-neutral participation and 0.00% through race-conscious measures.

In order to ensure that our ACDBE program will be narrowly tailored to overcome the effects of discrimination, if we use concession specific goals we will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual ACDBE participation (see 26.51(f)) and we will track and report race-neutral and race conscious participation separately. For reporting purposes, race-neutral ACDBE participation includes, but is not necessarily limited to, the following: ACDBE participation through a prime contract that an ACDBE obtains through customary competitive procurement procedures; ACDBE participation through a subcontract on a prime contract that does not carry an ACDBE goal; ACDBE participation on a prime contract exceeding a concession specific goal; and ACDBE participation through a subcontract from a prime contractor that did not consider a firm's ACDBE status in making the award.

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

## **ATTACHMENT 6**

### **Forms 1 & 2 for Demonstration of Good Faith Efforts**

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

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

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

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

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

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

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

**FORM 2: LETTER OF INTENT**

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

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

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

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

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

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

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

Description of work to be performed by ACDBE firm:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

**Affirmation**

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

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

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

(Submit this page for each ACDBE subcontractor.)

## **ATTACHMENT 7**

### **ACDBE Certification Application Form**

The Susquehanna Area Regional Airport Authority does not directly certify ACDBE Firms. SARAA obtains ACDBE information from the Pennsylvania UCP. Application forms for certification can be accessed at the following link: <http://www.paucp.com/>

## **ATTACHMENT 8**

### **Procedures for Removal of ACDBEs Eligibility**

The Susquehanna Area Regional Airport Authority does not directly certify or remove ACDBE Firms from eligibility. SARAA obtains ACDBE information from the Pennsylvania UCP. Procedures for removal of ACDBE Firms can be accessed at the following link: <http://www.paucp.com/>

## **ATTACHMENT 9**

### **State's UCP Agreement**

All U.S. DOT recipients who receive funds from the FAA, FHWA, and FTA and whose annual estimated average of annual gross concession revenues are anticipated to be \$200,000 or greater must comply with the 49 CFR Part 23 requirements. Based on funding, entities may or may not participate from year to year. The PA UCP Agreement outlines how Pennsylvania's UCP will operate and function. A copy of the UCP Agreement may be obtained by contacting Myneca Ojo, Director, PA Turnpike, Office of Diversity and Inclusion, 717-939-9551 or [mojo@paturnpike.com](mailto:mojo@paturnpike.com)

## **ATTACHMENT 10**

### **Regulations: 49 CFR Part 23**

The link to 49 CFR Part 23 is as follows:

<http://www.gpo.gov/fdsys/pkg/CFR-2011-title49-vol1/pdf/CFR-2011-title49-vol1-part23.pdf>