

Port of Portland Airport Concessions Disadvantaged Business Enterprise Program

Airport Concessions Disadvantaged Business Enterprise Program
Under 49 CFR Part 23
FY 2015-2017

2015 Update (Restatement)
Portland International Airport

Issued October 2014

ATTACHMENTS

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POLICY STATEMENT

49 CFR Part 23

Section 23.1, 23.23

Objectives/Policy Statement

The Port of Portland (Port) has established an Airport Concession Disadvantaged Business Enterprise (ACDBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 23. The Port is a primary airport and has received federal funds authorized for airport development after January 1988 (authorized under Title 49 of the United States Code). The Port has received federal grants and as such, some airport properties are subject to airport grant assurances that it will comply with 49 CFR Part 23.

It is the policy of the Port to ensure that ACDBEs as defined in CFR 49 Part 23, have an equal opportunity to receive and participate in concession opportunities. It is also the Port's policy:

1. to ensure nondiscrimination in the award and administration of opportunities for concessions by airports receiving DOT financial assistance;
2. to create a level playing field on which ACDBEs can compete fairly for opportunities for concessions;
3. to ensure that its ACDBE program is narrowly tailored in accordance with applicable law;
4. to ensure that only firms that fully meet 49 CFR Part 23 eligibility standards are permitted to participate as ACDBEs at its airport(s);
5. to help remove barriers to the participation of ACDBEs in opportunities for concessions at its airport(s); and
6. to provide appropriate flexibility to its airports in establishing and providing opportunities for ACDBEs.

Kimberly Mitchell-Phillips, DBE Program Manager has been designated as the ACDBE Liaison Officer (ACDBELO). In that capacity, the ACDBE Program Manager is responsible for implementing all aspects of the ACDBE program. Implementation of the ACDBE program is accorded the same priority as compliance with all other legal obligations incurred by the Port in its financial assistance agreements with the DOT.

Upon approval of the Port's restatement of its ACDBE Program the Port will; (i) disseminate this policy statement to the Port's Board of Commissioners and to employees in all components of the Port; (ii) distribute this policy statement to ACDBE and non-ACDBE concessionaire communities in its area; and (iii) send copies of this 2014 ACDBE Program to small business advocacy groups by e-mail, US mail, or direction to the program online at the following link: http://www.portofportland.com/sros_sb_home.aspx

Bill Wyatt – Executive Director

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 and Section 26.5 Definitions

The Port will use terms in this Program that have the meaning defined in Section 23.3 and Section 26.5 where applicable.

Section 23.5 Applicability

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

Section 23.9 Non-Discrimination Requirements

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

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

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

The Port 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 causes those businesses to similarly include the statements in further agreements."

Section 23.11 Compliance and Enforcement

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

The Port 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 USC 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 DOT policies and procedures for non-procurement suspension and debarment.

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

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

1. for a firm that does not meet the eligibility criteria of Subpart D 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 Part 180 and 2 CFR Part 1200.
2. for a firm that, in order to meet ACDBE goals or other ACDBE 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, DOT or FAA may initiate suspension or debarment proceedings against the firm under 2 CFR Part 180 and 2 CFR Part 1200.
3. 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.
4. DOT may refer to the Department of Justice, for prosecution under 18 USC 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of an ACDBE in the Port's ACDBE program or otherwise violates applicable Federal statutes.

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

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

SUBPART B – ACDBE PROGRAMS

Section 23.21 ACDBE Program Updates

The Port owns and operates the Portland International Airport (PDX) which is a medium hub primary airport required to have an ACDBE program.

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

Until the Port's new ACDBE program is submitted and approved, it will continue to implement its 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 PDX as required by Section 23.21 (c). The established ACDBE goal for PDX has been submitted as Attachment 4 and Attachment 5.

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

Section 23.23 Administrative Provisions

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

The Port's Policy Statement is elaborated on the first page of this Program.

ACDBE Liaison Officer (ACDBELO): The Port has designated the following individual as our ACDBELO:

Kimberly Mitchell-Phillips
Small Business Development Manager
7200 NE Airport Way
Portland, OR 97218
Phone 503-415-6587
Kimberly.Mitchell-Phillips@portofportland.com

In that capacity, the ACDBELO is responsible for implementing all aspects of the ACDBE program and ensuring that the Port complies with all provisions of 49 CFR Part 23. The ACDBELO has direct, independent access to the Bill Wyatt, Executive Director, concerning ACDBE program matters. An organizational chart displaying the ACDBELO's position in the organization is found in Attachment 2.

The ACDBELO is responsible for developing, implementing and monitoring the ACDBE program, in coordination with other Port managers and officials. The ACDBELO does not

have additional staff to assist in the administration of the program. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by the FAA or DOT.
2. Works with all departments to set overall annual goals.
3. Ensures that bid notices and requests for proposals are available to ACDBEs in a timely manner.
4. Identifies contracts and procurements so that ACDBE goals are included in solicitations (both race-neutral methods and contract specific goals)
5. Analyzes the Port's progress toward attainment and identifies ways to improve progress.
6. Participates in pre-bid and informational outreach meetings.
7. Advises the Executive Director on ACDBE matters and achievement.
8. 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).
9. Acts as liaison to the Unified Certification Program (UCP) in Oregon.
10. Provides outreach to ACDBEs and community organizations to advise them of opportunities.

Directory: The Port through the Oregon UCP, maintains a directory identifying all firms eligible to participate as ACDBEs (Directory). 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 the Directory lists each type of work for which a firm is eligible to be certified by using the most specific North American Industry Classification System (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 updates the Directory daily. The Directory is available online at:

www.oregon4biz.com/certification

The Directory may be found in Attachment 2. (26.31).

Section 23.25 Ensuring Nondiscriminatory Participation of ACDBEs

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

The Port does not exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 23 on the basis of race, color, sex, or national origin.

In administering its ACDBE program, the Port 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 DBE program with respect to individuals of a particular race, color, sex, or national origin.

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

The Port'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. The goals are set consistent with the requirements of Subpart D. (23.25(b), (d))

If the Port 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), Attachment 4 and Attachment 5. (23.25(e))

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

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

Section 23.27 Reporting

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

Beginning March 1, 2006, the Port will submit to the FAA Regional Civil Rights Office, an annual ACDBE participation report on the form in Appendix A of Part 23. The Port will submit the report to the FAA Regional Civil Rights Office via hard copy of the form or electronically via the DBE Connect reporting system.

Section 23.29 Compliance and Enforcement Procedures

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

1. The Port will bring to the attention of the DOT any false, fraudulent, or dishonest conduct in connection with the program, so that the DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.
2. The Port will also consider action under its own legal authority, including determinations for future contracts.
3. The Port may adopt in its concession procurement process a right to disqualify a business under the same process set forth in ORS 279B.130 based upon a violation of a contract provision that is regarded by the Port to be serious as to justify disqualification, provided such violation was not caused by acts beyond the business's control.

SUBPART C – CERTIFICATION AND ELIGIBILITY

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

The Port is a member of a Unified Certification Program (UCP) administered by the State of Oregon's Office of Minority Women and Emerging Small Business. The UCP will meet all of the requirements of this Section and make ACDBE certification decisions on behalf of the Port. The UCP is authorized to certify firms as defined in the State of Oregon UCP.

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

Prior to entering into a new contract, extension, or option with a currently certified ACDBE, the Port 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 Port's schedule for this review process will be: All DBE and ACDBE certified firms are reviewed every three years on the date of their original certification.

The Port will treat a firm as 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 it is 1500 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.

The Port 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 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 Port 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 Port will ensure that the disadvantaged owners of a DBE certified under Part 26 are able to control the firm with respect to its activity in the Port's concessions program. The Port is not obligated to certify a Part 26 DBE as an ACDBE if the firm does not perform work relevant to the Port's concessions program. (23.37).

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

The Port 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 Port 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 Port will use 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, the Port may continue to count the concessionaire's participation toward ACDBE goals during the remainder of the current concession agreement. The Port 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 Port 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

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

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

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

Section 23.43 Consultation in Goal Setting

The Port consults with stakeholders before submitting the overall goals to the FAA. Stakeholders will include, but not be limited to, minority and women's business groups, community organizations, trade associations representing concessionaires currently located at the airport, as well as existing concessionaires themselves, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged businesses, the effects of discrimination on opportunities for ACDBEs, and the sponsors efforts to increase participation of ACDBEs.

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

Section 23.45 Overall Goals

The sponsor, the Port, owns and operates PDX, a Medium Hub Primary Airport. As a condition of eligibility for FAA financial assistance, the Port and the sponsor 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	10/01/11	2012/2013/2014	10/01/14 (2015/2016/2017)

Primary Airport Size	Region	Date Due	Period [Covered	Next Goal Due
Small Hubs	All regions	10/01/12	2013/2014/2015	10/01/15 (2016/2017/2018)
Non-Hubs	All regions	10/01/13	2014/2015/2016	10/01/16 (2017/2018/2019)

If a new concession opportunity arises at a time that falls between the normal submission dates above and the estimated average of annual gross revenues are anticipated to be \$200,000 or greater, the Port 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)

The Port 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 the sponsor's jurisdiction to determine if an adjustment to the Step 1 "base figure" is necessary so that the goal reflects as accurately as possible the ACDBE participation the sponsor would expect in the absence of discrimination. Evidence may include, but is not limited to past participation by ACDBEs, a disparity study, evidence from related fields that affect ACDBE opportunities to form, grow, and compete (such as statistical disparities in ability to get required financing, bonding, insurance; or data on employment, self-employment, education, training and union apprenticeship)

The Port 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 Section 26.39.

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.

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.

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 Attachment 4 and Attachment 5. This Section will be reviewed annually when the goal calculation is reviewed under 23.41(c).

**Concession Specific Goals (Also include this language in the DBE goal attachment)
(23.25 (c)(e)(1)(iv))**

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

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

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

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

If the concession specific goal applies to purchases and/or leases of goods and services, the Port 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 26. The procedures applicable to 49 CFR Section 26.51 and 49 CFR Part 26.53, regarding contract goals apply to the Port's concession specific goals. Specifically, Demonstration of good faith efforts (26.53(a) & (c))

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

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))

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

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

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

The Port's nonexclusive list of good faith actions is in substantial accordance with ORS 200.045. Evidence of such good faith actions or other factors and efforts (as may be appropriate) will be considered by the Port in deciding whether a bidder made good faith efforts to meet the ACDBE goal. What actions and evidence of actions are adequate to demonstrate good faith efforts will be determined by the Port at its sole discretion on a case-by-case basis.

Administrative reconsideration (26.53(d))

Within 5 business days of being informed by the Port that it has not met the goal and is considered 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:

Craig Johnsen,
7200 NE Airport Way,
Portland, OR 97218,
Phone 503-415-6354
Craig.Johnsen@portofportland.com

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

As part of this reconsideration, the concessionaire will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The concessionaire will have the opportunity to meet in person with 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 U.S. Department of Transportation.

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

The Port 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.

The following is a list of types of actions which the Port will consider as part of the contractor's good faith efforts to obtain ACDBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

1. Verification in writing to the ACDBELO from the concessionaire to terminate or replace an ACDBE originally identified for participation in the bid or proposal upon which the contract was awarded. The reason for the termination or replacement must be stated and the type of work or services must be identified.
2. Verification that the concessionaire used the most current UCP Directory from the State of Oregon's Office of Minority Women and Emerging Small Business UCP website in an effort to contact ACDBE's that are certified in the applicable area of work or supply at the time of the good faith effort.
3. Verification of efforts to contact appropriate ACDBE's within the same identified scope of work or supplier area must be documented.
4. Documentation of the modified good faith effort must be submitted to the ACDBELO prior to replacing an ACDBE with a non-ACDBE firm.

Sample Proposal/Bid Specification:

The requirements of 49 CFR Part 23, regulations of the U.S. Department of Transportation, applies to this concession. It is the policy of the Port 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 10 percent of (*annual gross receipts; value of leases and/or purchases of goods and services*) has been established for this concession. The concession firm shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 Attachment 6, to meet the concession specific goal for ACDBE participation in the performance of this concession.

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

Section 23.53 Counting ACDBE Participation for Car Rental Goals

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

Section 23.55 Counting ACDBE Participation for Concessions Other than Car Rentals

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

Section 23.57 (b) If the awards and commitments on the Port's 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, the Port will:

1. Analyze in detail the reasons for the difference between the overall goal and its awards and commitments in that fiscal year;

2. Establish specific steps and milestones to correct the problems the Port has identified in its analysis to enable the Port to fully meet its goal for the new fiscal year;
3. PDX is currently not designated as a "CORE 30" airport by the FAA. If PDX becomes a "CORE 30" or other airport as designated by the FAA: The Port will submit within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraphs (b)(1) and (2) of this Section to the FAA for approval. If the FAA approves the report, the Port will be regarded as complying with the requirements of this Section for the remainder of the fiscal year. (b)(3)(i) of this Section, we will retain analysis and corrective actions in the Port's records for three years and make it available to the FAA, on request, for its review.
4. The Port understands the FAA may impose conditions as part of its approval of the Port's analysis and corrective actions including, but not limited to, modifications to the Port's overall goal methodology, changes in the Port's race-conscious/race-neutral split, or the introduction of additional race-neutral or race-conscious measures.
5. The Port understands it may be regarded as being in noncompliance with this part, and therefore subject to the remedies in Section 23.11 and other applicable regulations, for failing to implement the Port's ACDBE program in good faith if any of the following things occur:
 - (a) The Port does not submit its analysis and corrective actions to FAA in a timely manner as required under paragraph (b)(3) of this Section;
 - (b) FAA disapproves the Port's analysis or corrective actions; or
 - (c) The Port does not fully implement:
 - (i) The corrective actions to which we have committed, or
 - (ii) Conditions that FAA has imposed following review of the Port's analysis and corrective actions.
 - (iii) 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 the Port's overall goal at the end of the fiscal year, FAA may require the Port to make further good faith efforts, such as modifying its 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

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

SUBPART E – OTHER PROVISIONS

Section 23.71 Existing Agreements

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

Section 23.73 Privately-Owned or Leased Terminal Buildings

The Port does not have any terminal buildings that are privately-owned or leased.

Section 23.75 Long-Term Exclusive Agreements

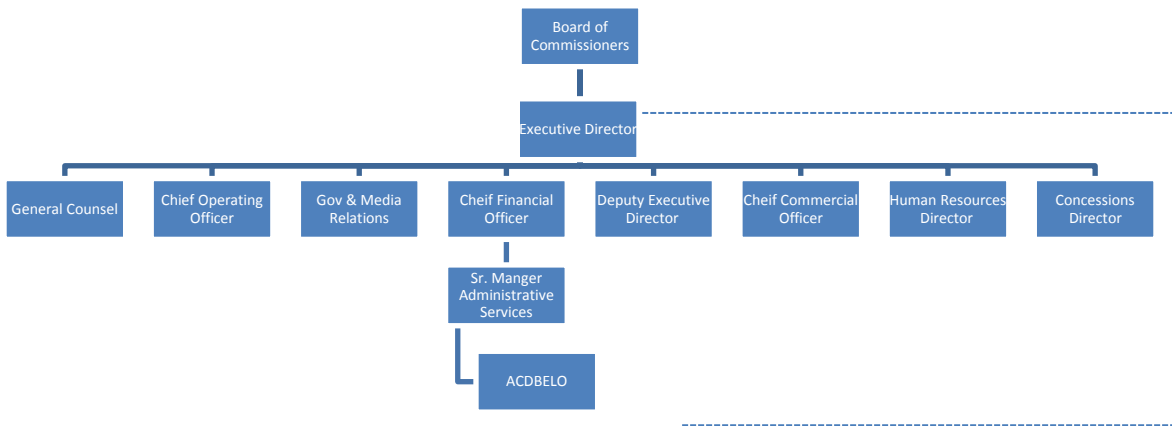
The Port will not enter into a long-term exclusive agreement for concessions without prior approval of the FAA Regional Civil Rights Office. The Port understands that a "long-term" agreement is one having a term of longer than 5 years. The Port understands that an "exclusive" agreement is one in which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

Section 23.79 Geographic Preferences

The Port will not use a "local geographic preference", i.e., any requirement that gives an ACDBE located in one place (Portland-Metro area) an advantage over ACDBEs from other places in obtaining business as, or with, a concession at your airport.

Attachment 1

Organizational Chart



Attachment 2

**Oregon State Office of Minority Women and Emerging Small Business
DBE Directory**

The Directory is updated nightly and can be located at the following website:

www.oregon4biz.com/certification

Attachment 3

Sample Monitoring and Enforcement Mechanisms

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

1. Breach of contract action, pursuant to the terms of the contract;
2. Breach of contract action, pursuant to all applicable state laws; and
3. All other available legal remedies.

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.

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

1. The Port will insert the following substantive like provisions into concessions agreements and management contracts:

The Concessionaire shall comply with the requirements of 49 CFR Part 23 and 26 and as amended, guidance issued by the Federal Aviation Administration (FAA) regarding the interpretation of the regulations including but not limited to the Joint Venture Guidance in the administration of this Lease.

If Concessionaire proposes to terminate, substitute or modify the participation of an ACDBE Joint Venture partner, team member, subcontractor or sub-concessionaire in the Lease prior or after Lease award, prior to such change the Concessionaire shall immediately submit for review and prior approval to the Ports ACDBE Liaison Officer reasonable documentation regarding the proposed change in the ACDBE participation. Concessionaire shall include the specific reasons for the change in ACDBE participation and must produce any and all documents and information regarding the proposed change.

Lessee shall make a good faith effort as defined in 49 C.F.R. Part 26 to replace an ACDBE subject to the changes outlined above that has failed to complete its concession arrangement, joint venture commitment, lease, or subcontracting arrangement with a certified ACDBE, to the extent needed to meet the concession goal.

Concessionaire shall also comply with this provision regarding any proposed change in ACDBE participation arising from or relating to any assignment, sublease, or transfer of the obligations under this Lease.

Concessionaire shall timely submit reports and verifications requested by the Port and shall provide such financial information or other information deemed necessary by it to support and document the ACDBE commitment for this Lease. The Port shall have the right until six (6) years after the expiration or termination of this Lease, through its representatives, and at all reasonable time, to review books, records and financial information of the Lessee (and where applicable, all individuals, joint venture partners or team members or other business entities that are a party or engaged in concession activity under this Lease) requested by representatives of the Port to substantiate compliance with 49 C.F.R. Parts 23 and 26 as amended, and any guidance issued by FAA regarding the interpretation of the federal regulations.

The ACDBE participation percentage commitment made by Concessionaire at the time of award is deemed to be contractual in nature. ACDBE Utilization reporting forms or other forms of reporting deemed necessary by the Port shall be submitted to the Port's ACDBELO.

2. The Port will implement the following additional monitoring and compliance procedures:
 - a. Concession revenue reports are reviewed on a monthly basis as a means of monitoring sales trends among ACDBE participants.
 - b. An annual verification of ACDBE certification status with the UCP for Oregon will be conducted for direct leases ACDBE's, and Joint Venture agreements.
 - c. ACDBE Uniform reports will be submitted annually
 - d. Progress as compared to goals will be monitored monthly
 - e. Concession meetings will be held monthly by Port concession staff.
 - f. Joint Venture reviews will be conducted annually
 - g. Site visits and monitoring will be conducted on a regular base (at least monthly).

Attachment 4

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

Name of Recipient: Port of Portland

Airport: Portland International Airport

Goal Period: FY 2015, 2016, 2017

Overall Three-Year Goal: *12.9%, to be accomplished through 7.5% RC and 5.4% RN*

Market Area for Non-Car Rental Concessionaires

The Port has determined that its market area are businesses and concessionaires that register as potential vendors, suppliers or concessionaires on the Port's vendor registration located on the Port's website. The Port requires businesses interested in competing for Port business opportunities to register on the Port's Planet Bids vendor registration website as an indication that the businesses are ready, willing and able to compete for Port business opportunities. Once registered, the businesses are identifiable in an online data base.

Base of Goal

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

Table 1:
Gross Receipts for Previous 3 Years - Non-Car Rental Concessions

Fiscal Year	Concessions Revenue (Excluding Car Rental)
2011	\$80,990,664.00
2012	\$87,610,591.00
2013	\$95,872,955.00
Total	\$264,474,210.00
Average	\$88,158,070.00
5.13%	3 year Estimated Growth
Base Goal	\$92,679,482.03

The Port estimates that revenues to existing concessions will grow by 5% over the next three years due to inflation, increased passenger activity.

The concession opportunities anticipated during this goal period are:

Table 2: Concession Opportunities FY 15-17

Category	Type	Number	Est. Gross Receipts
Food and Beverage	Coffee	10	\$33,153,216.15
Food and Beverage	Restaurant & Bar	9	\$18,230,633.93
News & Gifts	Retail	12	\$21,308,807.39
Food & Beverage	Food Carts	36	\$9,000,000.00
Services	Spa	1	\$103,152.08
Specialty	Advertising	1	\$1,033,090.20
Specialty	Banking Services	1	\$212,283.00
	Total		\$83,041,182.76

With estimated gross receipts of \$83,084,182.76

The following are not included in the total gross receipts for concessions: (a) the gross receipts of car rental operations, (b) the dollar amount of a management contract or subcontract with a non-ACDBE, (c) the gross receipts of business activities to which a management contract or subcontract with a non-ACDBE pertains, and (d) any portion of a firm's estimated gross receipts that will not be generated from a concession.

If a new concession opportunity arises prior to the end of this goal period and the estimated average of annual gross revenues are anticipated to be \$200,000 or greater, the Port will submit to the FAA an appropriate adjustment to the overall goal. This will be submitted to 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

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

Management Contract or Subcontract

The Port may meet the percentage goal by including any business operated through a management contract or subcontract with an ACDBE. The Port, 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 the we understand this appears to go against the normal rationale for goal-setting, this method is required by goal setting guidelines set forth in CFR 49 Part 23.47.*

Step 1: 23.51(c)

The Port determined the base figure for the relative availability of ACDBEs other than car rentals. The base figure was calculated as follows:

Numerator: Ready, willing, and able non-car rental ACDBEs in the market area
_____divided by_____

Denominator: All ready, willing and able non-car rental concession firms in the market area

Table: 3

Determination of Relative Availability of ACDBEs (Non-Car Rental)

Concession Activity	NAICS codes	ACDBE Firms	All Firms	Relative Availability
Advertising	541850	3	46	6.52%
Food & Beverage	722310, 722330	15	239	6.28%
Passenger Services (Spa)	812199	1	3	33.33%
News & Gifts	451212, 453220, 452990	11	104	10.58%
Banking Services	522110, 522120	0	4	0.00%
		30	396	
Step One Base Figure =				7.58%

The data source or demonstrable evidence used to derive the numerator was:

The ACDBE certified firms listed online with the state certification office; the Office of Minority, Women and Emerging Small Business; a link to their online directory can be located in attachment 2.

A list of the NAICS Codes used in determining the availability of ACDBE firms can be located in table 3 of the goal methodology.

The data source or demonstrable evidence used to derive the **denominator** was:

The Ports vendor registration database, Planet Bids. The database was used to indicate which registered vendors indicated “Concessions Opportunities” as one of their business functions.

The numerator was divided by the denominator to attain the Step 1 base figure for the Port’s overall goal for non-car rental concessions of: 7.58%

Step 2: 23.51(d)

After calculating a base figure of the relative availability of ACDBEs, the Port examined evidence to determine what adjustment was needed to the Step 1 base figure in order to arrive at the overall goal.

In order to reflect as accurately as possible the ACDBE participation the Port would expect in the absence of discrimination, the Port has adjusted its base figure by 5.32%. The Port’s overall goal for non-car rental concessions is 12.9%

The data used to determine the adjustment to the base figure was:

Past History Participation

Data used to determine the adjustment to the base figure was the median of historical ACDBE accomplishments

FY	ACDBE Goals			Accomplishments		
	RC	RN	Total	RC	RN	Total
9	3.40%	8.30%	11.70%	3.40%	12.43%	15.59%
10	0.00%	13.00%	13.00%	0.00%	12.00%	12.05%
11	0.00%	13.00%	13.00%	0.00%	21.86%	21.86%
12	0.00%	23.50%	23.50%	0.00%	18.18%	18.18%
13	0.00%	23.50%	23.50%	0.00%	20.11%	20.11%

Arranging this historical data from low to high, (12.05%, 15.59%, 18.18%, 20.11%, 21.86%) the median is 18.18%.

To arrive at an overall goal, the Step 1 base figure of 7.58% was added to the Step 2 adjustment figure of 18.18% and then averaged the total arriving at an overall goal of 12.9%. The Port believes this adjusted goal figure will accurately reflect ACDBE non-car rental concession participation that can be achieved during this 3-year period.

PUBLIC PARTICIPATION

Consultation: Section 23.43.

To solicit consultation regarding the Port's ACDBE program, the goal has been posted on the Port's website http://www.portofportland.com/SROS_SB_Home.aspx. Interested parties are invited to comment regarding ACDBE availability, effects of discrimination on ACDBE opportunities, and the Port's efforts to solicit ACDBE participation.

In addition, the ACDBE Program and goal methodology was disseminated to the following organizations:

- Metropolitan Hispanic Chamber of Commerce
- Philippine American Chamber of Commerce
- African American Chamber of Commerce
- Oregon Association of Minority Entrepreneurs
- Oregon Governor's Office of Economic and Business Equity
- Astra Women's Business Alliance
- Portland Business Alliance
- Native American Chamber of Commerce Oregon
- Asian Pacific American Chamber of Commerce

No comments have been received.

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

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

The Port understands that it will be expected to actually take these steps, and this is not merely a paper exercise.

1. Locating and identifying ACDBEs and other small businesses who may be interested in participating as concessionaires under 49 CFR Part 23;
2. Notifying ACDBEs of concession opportunities and encouraging them to compete, when appropriate;
3. When practical, structuring concession activities so as to encourage and facilitate the participation of ACDBEs;
4. Providing technical assistance to ACDBEs in overcoming limitations, such as inability to obtain bonding or financing;
5. Ensuring that competitors for concession opportunities are informed during pre-solicitation meetings about how the sponsor's ACDBE program will affect the procurement process;
6. Providing information concerning the availability of ACDBE firms to competitors to assist them in obtaining ACDBE participation; and
7. Establishing a business development program (see 49 CFR Part 26.35); technical assistance program or taking other steps to foster ACDBE participation in concessions.

Past participation indicated solicitations without race-conscious goals had zero ACDBE participation in goods and services or management contracts indicating race-conscious efforts are still needed to increase ACDBE participation in these areas. For this reason the Port has set the RC/RN breakout as follows:

The Port estimates that, in meeting its overall goal of 12.9%, it will obtain 5.4% from race-neutral participation and 7.5% through race-conscious measures.

The following is a summary of the basis of

If the Port projects that race-neutral measures, standing alone, are not sufficient to meet an overall goal, the Port will use the following race-conscious measures to meet the overall goal:

1. Establish concession-specific goals for particular concession opportunities.
2. Negotiate with potential concessionaires to include ACDBE participation through direct ownership arrangements or measures, in the operation of the concession.

3. Negotiate with potential concessionaires to meet goals using ACDBE certified goods and service providers in their concession business.

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

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

Attachment 5

Section 23.45: Overall Goal Calculation for Car Rentals

Name of Recipient: Port of Portland

Goal Period: FY 2015-2016-2017

Overall Three-Year Goal: 1.3% to be accomplished through 0% RC and 1.3% RN

The Port has determined that its market area is the State of Oregon

Base of Car Rental Goal

To calculate the base of the goal Port considered the previous 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 (Revenue) for Previous 3 Years - Car Rental Concessions	
Federal Fiscal Year	Car Rental Gross Receipts
2011	\$102,348,537.62
2012	\$144,122,713.00
2013	\$177,229,639.00
Total	\$423,700,889.62
Average	\$141,233,629.87

The Port does not anticipate any major changes that would increase or decrease concession revenues over next three years. Therefore, the recipient's base of goal is the average car rental revenue of \$141,233,629.87.

The car rental concession opportunities anticipated during this goal period are:

Good and Services such as Insurance, Automobiles, Automobile Repairs, with estimated gross receipts of \$187,692,059.00

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, the Port will submit to the FAA an appropriate adjustment to the overall goal. This will be submitted to 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 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 Step 1 base figure for the relative availability of ACDBEs for car rentals. The base figure was calculated as follows:

We looked at past participation for goods and service purchases used in business conducted at the airport for car rentals and used the average ACDBE participation for FY 11-13 as the numerator. We then looked at car rental goods and services opportunities for 2015-2017 and used that number as the denominator.

Federal Fiscal Year	Amount spent on Goods & Services	Amount spent on ACDBE Goods & Services Providers
2011	\$56,147,181.00	\$1,155,554.00
2012	\$78,276,407.00	\$1,206,538.00
2013	\$53,268,471.00	\$1,308,992.00
Total	\$187,692,059.00	\$3,671,084.00
	All Goods & Services Purchases	\$187,692,059.00
	ACDBE Goods and Services Purchases	\$3,671,084.00
	Base Goal (All divided by ACDBE)	1.96%

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 Step 1 base figure in order to arrive at the overall goal.

In order to reflect as accurately as possible the ACDBE participation we would expect in the absence of discrimination we have adjusted our base figure by 0.76%. Our overall goal for non-car rental concessions is 2.72%

The data used to determine the adjustment to the base figure was:

Past History Participation

Data used to determine the adjustment to the base figure was the median of historical Car Rental ACDBE accomplishments

FY	Car Rental ACDBE Goals			Accomplishments		
	RC	RN	Total	RC	RN	Total
11	0.00%	15.00%	15.00%	0.00%	2.06%	2.06%
12	0.00%	2.00%	2.00%	0.00%	0.5%	0.5%
13	0.00%	2.00%	2.00%	0.00%	0.6%	0.6%

Arranging this historical data from low to high (0.5%, 0.6%, 2.06%) the median is 0.6%

To arrive at an overall goal, we added our Step 1 base figure of 1.96% with our Step 2 adjustment figure of 0.6% and then averaged the total arriving at an overall goal of 1.3%. We feel this adjusted goal figure will accurately reflect ACDBE car rental concession participation that can be achieved during this 3-year period.

PUBLIC PARTICIPATION

Consultation: Section 23.43.

To solicit consultation regarding our Car Rental ACDBE program, the goal has been posted on the Port's website http://www.portofportland.com/SROS_SB_Home.aspx. Interested parties are invited to comment and regarding ACDBE availability, effects of discrimination on ACDBE opportunities, and the Port's efforts to solicit ACDBE participation.

In addition, the ACDBE Program and goal methodology was disseminated to the following organizations:

- Metropolitan Hispanic Chamber of Commerce
- Philippine American Chamber of Commerce
- African American Chamber of Commerce
- Oregon Association of Minority Entrepreneurs
- Oregon Governor's Office of Economic and Business Equity
- Astra Women's Business Alliance
- Portland Business Alliance
- Native American Chamber of Commerce Oregon
- Asian Pacific American Chamber of Commerce

No comments have been received.

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

The Port will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating ACDBE participation. The Port 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. Locating and identifying ACDBEs and other small businesses who may be interested in participating as goods and service providers under 49 CFR Part 23;
2. Identifying current small business goods and service providers and notifying them of ACDBE opportunities and encouraging ACDBE certification as appropriate.
3. Notifying ACDBEs of car rental concession opportunities and encouraging them to compete, when appropriate;
4. Ensuring that competitors for concession opportunities are informed during pre-solicitation meetings about how the Port's ACDBE car rental program will affect the procurement process;
5. Providing information concerning the availability of ACDBE firms to car rental concessionaires at the port to assist them in obtaining ACDBE participation.
6. Establish a business development program (see 49 CFR Part 26.35); technical assistance program to foster ACDBE participation in concessions.

We estimate that, in meeting our overall goal of 1.3% we will obtain 1.3% from race-neutral participation and 0% through race-conscious measures.

The following is a summary of the basis of our estimated breakout of race-neutral and race-conscious ACDBE participation:

1. A small number of ACDBE firms who provide goods and/or services are available in our area making it difficult to set race-conscious goals on car-rental contracts.
2. Past ACDBE participation for car rentals have been achieved through race neutral measures.

Attachment 6

Forms 1 & 2 for Demonstration of Good Faith Efforts

**AIRPORT CONCESSIONS DISADVANTAGED BUSINESS ENTERPRISE (ACDBE)
COMMITMENT FORM**

(This form is required as part of your proposal submission)

The ACDBE goal for this concession package is _____%

Note: The Port will only credit ACDBE participation that is certified by the State of Oregon's Office of Minority, Women and Emerging Small Business at the time of proposal submission.

The undersigned concessionaire/vendor has satisfied the requirements of the proposal specifications in the following manner (Please check the appropriate space):

_____ The concessionaire is committed to meeting or exceeding the ACDBE goal, with a minimum of _____% of ACDBE utilization on this concessions package.

_____ The concessionaire is unable to meet the ACDBE goal and is committed to a minimum of _____% ACDBE utilization on this concessions package and submits documentation demonstrating good faith efforts.

_____ The concessionaire is unable to meet the ACDBE goal and submits documentation demonstrating good faith efforts.

Name of concessionaire firm:

(Signature)

Title



ACDBE LETTER OF INTENT

NOTE: Submit this form for each ACDBE subcontractor

Name of Concession/vendor firm _____

Address: _____

City: _____ State: _____ Zip _____

Telephone: _____ E-mail address _____

Name of ACDBE Firm: _____

Address: _____

City: _____ State: _____ Zip _____

Telephone: _____ E-mail address _____

Description of Goods and Services or work to be performed by ACDBE firm:

The Concessionaire is committed to utilizing the above named ACDBE for the goods and services or work described above. The estimated dollar value and percentage of this work is

\$ _____ . _____ %

NOTE: The ACDBE goal is expressed as a percentage of the total gross dollar value of the proposed concession awarded to ACDBE

AFFIRMATION:

I hereby affirm that the above information is true and complete to the best of my knowledge. I further understand and agree that, this document shall be attached thereto and become a binding part of the concession contract. I further attest that 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)

Attachment 7

ACDBE Certification Application Form

www.oregon4biz.com/certification

Attachment 8

Procedures for Removal of ACDBEs Eligibility

The Port is a member of the Oregon Unified Certification Program (UCP) administered by the Office of Minority, Women and Emerging Small Business. The UCP meets the requirements of this section. The UCP is available in Attachment 9.

ATTACHMENT 9

State's UCP Agreement

http://www.portofportland.com/sros_sb_home.aspx

Attachment 10

Regulations: 49 CFR Part 23

49 CFR Part 23 is available through the following web link.

http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr23_main_02.tpl