

**SIoux GATEWAY AIRPORT
ACDBE PROGRAM
2023-2025**



SIoux GATEWAY AIRPORT
BRIGADIER GENERAL BUD DAY FIELD

SIoux GATEWAY AIRPORT ACDBE PROGRAM

POLICY STATEMENT

Section 23.1, 23.23 Objectives/Policy Statement

The Sioux Gateway Airport (SUX) is establishing 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 Sioux Gateway Airport is a non-hub primary airport and has received federal funds authorized for airport development after January 1988 (authorized under Title 49 of the United States Code). The Sioux Gateway Airport has signed airport grant assurances that it will comply with 49 CFR Part 23.

The Sioux Gateway Airport is a primary non-hub airport who is required by Part 23 to have a ACDBE Program. It is the policy of the Sioux Gateway Airport to ensure that ACDBEs as defined in Part 23, have an equal opportunity to receive and participate in concession opportunities. It is also our policy:


1. To ensure nondiscrimination in the award and administration of opportunities for concessions by airports receiving DOT financial assistance;
2. To create a level playing field on which ACDBEs can compete fairly for opportunities for concessions;
3. To ensure that our ACDBE program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as ACDBEs at our airport(s);
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.

Mr. Alvin Lorenzo, Airport Manager, has been designated as the ACDBE Liaison Officer (ACDBELO). In that capacity, Mr. Lorenzo 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 Sioux Gateway Airport in its financial assistance agreements with the Department of Transportation.

The Sioux Gateway Airport has disseminated this policy statement to all components of our organization; certified ACDBE concessionaires in the State of Iowa and to non-ACDBE concessionaires on the airport.



Mr. Mike Collett, Airport Director/Assistant City Manager



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

Section 23.5 Applicability

The Sioux Gateway Airport is a primary non-hub 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. The Sioux Gateway Airport has signed airport grant assurances that it will comply with Title 49 CFR Part 23.

Section 23.9 Non-discrimination Requirements

The Sioux Gateway Airport will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any 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 Sioux Gateway Airport will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the ACDBE program with respect to individuals of a particular race, color, sex, or national origin.

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

The Sioux Gateway Airport 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

The Sioux Gateway Airport will comply with and is subject to the provisions of 49 CFR Part 26 (§§ 26.101, 26.105, 26.107 and 2 CFR parts 180 and 1200.

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

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

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

The following enforcement actions apply to firms participating in the Sioux Gateway Airport'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 Department of Transportation (DOT) or the Federal Aviation Administration (FAA) may initiate suspension or debarment proceedings against the firm under 2 CFR parts 180 and 1200.
- (b) 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 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 the Sioux Gateway Airport's ACDBE program or otherwise violates applicable Federal statutes.

Compliance reviews: The FAA may review the Sioux Gateway Airport's compliance with this part at any time, including but not limited to, reviews of paperwork, on-site reviews, and review of the airport 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 Sioux Gateway Airport 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

The Sioux Gateway Airport is a primary non-hub airport required to have an ACDBE program.

As a condition of eligibility for FAA financial assistance, the Sioux Gateway Airport will submit its ACDBE program and if meets the threshold will submit overall goals to FAA according to 23.45(a) of this section.

Until the Sioux Gateway Airport's ACDBE program is submitted and approved, we will continue to operate our ACDBE program under this program as if in effect, except with respect to any provision that is contrary to 49 CFR Part 23.

This ACDBE program will be implemented at the Sioux Gateway Airport.

When the Sioux Gateway Airport 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: The Sioux Gateway Airport is committed to operating its ACDBE program in a nondiscriminatory manner.

The Sioux Gateway Airport's Policy Statement is elaborated on the first page of this program.

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

Mr. Alvin Lorenzo
Airport Manager
Sioux Gateway Airport
2403 Aviation Boulevard
Sioux City, Iowa 51111
712-279-6167
alorenzo@sioux-city.org

In that capacity, the ACDBELO is responsible for implementing all aspects of the ACDBE program and ensuring that the Sioux Gateway Airport complies with all provision of 49 CFR Part 23. The ACDBELO has direct, independent access to the Sioux Gateway Airport Director/Assistant City Manager concerning ACDBE program matters. An organizational chart displaying the ACDBELO's position in the organization is found in Attachment 1 to this program.

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

1. Gathers and reports statistical data and other information as required by FAA or DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works 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 if the airport exceeds the threshold the ACDBE goals are included in solicitations (both race-neutral methods and contract specific goals)
6. Analyzes the Sioux Gateway Airport's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the Sioux Gateway Airport organization on ACDBE matters and achievement.
9. Plans and participates in ACDBE training seminars.
10. Provides outreach to ACDBEs and community organizations to advise them of opportunities.
11. Maintains the Sioux Gateway Airport's updated directory on certified ACDBEs and distinguishes them from DBEs.

Directory: The Sioux Gateway Airport through the State of Iowa Unified Certification Program (UCP), maintains a directory identifying all firms eligible to participate as DBEs and ACDBEs. The Directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as an ACDBE.

The 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 revises the Directory annually. We make the Directory available as a link to the website. The Directory link may be found in Attachment 2 to this program document. (26.31)

Section 23.25 Ensuring Nondiscriminatory Participation of ACDBEs

The Sioux Gateway Airport will take measures to ensure nondiscriminatory participation of ACDBEs in concessions, and other covered activities (23.25(a)). Monitoring, compliance, and enforcement mechanisms are included in Attachment 3 to this program.

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

The Sioux Gateway Airport 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 5 of this plan. The goals will be set consistent with the requirements of Subpart D. (23.25(b), (d))

If the Sioux Gateway Airport 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))

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

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

Section 23.27 Reporting

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

Beginning March 1, 2006, we will submit to the FAA Regional Civil Rights Office, an annual ACDBE participation report on the form in Appendix A of Part 23.

Section 23.29 Compliance and Enforcement Procedures

The Sioux Gateway Airport will take measures to ensure nondiscriminatory participation of ACDBEs in concession, and other covered activities. Monitoring, compliance, and enforcement mechanisms are included in Attachment 3 to this program.

SUBPART C – CERTIFICATION AND ELIGIBILITY

Section 23.31 The Sioux Gateway Airport 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.

The Sioux Gateway Airport recognizes the Unified Certification Program (UCP) administered by the State of Iowa, South Dakota and Nebraska which will make certification decisions on behalf of the Sioux Gateway Airport 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, we will review their eligibility at that time (i.e., "as soon as possible"). The Sioux Gateway Airport will presume that a firm that is certified as a DBE under Title 49 CFR Part 26 is eligible to participate as an ACDBE.

The Sioux Gateway Airport 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 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.

It is recognized 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 Sioux Gateway Airport 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 Sioux Gateway Airport 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 certification standards of part 23 will be used 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 Sioux Gateway Airport may continue to count the concessionaire's participation toward ACDBE goals during the remainder of the current concession agreement. The Sioux Gateway Airport 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))

SUBPART D – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 23.41 Basic Overall Goal Requirement

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

If the average annual concessionaires gross receipts for car rentals over the preceding three years do not exceed \$200,000, the Sioux Gateway Airport need not submit an overall goal for car rentals. Likewise, if the average annual concession revenues for concessions other than car rentals over the preceding 3 years do not exceed \$200,000, the Sioux Gateway Airport need not submit an overall goal for concessions other than car rentals. The Sioux Gateway Airport understands that “revenue” means total revenue generated by concessions, not the concession revenue 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 Sioux Gateway Airport will consult with stakeholders before submitting the overall goals to the FAA. Stakeholders will include, but not be limited to, concessionaires currently located at the airport.

The Sioux Gateway Airport 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 Sioux Gateway Airport is a primary non-hub airport. As a condition of eligibility for FAA financial assistance, the sponsor will submit its overall goals once the threshold is met according to the following schedule:

Primary Airport Size	Region	Date Due	Period Covered	Next Goal Due
Non-Hubs	All regions	October 1, 2022	2023/2024/2025	October 1, 2025 (2026/2027/2028)
Large/Medium Hubs	All regions	October 1, 2023	2024/2025/2026	October 1, 2026 (2027/2028/2029)
Small Hubs	All regions	October 1, 2024	2025/2026/2027	October 1, 2027 (2028/2029/2030)

If a new concession opportunity arises at a time that falls between the normal submission dates above and the estimated average of the concessionaires annual gross receipts are anticipated to be \$200,000 or greater, the Sioux Gateway Airport will submit an appropriate adjustment to establish an overall goal to FAA for approval no later than 90 days before issuing the solicitation for the new concession opportunity. (23.45i)

The sponsor 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 sponsor 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 Attachment 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 (Also include this language in the DBE goal attachment) (23.25 (c)(e)(1)(iv))

The Sioux Gateway Airport 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.

We will establish concession specific goals only on those concessions that have direct ownership arrangements (except car rentals), sublease, or subcontracting possibilities. The Sioux Gateway Airport will require businesses subject to ACDBE goals at the airport (except car rental companies) to make good faith efforts to explore all available options to meet goals, to the maximum extent practicable, through direct ownership arrangements with DBEs (23.25 (f)). Car rental firms are not required to change their corporate structure to provide for direct ownership

arrangements. In the case of a car rental goal, where it appears that all or most of the goal is likely to be met through the purchases by car rental companies of vehicles or other goods or services from ACDBEs, one permissible alternative is to structure the goal entirely in terms of purchases of goods and services.)

If the objective of a concession specific goal is to obtain ACDBE participation through direct ownership with an ACDBE, the Sioux Gateway Airport 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 Sioux Gateway Airport 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 Sections 26.51 and 26.53, regarding contract goals apply to the Sioux Gateway Airport's concession specific goals. Specifically:

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

The Sioux Gateway Airport 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 Sioux Gateway Airport 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

Administrative reconsideration (26.53(d))

A concessionaire may request administrative reconsideration if it is the opinion of the ADCBELO that the good faith effort is not responsive. Concessionaires should make this request in writing to the ACDBELO.

Within five business days of being informed by the Sioux Gateway Airport that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: Mr. Mike Collett, Airport Director/Assistant City Manager, 2403 Aviation Boulevard, Sioux City, Iowa, 51111, (712)279-0170, mcollett@sioux-city.org. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the concessionaire will have the opportunity to provide written documentation or argument to the ACDBELO 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 the ACDBELO to discuss the issue of whether it met the goal or made adequate good faith efforts to do. The ACDBELO 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))

The Sioux Gateway Airport will require a concessionaire to make good faith efforts to replace an ACDBE that is terminated or has otherwise failed to complete its concession agreement, lease, or subcontract with another certified ACDBE, to the extent needed to meet the concession specific goal. We will require the concessionaire to notify the ACDBELO immediately of the ACDBEs 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.

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 Sioux Gateway Airport to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this concession will be conditioned upon satisfying the requirements of this proposal/bid specification. These requirements apply to all concessions firms and suppliers, including those who qualify as an ACDBE. An ACDBE concession specific goal of ___ 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.

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.

When a concession specific goal is established pursuant to the sponsor's ACDBE program, the sample proposal/bid specification can be used to notify concession firms of the requirements to make good faith efforts. The forms found as Attachment 6 can be used to collect information necessary to determine whether the concession firm has satisfied these requirements. A proposal/bid specification is required only when a concession specific is established.

Section 23.53 Counting ACDBE Participation for Car Rental Goals

Once the threshold is met, the Sioux Gateway Airport 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

The Sioux Gateway Airport 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. (b) 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, the Sioux Gateway Airport will:

- (1) Analyze in detail the reasons for the difference between the overall goal and our awards and commitments in that fiscal year;
- (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

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

SUBPART E – OTHER PROVISIONS

Section 23.71 Existing Agreements

The Sioux Gateway Airport will assess potential for ACDBE participation when an extension or option to renew an existing agreement is exercised, or when a material amendment is made. The Sioux Gateway Airport 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

This section does not apply.

Section 23.75 Long-Term Exclusive Agreements

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

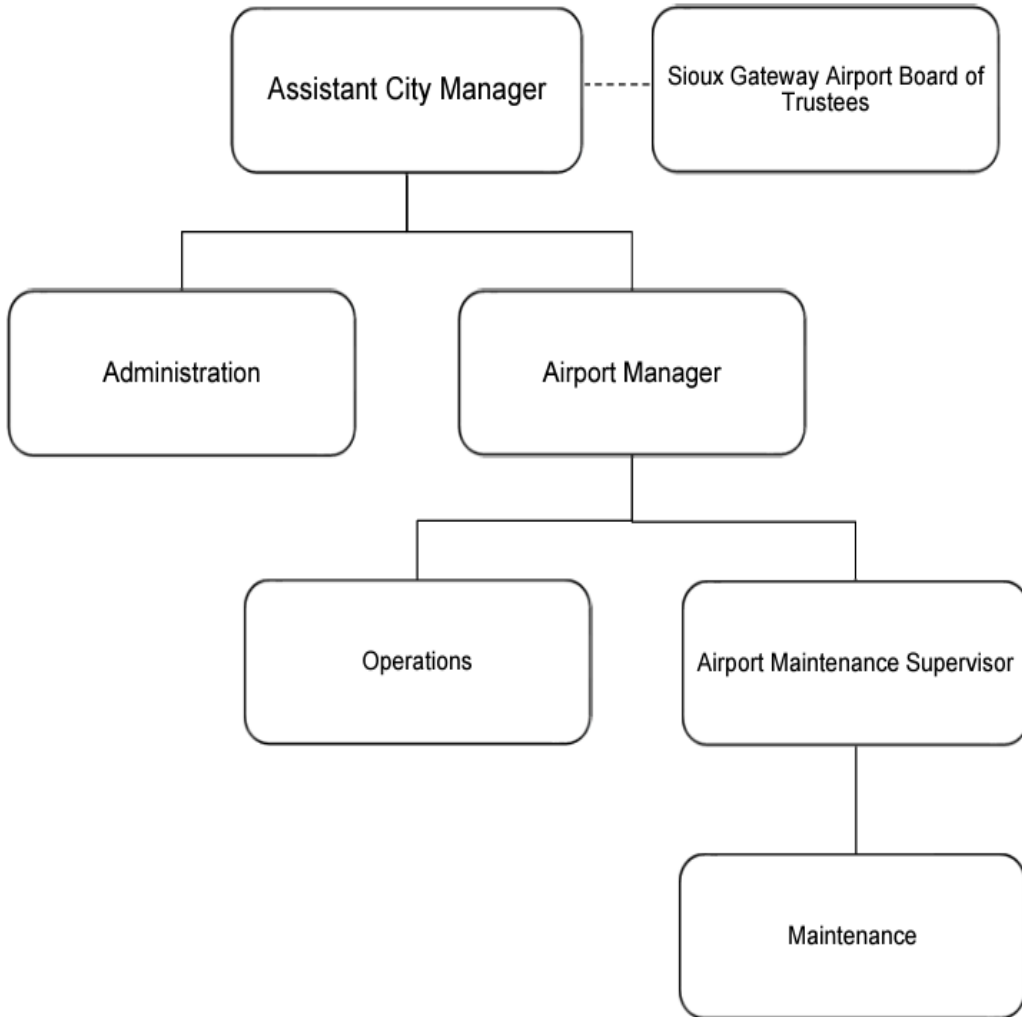
Section 23.79 Geographic Preferences

The Sioux Gateway Airport will not use a “local geographic preference”,i.e., any requirement that gives an ACDBE located in one place (e.g., *Siouxland Tri-State*) an advantage over ACDBEs from other places in obtaining business as, or with, a concession at your airport.

ATTACHMENTS

Attachment 1	Organizational Chart
Attachment 2	DBE/ACDBE Directory (or website link)
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	Certification Application Forms
Attachment 8	Procedures for Removal of ACDBEs Eligibility
Attachment 9	State’s UCP Agreement
Attachment 10	Small Business Element
Attachment 11	Regulations: 49 CFR Part 23

Attachment 1
Organizational Chart



Attachment 2

Iowa DBE Directory Link

<http://secure.iowadot.gov/DBE/Home/Index>

Attachment 3

Sioux Gateway Airport Monitoring and Enforcement Mechanisms

The Sioux Gateway Airport 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 applicable State Statutes

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

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

The Sioux Gateway Airport 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:
 - A. The Sioux Gateway Airport has established an ACDBE program in accordance with the regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 23. The concessionaire is required to participate in the Sioux Gateway Airport's ACDBE program.
 - B. In the event of breach of any of Concessionaire's duties contained in this Paragraph (), subparagraphs (), the Airport shall have the right to terminate this Agreement and to re-enter 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; and 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. The Sioux Gateway Airport will comply with all regulations set forth in 49 CFR Part 23 and will monitor concessionaires at the Sioux Gateway Airport for compliance with the ACDBE program.
3. We will implement our compliance and monitoring procedures as follows:
 - A. The Sioux Gateway Airport will submit to the Federal Aviation Administration's Regional Civil Rights Office, and annual ACDBE participation report showing the commitments and attainments. The Sioux Gateway Airport will take measures to ensure nondiscriminatory participation of ACDBEs in concession, and other covered activities. Since the Airport is small, informal contact is easy and frequent. Informal meetings shall be held with any concessionaries as needed.

Attachment 4

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

Amount of Goal *(submit if average annual gross receipts exceed \$200,000)*

Name of Recipient:

Sioux Gateway Airport

Goal Period: FY-2023-2025 – October 1, 2023 through September 30, 2026

Overall Two-Year Goal:

No goal is required because the annual gross receipts do not exceed \$200,000 at this time.

Base of Goal

To calculate the base of the goal Sioux Gateway Airport considered the previous three 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)
2020	\$91,099.46
2021	\$47,789.97
2022	\$82,484.11
Total	\$221,373.54
Average	\$73,791.18

The concession opportunities anticipated during this period are food service and advertising with estimated gross receipts of the previous average of \$73,791.18.

The following are included in the total gross receipts for concessions: (a) the Café’s non-ACDBE gross receipts (b) the advertising ACDBE gross receipts.

Items not included are: (a) the gross receipts of car rental operations (b) the dollar amount of a management contract, (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 and this goal period is established and the estimated average of annual gross revenues are anticipated to be \$200,000 or greater, the Sioux Gateway Airport 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)).

Step 1: 23.51(c)

We will determine the base figure for the relative availability of ACDBEs for non-car rental concessions. The base figure was calculated as follows:

Base Figure: Ready, willing, and able non-car rental ACDBEs in the market area
 All ready, willing and able non-car rental concession firms in the market area

The data source for the numerator was the Iowa, South Dakota, and Nebraska Unified Certified Program DBE directories. Searching those directories, the Airport found one (1) certified DBEs in Iowa, Nebraska, South Dakota airport concessions, including food service, retail, and advertising. Therefore, the numerator for the base figure computation will default to one (1).

For the NAICS codes of 722511, 424490, 541850, and 45322, the data source for the denominator is a 100 mile radius from downtown Sioux City, Iowa. In the tristate there are 539 listed NAICS establishments. Therefore, the denominator for the base figure computation is 539.

When we divided the numerator by the denominator we arrived at the base figure for our overall goal for non-car rental concessions of: $1/539 = .0018$ or 0.18%.

Example:

Concession Activity	NAICS / SIC code/s	ACDBE Companies	DBE Companies 100 radius	All DBE's
Food Service Contractors	722511, 424490	2	0	
Advertising	541850	1	1	
Gift, Novelty, Souvenir	45322	2	0	
Totals		5	1	539

Active Participant List – The current list can be found here:
<https://iowadot.gov/civilrights/disadvantaged-business-enterprise-program-dbe/db-program>

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 .82%. Once the threshold is met, our overall goal for non-car rental concessions is 1.0%

Attachment 5

Section 23.45: Overall Goal Calculation for Car Rentals

Amount of Goal *(submit if average annual gross receipts exceed \$200,000)*

Name of Recipient:

Sioux Gateway Airport

Goal Period: FY-2023-2026 – October 1, 2023 through September 30, 2026

Overall Two-Year Goal once average threshold is met:

1.00%, to be accomplished through 0.00% RC and 1.00% RN

The Sioux Gateway Airport has determined that its market area is Iowa, Nebraska and South Dakota.

Base of Car Rental Goal

No solicitation has been established in recent years as all car rental companies at the Sioux Gateway Airport have had a relationship with the City. When the current contracts for the vendors are due for renewed, the ACDBE language will be inserted.

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

Gross Receipts (Revenue) for Previous 3 Years - Car Rental Concessions

Fiscal Year	Car Rental Concessions Revenue
2020	\$2,302,394.80
2021	\$1,075,276.50
2022	\$1,341,066.60
Total	\$4,718,737.90
Average	\$1,572,912.63

The Sioux Gateway Airport does not anticipate any major changes that would greatly increase or decrease concession revenues over next two years. Therefore, the recipient’s base of goal is the average car rental revenue gross receipts of \$1,572,912.63.

Methodology used to Calculate Overall Goal

The Airport in conducting this goal-setting process is determining the extent, if any, to which the firms in the market area have suffered discrimination or its effects in connection with concession opportunities and related business opportunities.

Goods and Services

We will make a good faith effort to pursue opportunities to meet the goal. We will continue to consult with the Iowa DOT UCP, our car rentals at the airport, airports in our region, minority and women owned businesses in the State and other publications to find prospects. We will work with our car rental agencies and outreach to ACDBEs for car rental goods and services and encourage certified ACDBEs to apply for certification in so we can count the ACDBE participation in goals and uniform form reports. The Iowa DOT UCP is aware of this requirement and is on board to assist and process certifications as required.

Car Rentals stated the services they may need are: key blanks, oil change services, insurance, office supplies, tires, auto repair services, auto part supplies, towing services, and freight transportation.

Base of Goal

The base of the goal was calculated by considering the previous three (3) years of purchases of car rental goods and services and we do not expect any change in revenue. The base of the goal is anticipated gross receipts using past history of \$1,572,912.63.

We have the following car rentals operating at the airport: Avis, Enterprise/National/Alamo, and the return of Hertz. Due to the non-exclusive nature of our lease agreements, we entertain interest from other car rental agencies that are interested in establishing an airport operation provided we have space in the terminal building and parking spots available for their rental inventory.

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

The 1% goal will be achieved by race-neutral means (ACDBE goal).

The Airport will make every reasonable effort to meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating ACDBE participation. The Airport will use the following race-neutral measures to increase ACDBE participation:

- i. Locate and identify ACDBEs and other small businesses who may be interested in participating as concessionaires under 49 CFR Part 23;
- ii. Notify ACDBEs of concession opportunities and encourage them to compete, when appropriate;
- iii. Provide information concerning the availability of ACDBE firms to competitors to assist them in obtaining ACDBE participation.

If race-neutral measures, standing alone, are not sufficient to meet an overall goal, the following race-conscious measures will be used to meet the overall goal:

- i. Establish concession-specific goals for particular concession opportunities;

In order to ensure that our ACDBE program will be narrowly tailored to overcome the effects of discrimination, if concession specific goals are used, The TVC will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual ACDBE participation and race-neutral and race conscious participation will be

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

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

Attachment 6

Forms 1 & 2 for Demonstration of Good Faith Efforts

[Forms 1 and 2 should be provided as part of the solicitation documents.]

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

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

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

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

Name of bidder/offeror's firm: _____

State Registration No. _____

By _____
(Signature) Title

FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of ACDBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by ACDBE firm:

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

<https://iowadot.gov/civilrights/disadvantaged-business-enterprise-program-dbe/dbe-program>

Attachment 8

Procedures for Removal of ACDBEs Eligibility

<https://iowadot.gov/civilrights/disadvantaged-business-enterprise-program-dbe/dbe-program>

ATTACHMENT 9

State's UCP Agreement

<https://www.legis.iowa.gov/DOCS/IACODE/2001/633/index.html>

ATTACHMENT 10
Small Business Element

1. Objective/Strategies

- To meet the portion of your overall goal you project to meet through race-neutral measures, ensuring that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.

2. Definition

- Small Business: Any enterprise which is located in the state of Iowa, which is operated for profit and under a single management, and which has either fewer than twenty employees or an annual gross income of less than three million dollars computed as the average of the three preceding fiscal years.

3. Verification

- Small Businesses will be verified using the State DBE / TSB Directory

4. Monitoring/Record Keeping

- The **City of Sioux City / Sioux Gateway Airport** will monitor the Small Business Element of this DBE and collect records on the participation in program.

5. Assurance

1. The program is authorized under state law;
2. Certified DBEs that meet the size criteria established under the program are presumptively eligible to participate in the program;
3. No limits are placed on the number of contracts awarded to firms participating in the program, but every effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses; and
4. Aggressive steps will be taken to encourage those minority and women owned firms that are eligible for DBE certification to become certified.
5. The program is open to small businesses regardless of their location (i.e., there is no local or other geographic preference).

Attachment 11

Regulations: 49 CFR Part 23

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